

Item No. 17

Supplemental Material

For City of Sacramento

City Council
Housing Authority
Redevelopment Agency
Economic Development Commission
Sacramento City Financing Authority

Agenda Packet

Submitted: 1/8/08

For the Meeting of: 1/8/08



Additional Material



Revised Material

Subject: The Metropolitan (P05-205)

Attached please find appeal information, including:

1. Appeal form (pg 1)
2. Appellant transmittal (pgs 2-4)
3. Appellant's references (pgs 5-41)

Contact Information: Michael York, Associate Planner, (916) 808-8239

Please include this supplemental material in your agenda packet. This material will also be published to the City's Intranet. For additional information, contact the City Clerk Department at Historic City Hall, 915 I Street, First Floor, Sacramento, CA 95814-2604 B (916) 808-7200.

CITY OF SACRAMENTO

DEVELOPMENT SERVICES DEPARTMENT
915 I Street, New City Hall, 3rd Floor
Sacramento, CA 95814

PLANNING DIVISION
916-808-5419

APPEAL OF THE DECISION OF THE
SACRAMENTO CITY PLANNING COMMISSION

DATE: 10/31/07

TO THE PLANNING DIRECTOR:

I do hereby make application to appeal the decision of the City Planning Commission on 10/25/07 (hearing date), for project number (P#) P05-205 when:.

<u>X</u>	Special Permit	for	<u>see attached</u>
_____	Variance	for	_____
_____	"R" Review	for	_____
<u>X</u>	Other <u>TM</u>	for	<u>see attached</u>

was: X Granted by the City Planning Commission
_____ Denied by the City Planning Commission

Grounds For Appeal: (explain in detail, you may attach additional pages)

See Attached

⇒ Property Location: 921 10th St

⇒ Appellant: William D. Kopper Daytime Phone: 530-958-0757
(please print)

⇒ Address: 4117 E Street

⇒ Applicant's Signature: George [Signature] # George's Cell in [Signature] * see attached for app. plan

MASTER

THIS BOX FOR OFFICE USE ONLY

FILING FEE: X \$1,192.00 By Applicant RECEIVED BY: A. Estem
\$298.00 By Third Party DATE: 10/31/07

Distribute Copies To: CAS; DK; Project Planner; Mae Saetern (original & receipt)

P# _____ Forwarded to City Clerk: _____

William D. Kopper

Attorney at Law
417 E Street
Davis, CA 95616
(530) 758-0757
Fax (530) 758-2844

Paralegal
Kristin Rauh

October 30, 2007

City Clerk
City Council
City of Sacramento
915 I Street
Sacramento, CA 95814

RE: Appeal of Planning Commission Approvals
for The Metropolitan Project (P05-205)
Date: October 25, 2007

Dear Members of the City Council and City Clerk:

On October 25, 2007, the Planning Commission of the City of Sacramento took the following actions with regard to The Metropolitan Project (P05-205) to be located at 921 10th Street:

Item A: Certified the Environmental Impact Report.

Item B: Adopted a Mitigation Monitoring Plan.

Item C: Approved Tentative Map to designate the parcel for condominium purposes.

Item D: Special Permit for major project.

Item E: Special Permit for 320 condominium units in the Central Business District Special Planning District (C-3-SPD) Zone.

Item F: Special Permit for a 190 condominium units/190 hotel rooms in the Central Business District Special Planning District (C-3-SPD) Zone.

Item G: Special Permit to allow tandem parking.

Item H: Variance to reduce parking maneuvering areas from 26 feet to 25 feet.

Item I: Adoption of City Planning Commission Record of Decision Findings of Fact and Condition of Approval of The Metropolitan Project (P05-205).

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Gene A. Moe, Karl H. Mindermann, and Jeffrey S. Linn, all residents of the City of Sacramento, hereby appeal all of the above actions by the Planning Commission to the City Council of the City of Sacramento. We have attached to this appeal the appeal fee of \$298.00, which we have determined is the appropriate fee from the City of Sacramento website.

The appeal is based on all of the issues raised in Petitioners' letter of October 18, 2007, which is attached including the letter of Mr. Daniel Smith dated October 24, 2007, the letter of Mr. Daniel Smith dated August 17, 2007, and the letter of Mr. Marshall Hunt dated October 23, 2007. Mr. Moe, Mr. Mindermann, and Mr. Linn, appeal the action to the City Council based on the following grounds:

1) The EIR is inadequate because it fails to include a stable and finite Project Description. The EIR was predicated on a Project with 320 condominium units. At the Final Environmental Impact stage, the City changed the Project to a Project with 190 hotel rooms and 190 residential condominium units. This change in the Project Description will have impacts that were not considered or analyzed in the Project EIR. As set forth in the October 24, 2007, report of Mr. Daniel Smith there may be significant parking and traffic impacts related to the mixed-use hotel option that were not considered or analyzed in the Draft Environmental Impact Report. Further, the EIR does not consider the truck loading needs of the mixed-use hotel option, with all the added demands of hotel housekeeping, food and banquet service and meeting support services.

2) At the Final Environmental Impact stage of the Project a new mitigation measure was imposed. The Project would pay its fair share of the Downtown Natomas-Airport Light Rail Transit Extension Project (DNA LRT). The proposed mitigation measures should have been circulated for public comment and input. The EIR does not include any analysis that shows the mitigation measure would have any affect on reducing the Project's impact on the freeway system serving Sacramento. Contrary to the addition of the new mitigation measure, the DEIR's transportation and circulation analysis for the 2013 and 2030 periods assumed all reasonably feasible diversion of travel to transit including the DNA line before the Project's freeway traffic impacts were compiled. It would appear that the new proposed mitigation measure of contributing to the DNA line would not have any impact on reducing freeway traffic and impacts.

3) The EIR and the City failed to adopt the feasible mitigation measures set forth in the letter of Jody Jones dated November 27, 2006, and attached hereto.

4) The Final Environmental Impact Report failed to adequately respond to comments. The authors of the EIR failed to consult with traffic officials in the City of West Sacramento and Yolo County. The Final Environmental Impact Report failed to adequately describe the requested variance. The environmental documents were confusing and misleading. The EIR failed to respond to the request for a signal system analysis. The EIR failed to adequately respond to comments concerning whether the alley behind the Project could accommodate alley traffic.

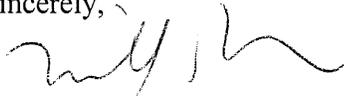
5) The Environmental Impact Report failed to adequately consider energy conservation. The EIR failed to consider why the Project would not be required to exceed Title 24

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minimal energy conservation requirements. The Project conditions failed to require a minimum LEED silver level of energy performance.

6) The Environmental Impact Report failed to adequately consider the Project's impact on the generation of greenhouse gases.

Sincerely,



WILLIAM D. KOPPER

WDK:kgr
enclosures

William D. Kopper

Attorney at Law
417 E Street
Davis, CA 95616
(530) 758-0757
Fax (530) 758-2844

Paralegal
Kristin Rauh

October 18, 2007

Planning Commission
City of Sacramento
Planning Department
915 I Street, 3rd Floor
Sacramento, CA 95814

RE: The Metropolitan Project

Dear Members of the Planning Commission:

I represent Gene A. Moe, Karl H. Mindermann, and Jeffrey S. Linn, all residents of the City of Sacramento. These are their comments on the Final Environmental Impact Report for The Metropolitan Project. We incorporate into these comments, the comments of all other individuals and entities. My clients oppose The Metropolitan Project. In addition to the comments included in this letter, we incorporate the traffic comments prepared by Daniel Smith, the Cultural Resources comments completed by Barry Price, and the energy conservation comments prepared by Marshall Hunt. The consultants' comments are attached. Our additional comments are as follows:

1. Failure to Provide a Stable Project Description.

The project description must be accurate and consistent throughout an EIR. "An accurate, stable and finite project description is the *sine qua non* of an informative and legally sufficient EIR." (*County of Inyo v. City of Los Angeles* (1977) 71 Cal.App.3d 185, 193.) A curtailed or distorted project description may stultify the objectives of the reporting process. Only through an accurate view of the project may affected outsiders and public decisionmakers balance the proposals benefits against its environmental costs, consider mitigation measures, assess the advantage of terminating the proposal (i.e., the "no project" alternative) and weigh other alternatives in the balance. (*Id.* at 192-193.)

Generally, when an agency changes a project midstream it reduces the size of the project or changes it in some way to reduce the severity of environmental effects. In the case of The Metropolitan Project, the Final Environmental Impact Report proposed a new Project: "Mixed-use hotel option". The Final Environmental Impact Report postulated a Project that would be the same size as the original Project but would have 190 hotel rooms and 190 residential condominium units, instead of the 320 condominium units originally proposed. Mixed-use hotel option was not presented in the Final Environmental Impact Report as another alternative that was considered and rejected by the City but as a Project also approved by the Final Environmental Impact Report.

In Mr. Daniel Smith's comments, he stated that in order to determine whether the signal timing adjustments would have a positive impact on traffic circulation or in fact would have an overall negative impact on circulation in the core area, it was necessary to complete a signal system analysis. In response to the request for a signal system analysis to determine whether the timing changes would produce a net benefit or detriment, the authors of the EIR state as follows: "Optimization of the signal system timing is beyond the scope of the study and is not required to demonstrate the effectiveness of the mitigation measures." This is clearly a non-responsive answer to the comment. Mr. Smith did not ask for a signal system analysis to determine whether the signal system was optimized, but whether the signal timing changes would provide a net benefit or detriment to the overall circulation in the downtown core area. If the signal changes produced an overall detriment to traffic circulation in the core area, then the mitigation is meaningless. The authors of the Environmental Impact Report avoid responding to the question by rephrasing the comment in a manner in which it was not stated. The response to G-8 is non-responsive and a violation of CEQA.

In Comment G-9A: the authors of the EIR state that there will be low volumes of traffic in the alley approaches. Further, "the site distance limitations are an existing condition and are not caused by or exacerbated by the proposed project." The authors postulate because of the low volumes of traffic and slow speeds in the alleys that the site distance limitations would not cause dangerous conditions. However, the Project description is now changed and the Project includes 190 hotel rooms. There will be substantial taxi cab traffic, limousine service traffic, and van traffic to and from the hotel entrance in the alley. This added alley traffic will change the safety conditions with respect to the ingresses and egresses to the alleys. This impact was not studied or considered in the Draft Environmental Impact Report or in the Final Environmental Impact Report.

3. Energy/Greenhouse Gases.

The Final Environmental Impact Report includes a section on the Project's emission of greenhouse gases. The EIR acknowledges that the Global Warming Solutions Act requires projects in the State to reduce carbon dioxide emissions. The Attorney General of the State of California has provided several opinions that CEQA requires an agency to consider a project's impact on greenhouse gases.

The authors of the EIR postulate that the EIR does not need to consider greenhouse gases because the emissions for the Project may not be new emissions, but they may be emissions that might otherwise be produced somewhere else. This argument runs contrary to the growth model that is followed by the City of Sacramento. The City of Sacramento relies upon the SACOG growth model for the area, which predicts substantial new growth of population in the Sacramento area. The Metropolitan Tower is a residential Project that is intended to accommodate the greater growth in the Sacramento area. Therefore, it is appropriate to assume that all new growth is associated with additional and new carbon dioxide emissions. SMUD no longer has sufficient hydroelectric power available to provide electricity for the growth of the Sacramento area. All growth in the Sacramento area is dependent upon electricity that is generated by burning natural gas. The burning of natural gas produces greenhouse gases. It is therefore axiomatic that any measures that reduce energy consumption also reduce greenhouse gases.



October 24, 2007

Mr. William D. Kopper
Attorney at Law
417 E Street
Davis, CA 95616

Subject: The Metropolitan Project FEIR

P06006

Dear Mr. Kopper:

Per your request, I have reviewed the transportation and circulation component of the final environmental impact report (hereinafter "the FEIR") for the Metropolitan Project in the City of Sacramento (hereinafter "the City") dated October 10, 2007. I have previously commented on the DEIR for this project and also commented in a letter dated August 17, 2007 on the version of the FEIR dated July 30, 2007 that was circulated, but has apparently been withdrawn, though without mention in this FEIR. Most of the comments my August 17, 2007 letter remain applicable to the current FEIR. This review constitutes a supplement to the comments contained in my August 17, 2007 letter and is specific to the Mixed Use Hotel Option for the project that has now been belatedly inserted in the FEIR and to the additional changes in the FEIR that have been made in the current release of the document. My qualifications to perform this review are documented in the August 17, 2007 letter. My comments on the subject FEIR follow.

The FEIR Is Improperly Circulated

Introduction of a completely new project alternative, the Mixed Use Hotel Option, at the FEIR stage deprives the public of reasonable opportunity to comment on this alternative. Although the FEIR opines that the impacts of this alternative are the same as or less than those of the original subject project, this conclusion is apparently based on nothing more than a superficial comparison to the number of residence units and total square footage in the originally proposed Residential Option. In the section below we demonstrate that the new project option involves fundamentally different potential impacts than the original project studied. Consequently, the public deserves the full review period ordinarily granted for a draft EIR and the document should be recirculated as a revised draft EIR.

Neither the FEIR nor the DEIR that preceded it has provided any analysis of whether or not the same sized truck loading bay (about 20 feet wide, enough to simultaneously accommodate 2 large trucks with difficulty) that was proposed to serve the Residential Option would be adequate to service the much more demanding truck loading needs of the Mixed Use Hotel Option, with all the added demands of hotel housekeeping, food and banquet service and meeting support services. The FEIR is deficient until such an analysis is performed

With the new secondary project alley intersecting 10th Street just 14 feet from the intersection of the existing alley with 10th, the combined intersection thus created will be an operationally complex location having potential level of service and safety implications. The FEIR and the DEIR that preceded it never performed a formal analysis of the intersection of the alley with 10th street for the Residential Option. With the more intense traffic use of the alley due to the traffic associated with hotel, restaurant and banquet/meeting facilities, and the more complex dual-alley configuration of the intersection with 10th Street, there must be a full formal level-of-service/operations evaluation of this intersection and the FEIR is deficient until one is provided.

FEIR Proposes Non-responsive Mitigation Measure To Significant Impacts On Freeway System, Fails To Implement Feasible Mitigation Measures for Those Impacts, and Fails To Inform of Conflicting Opinion of Responsible Agency

The EIR discloses that the project would have significant project and cumulative impacts on the freeway system serving downtown Sacramento including impacts on mainline segments, merge/diverge/weave areas and on freeway ramp queues in all three periods of analysis studied – baseline (2008), near term (2013) and long-term (2030). As attempted partial mitigation, the FEIR now proposes that the project pay fair share fees toward the construction of the Downtown-Natomas-Airport light rail transit extension project (DNA LRT).

However, the notion that contributing partial funding to DNA LRT mitigates the projects freeway system impacts is entirely a fiction. The initial operable segment of DNA (running only as far as Richards Boulevard) is optimistically scheduled for completion by 2013. The Natomas and Airport portions of the line would not be completed until sometime after 2020. Hence, DNA LRT will not be in service to provide any mitigation to the projects freeway impacts in the baseline (2008) period and will not be completed far enough to divert any traffic from the freeway system in the near term (2013) analysis period. Furthermore, The EIR's transportation and circulation analysis for the 2013 and 2030 periods *assumed all reasonably feasible diversion of travel to transit including the DNA line before the project's freeway traffic impacts were compiled*. If the purported mitigation had already diverted all travel it could practically attract before the



August 17, 2007

Mr. William D. Kopper
Attorney at Law
417 E Street
Davis, CA 95616

Subject: The Metropolitan Project FEIR

P06006

Dear Mr. Kopper:

Per your request, I have reviewed the final environmental impact report (hereinafter "the FEIR") for the Metropolitan Project ("the project") in the City of Sacramento (hereinafter "the City") with particular reference to the responses to comment on the transportation and circulation component of the preceding draft environmental impact report (hereinafter "the DEIR"). I was one of those who formally commented on the DEIR. My qualifications to perform this review include registration as a Civil and Traffic Engineer in California and thirty-nine years experience as a traffic and transportation engineering consultant in the State. I have both prepared and reviewed the transportation and circulation components of numerous environmental documents and am familiar with the downtown Sacramento area. My current comments follow.

In its FEIR response, the City has identified our comments on the DEIR as Comments G-8 through G-11. We have maintained that identification system in these further comments.

Response to Comment G-8: Comment G-8 concerned the proposed mitigation of altering the timing of the phase-splits of the traffic signals at intersections where the DEIR found that the project would otherwise individually or cumulatively cause significant traffic impacts. Our comment noted that in a downtown grid system where the traffic signal timing is coordinated to provide progressive movement on major streets in both the north-south and east-west directions, it is inappropriate to suggest such timing changes as traffic mitigation without first determining whether or not the changes would wreak havoc on progressive traffic movement on the downtown system.

The City's response, that it is "common practice" to adjust signal timing to reduce delay at intersections is correct – but only within limits. Where signals are distant enough from others that they are not part of a coordinated system, the controlling jurisdiction has a very high level of flexibility to adjust the signal's timing to optimize its response to the patterns of traffic demand and minimize delay. However, when signals are operated in coordination with others, and especially when they are closely spaced in a coordinated grid street network such as the case in downtown Sacramento, that flexibility to make adjustments to optimize operations to minimize delay at individual intersections is much less because of the

modicum of safety inherent in use of the alley as the primary vehicular access/egress to a major high-rise development.

Response to Comment G-9b: This comment observed that the available turning radius at the project's loading dock area is inadequate for large single unit trucks and semi's and that such vehicles would have to load and unload on-street somewhere. The response does not dispute the inadequacy of the loading dock turn radius, but instead proposes to overcome the condition by posting obviously ineffective signage against on-street loading and unloading in the alley during peak hours and also inexplicably concludes that if there were on-street loading, things would somehow work out safely anyway. The response is inadequate. The project should be required to redesign its loading dock to provide adequate turning radius to permit off-street loading by the large vehicles that can be expected.

Response G-9c: This portion of our comment extensively described the operational and safety problems inherent at the project's access/egress point to and from the parking garage. The response concludes that at low vehicle speeds and with peak hour volumes involving a vehicle passage on the average of about one every 15 seconds, "no undue safety issues are anticipated". This sounds fine until one recognizes that with an *average interval* between vehicle passages of about 15 seconds, statistically there would be a *very high probability of numbers of nearly simultaneous* entry and exit movements and, since the geometry of the design forces the entry and exit movements into clearly conflicting paths and severely restricts sight distance, *significant safety issues can readily be anticipated*.

Response to Comment G-9d: This comment concerned pedestrian safety issues in the alley, given the sight distance restrictions. The response indicates that few pedestrians are anticipated in the alley and, without substantiating evidence, that other alleys downtown have not been pedestrian safety problems. However, we note that few alleys downtown currently serve as the primary vehicular access/egress to a major highrise project, so the purported historic and anecdotal experience has little relevance. The response is inadequate.

Response to Comment G-9e: This comment concerned operational issues at the garage gate in combination with certain design constraints within the garage near the access/egress point. The response does demonstrate adequate movement capability presuming that a quick-moving barrier-type gate common in office and retail-serving garages is employed for the project rather than the slower moving security-type gate that is ordinarily employed in predominantly residential-serving garages. However, the response does not directly address the maneuvering constraints inside the garage that we noted. Also, the findings regarding available queue storage space are based on the presumption that there would be no large vehicles loading or off-loading on-street, a presumption that is highly questionable given the inadequacy of the project's loading dock provisions and the inadequacy of the response to Comment G-9b.

Response to Comment G-10: This comment stated that, after discounting the proposed project's trip generation based on its downtown location and the high reliance on walking, transit and bicycle travel related to that downtown location and for internalization of trips related to the mixed use composition of the project itself, the further discounting of project trip generation due to some supposed interrelationship of its trips with those of other

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that the subject project as well as other downtown projects can be required to make nexus-based fair share fee contributions to the mitigation.

The City's response in the current FEIR (Response to Comment 5-3) asserts that Caltrans and the City have no authority to impose fees to pay the cost of freeway improvements and that, without detailed plans for improvements in hand, nexus-based fees cannot be reasonably compiled.

This response is simply a non-factual effort to dodge a CEQA responsibility to mitigate that the City evidently wishes to enable its downtown projects to evade. Caltrans has the authority and procedural mechanisms in place to work with other agencies to develop mitigation projects on the State highway system. Furthermore, most nexus-based fee structures are established based on conceptual designs, well before detailed engineering plans of the improvements have been completed.

500 Capitol Mall Comment and Response 5-4: The Caltrans November 27, 2006 letter of comment asserts that adequate improvement plans and costs have been identified for purposes of establishing a nexus-based mitigation fee system. The City's response (Response to Comment 5-4) states that the proposed mitigations have not been subject to CEQA review, are not part of an adopted Caltrans capital improvement plan, are of "uncertain" feasibility and desirability, and that the proposal that the City adopt a mitigation fee structure to (in part) fund them would pre-ordain the outcome of any future CEQA review of the mitigation projects.

These objections in the City's response lack foundation. Transportation mitigations are often proposed prior to completion of CEQA review of the proposed mitigation and there is no CEQA requirement that a mitigation proposal must have already received CEQA clearance to be considered as mitigation. Caltrans is the State agency responsible for freeway construction and maintenance and Caltrans, the most knowledgeable agency, evidently has reasonable expectation that the proposed mitigation improvements are feasible. Given that, the City must document compelling evidence of infeasibility to label the proposals "infeasible" or of "uncertain feasibility"; the City has provided no such compelling evidence. Given the extensive significant project and cumulative traffic impacts that the project and downtown development will cause and that will affect all the public using the central area freeway system as disclosed in the FEIR (even despite its flawed existing traffic data base as described above), the inherent desirability of the proposed mitigations are obvious. The City must identify explicit and significant adverse consequences, which it has not done, to characterize the desirability of Caltrans mitigation proposals as "uncertain".

Finally, the City's statement that creating a mitigation fee structure to fund the freeway mitigation proposals would pre-ordain the outcome of any CEQA review is pure nonsense. Not only does it challenge the integrity of a responsible state agency, Caltrans, and the CEQA process; it runs counter the conventional practice re environmental clearance of most major transportation projects in California. Most State highway improvement projects, most major highway and transit projects of "self-help" sales tax counties (such as local Measure A in Sacramento County) and most transportation improvement programs funded by development impact fee structures have the projects identified and programmed for funding long before project development reaches a stage where CEQA review is performed. If the

Mr. William D. Kopper
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that buses can also use the HOV lanes to provide patrons with travel times more competitive with those achievable via single occupant autos.

The City response on this item closes with the irrelevant conclusory opinion that freeway mainline improvements such as the proposed mitigations should be funded by combinations of federal, state and local financing mechanisms (such as local Measure A) and notes that the MTP and MTIP have not heretofore contemplated use of development impact fees for freeway mainline improvements. The response fails to note that nothing precludes the use of impact fees for such purposes.

500 Capitol Mall Comment and Response 5-8: Caltrans comment responds to the incorrect statement in the DEIR that state and federal funds available to the HOV lane projects may be insufficient to fund the portion of project costs not attributable to fair share costs of downtown development projects and points out that local measure A is funding 50 percent of the cost of the projects. The City's response does not respond on point, but instead advances the notion that because the 500 Capitol Mall project and its tenants pay their fair share of federal, state and local taxes, requiring the project to pay an impact fee to fund a fair share of the freeway mitigation would require the applicant to pay a disproportionate share of funding for the improvements.

The City response is pure nonsense. If a nexus relationship between causation of need for improvements and proportionate fair share to fund those improvements can be established, then under California law development impact fees can be imposed. It is irrelevant that the project sponsor and its tenants pay their federal, state and local taxes or that federal, state and local funds are used to fund the public's proportionate share of the improvement costs that are not directly attributable to readily identifiable development impacts. We note that no similar rationalization about disproportionate charging troubled the City when it proposed to require that the applicant pay its fair share for the cost of retiming signals at impacted intersections downtown or the fair share of intersection mitigation improvements such as those at 3rd and L Streets. The City's position on re mitigation fees for state highway improvements is inconsistent with its own mitigation fee impositions for traffic mitigations on roadways under local jurisdiction.

500 Capitol Mall Comment and Response 5-9: Caltrans comment is that it has provided cost estimates sufficiently certain for estimating costs in a nexus-based mitigation fee program and that the Downtown Traffic Study used in the DEIR provides a basis for determining the project's fair shares.

The City's response is off-point, stating that there is no evidence that the mitigation improvements will actually be constructed. The response is also non-factual, since Caltrans has provided ample evidence that the portions of project cost not funded by mitigation fees will be funded by State, federal and other local funds. The response also repeats the incorrect statement that the mitigations would not be timely. Since the subject freeway mitigations can be constructed within the 2013 time frame of the FEIR's near term cumulative analysis, they are clearly timely.

500 Capitol Mall Comment and Response 5-11: In this comment Caltrans summarizes its position that the City's characterization of the freeway traffic impacts as "unavoidable" is

percentage Caltrans indicates the DEIR has underreported the freeway segment volumes – one finds the following for the AM analysis:

- Two of the freeway segments the DEIR reports at LOS B are at LOS C,
- Five of the segments the DEIR reports at LOS C are at LOS D,
- Two of the segments the DEIR reports at LOS C are at LOS E,
- Three of the segments the DEIR reports at LOS D are at LOS F, and
- Two of the segments the DEIR reports at LOS E are at LOS F.

If one adjusts the "existing" PM freeway segment volumes by the same percentage as Caltrans says the DEIR volumes are low, one finds somewhat lesser differential because so many of the freeway segments are already at LOS F:

- Three of the freeway segments the DEIR reports at LOS B are at LOS C,
- One segment the DEIR reports at LOS C is at LOS D,
- One segment the DEIR reports at LOS C is at LOS E, and
- One segment the DEIR reports at LOS D is at LOS F.

Clearly, the DEIR and now the FEIR has reported more favorable existing freeway conditions than the traffic count data Caltrans believes to be correct indicates.

Problems with the existing freeway segment count information cascade into the analysis of the proposed project and other future development in downtown. If one makes the same adjustment to the existing freeway segment volumes by the average percentage Caltrans indicated the DEIR existing freeway volumes are reported low, the analysis of freeway segments for the 'Baseline' and 'Baseline plus project' scenarios indicated on Table 6.6-14 would exhibit the following differences. In the AM analysis:

- Two of the freeway segments the DEIR reports at LOS B would be at LOS C,
- Four segments the DEIR reports at LOS C would be at LOS D,
- Four segments the DEIR reports at LOS C would be at LOS E,
- Three segments the DEIR reports at LOS D would be at LOS F, and
- One segment the DEIR reports at LOS E would be at LOS F.

In the PM analysis:

- One segment the DEIR reports at LOS B would be at LOS C,
- Four segments the DEIR reports at LOS C would be at D,
- One segment the DEIR reports at LOS C would be at E, and
- One segment the DEIR reports at LOS D would be at F.

The DEIR and now the FEIR is clearly underreporting the extent and severity of deficient freeway segment conditions in the future scenarios.

City staff may claim that the DEIR and FEIR have already identified that the project has significant and unavoidable impacts on the State Highway system and that, in light of this finding, the differences in existing traffic data are inconsequential whether Caltrans or the DEIR existing traffic representation is correct and the DEIR/FEIR remains adequate in its current state. However, such a claim is presumptive that public policy decisionmakers will, if they do not deny the project based on the significant and unavoidable impacts, adopt findings of overriding significance and approve the project *regardless of how severe* the project's significant and unavoidable impacts are.

The differences in the traffic data identified by Caltrans implies highly significant differences in the severity and duration of gridlock on the State Highway system serving downtown

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Sincerely,

Smith Engineering & Management
A California Corporation



Daniel T. Smith Jr., P.E.
President

Transportation Centers. Project manager for Daly City Intermodal Study which developed a \$7 million surface bus terminal, traffic access, parking and pedestrian circulation improvements at the Daly City BART station plus development of functional plans for a new BART station at Colma. Project manager for design of multi-modal terminal (commuter rail, light rail, bus) at Mission Bay, San Francisco. In Santa Clarita Long Range Transit Development Program, responsible for plan to relocate system's existing timed-transfer hub and development of three satellite transfer hubs. Performed airport ground transportation system evaluations for San Francisco International, Oakland International, Sea-Tac International, Oakland International, Los Angeles International, and San Diego Lindberg.

Campus Transportation. Campus transportation planning assignments for UC Davis, UC Berkeley, UC Santa Cruz and UC San Francisco Medical Center campuses; San Francisco State University; University of San Francisco; and the University of Alaska and others. Also developed master plans for institutional campuses including medical centers, headquarters complexes and research & development facilities.

Special Event Facilities. Evaluations and design studies for football/baseball stadiums, indoor sports arenas, horse and motor racing facilities, theme parks, fairgrounds and convention centers, ski complexes and destination resorts throughout western United States.

Parking. Parking programs and facilities for large area plans and individual sites including downtowns, special event facilities, university and institutional campuses and other large site developments; numerous parking feasibility and operations studies for parking structures and surface facilities; also, resident preferential parking.

Transportation System Management & Traffic Restraint. Project manager on FHWA program to develop techniques and guidelines for neighborhood street traffic limitation. Project manager for Berkeley, (Calif.), Neighborhood Traffic Study, pioneered application of traffic restraint techniques in the U.S. Developed residential traffic plans for Menlo Park, Santa Monica, Santa Cruz, Mill Valley, Oakland, Palo Alto, Piedmont, San Mateo County, Pasadena, Santa Ana and others. Participated in development of photo/radar speed enforcement device and experimented with speed humps. Co-author of Institute of Transportation Engineers reference publication on neighborhood traffic control.

Bicycle Facilities. Project manager to develop an FHWA manual for bicycle facility design and planning, on bikeway plans for Del Mar, (Calif.), the UC Davis and the City of Davis. Consultant to bikeway plans for Eugene, Oregon, Washington, D.C., Buffalo, New York, and Skokie, Illinois. Consultant to U.S. Bureau of Reclamation for development of hydraulically efficient, bicycle safe drainage inlets. Consultant on FHWA research on effective retrofits of undercrossing and overcrossing structures for bicyclists, pedestrians, and handicapped.

MEMBERSHIPS

Institute of Transportation Engineers Transportation Research Board

PUBLICATIONS AND AWARDS

Residential Street Design and Traffic Control, with W. Homburger *et al.* Prentice Hall, 1989.

Co-recipient, Progressive Architecture Citation, *Mission Bay Master Plan*, with I.M. Pei WRT Associated, 1984.

Residential Traffic Management, State of the Art Report, U.S. Department of Transportation, 1979.

Improving The Residential Street Environment, with Donald Appleyard *et al.*, U.S. Department of Transportation, 1979.

Strategic Concepts in Residential Neighborhood Traffic Control, International Symposium on Traffic Control Systems, Berkeley, California, 1979.

Planning and Design of Bicycle Facilities: Pitfalls and New Directions, Transportation Research Board, Research Record 570, 1976.

Co-recipient, Progressive Architecture Award, *Livable Urban Streets, San Francisco Bay Area and London*, with Donald Appleyard, 1979.

The existence of the Leadership in Energy and Environmental Design (LEED) is noted and an abstract of the benchmarks of performance is given and is in fact not a foregone conclusion. But, no goal is set for the project to achieve. The statement, "it is assumed it will meet the 'Certified' level at a minimum" (page 4-93) is not supported anywhere in the EIR. It is the public policy of governmental agencies, like the California Department of General Services, that buildings they occupy meet a level of Silver or better. In practice achieving a Silver rating will benefit the owner, occupants and citizens by requiring mitigation of energy, water, solid waste, and other impacts of the building. At a minimum the project should be required to meet the LEED Silver level of performance.

Comment G-19:

Achieving LEED Silver would help mitigate ozone and PM₁₀ emissions.

Comments G-20 through G-22:

The Final EIR restates the position of the Draft and is consistent with the position that meeting the bare minimums for energy conservation and efficiency are all that is required to mitigate the impacts of the project. This position is contrary to the public policy position of the Governor and the State of California. The failure to explore mitigation measures, whether cost effective or not, does not allow the City of Sacramento reviewing agencies and public commissions to assess the impacts and mitigation to those impacts.

The position taken by the Final EIR is that everything that can be considered as mitigation measures for the impact of the project's energy consumption, green house gas emissions, and water use is covered by existing minimum standards. That this is not the case is demonstrated by the hundreds of millions of dollars being spent by energy utilities and water utilities to decrease the negative impacts of the built environment. It is most cost effective to build into new structures mitigation measures, rather than have to retrofit them later. To approve the project as proposed adds to the problems we are all working to address. Impacts of buildings are the accumulated impacts of each structure, thus the impact of each structure is significant and must be mitigated.

Sincerely,



Marshall B. Hunt
Professional Mechanical Engineer

Home > LEED

Leadership in Energy and Environmental Design

What is LEED®?

The Leadership in Energy and Environmental Design (LEED) Green Building Rating System™ is the nationally accepted benchmark for the design, construction, and operation of high performance green buildings. LEED gives building owners and operators the tools they need to have an immediate and measurable impact on their buildings' performance. LEED promotes a whole-building approach to sustainability by recognizing performance in five key areas of human and environmental health: sustainable site development, water savings, energy efficiency, materials selection, and indoor environmental quality.

LEED provides a roadmap for measuring and documenting success for every building type and phase of a building lifecycle. Specific LEED programs include:

- [New Commercial Construction and Major Renovation projects](#)
- [Existing Building Operations and Maintenance](#)
- [Commercial Interiors projects](#)
- [Core and Shell Development projects](#)
- [Homes](#)
- [Neighborhood Development](#)
- [Guidelines for Multiple Buildings and On-Campus Building Projects](#)
- [LEED for Schools](#)
- [LEED for Retail](#)

USGBC is also developing LEED for Healthcare, and LEED for Labs.

We also have the [LEED Resources](#) page which has informative PowerPoint presentations, brochures, and case studies, as well as [LEED News](#) and LEED-Online sample credit templates.

How is LEED Developed?

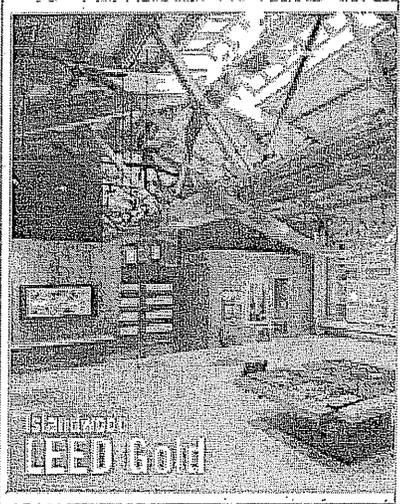
The LEED Rating System was created to transform the built environment to sustainability by providing the building industry with consistent, credible standards for what constitutes a green building. The rating system is developed and continuously refined via an open, consensus-based process that has made LEED the green building standard of choice for [Federal agencies and state and local governments](#) nationwide. [Click here](#) for more information on the LEED Development Process.

What is LEED Certification?

The first step to LEED certification is to [Register](#) your project. A project is a viable candidate for LEED certification if it can meet all prerequisites and achieve the minimum number of points to earn the Certified level of LEED project certification. To earn [certification](#), a building project must meet certain prerequisites and performance benchmarks ("credits") within each category. Projects are awarded

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New Construction
Existing Buildings
Commercial Interiors
Core and Shell Development
Homes
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Neighborhood Development
Market Sector Rating Systems
LEED Public Drafts
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Rating Systems

LEED® is the nationally accepted benchmark for the design, construction, and operation of high performance green buildings. LEED provides building owners and operators with the tools they need to have an immediate and measureable impact on their buildings performance.

LEED can be applied to every building type and phase of a building lifecycle. Specific programs exist for:

- [New Commercial Construction and Major Renovation projects](#)
- [Guidelines for Multiple Buildings and On-Campus Building Projects](#)
- [Existing Building Operations and Maintenance](#)
- [Commercial Interiors projects](#)
- [Core and Shell development projects](#)
- [Homes](#)
- [Neighborhood Development](#)
- [LEED for Schools](#)
- [LEED for Retail](#)

LEED for Health Care is currently under development.

New Optimize Energy Mandatory Point Minimum for LEED projects

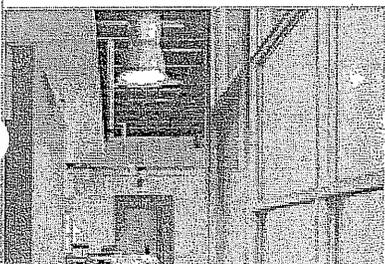
In accordance with direction from its Board of Directors and its LEED Steering Committee to immediately increase the LEED Green Building Rating System's impact in reducing building energy related greenhouse gas emissions, USGBC's membership has approved the update of all balloted commercial LEED Green Building Rating Systems with the following change:

All newly registered LEED projects are required to achieve at least two (2) Optimize Energy Performance points. This requirement is mandatory for all LEED projects registering after June 26, 2007. Projects registered prior to June 26, 2007 will not be held to this requirement; however USGBC encourages all LEED projects to strive to achieve building energy performance commensurate with this new requirement. LEED for Homes and LEED for Neighborhood Development projects are exempt from this requirement.

To help projects achieve this new mandate, a prescriptive path has been developed for all LEED for New Construction, LEED for Core and Shell, LEED for Schools and LEED for Retail projects. When complete, this prescriptive path will be outlined in the appropriate rating system documents available soon.

The two mandatory points will count towards a project's LEED certification. Project teams will be reminded of this change at time of registration, through LEED Online, and illustrated in the rating system and reference guide documents.

Go [here](#) to view the current Optimize Energy Performance credits in LEED for New Construction, Existing Buildings, Commercial Interiors and Core & Shell, and the



LEED Rating Systems
New Construction
Existing Buildings
Commercial Interiors
Core and Shell Development
Homes
Schools
Neighborhood Development
Market Sector Rating Systems
LEED Public Drafts
LEED Certification
Register Your Project
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LEED for New Construction

- [What is LEED for New Construction?](#)
- [LEED for New Construction Rating Systems and Resources](#)
 - [New Construction version 2.2](#)
 - [New Construction version 2.1](#)
 - [New Construction version 2.0](#)
- [LEED Application Guides](#)
- [Info Sheet and Project Case Studies](#)
- [Frequently Asked Questions](#)
- [History](#)

What is LEED for New Construction?

LEED for New Construction and Major Renovations is a green building rating system that was designed to guide and distinguish high-performance commercial and institutional projects, with a focus on office buildings. Practitioners have also applied the system to K-12 schools, multi-unit residential buildings, manufacturing plants, laboratories and many other building types.

Note: The LEED for Schools Rating System is now required for use on all new construction and major renovations of K-12 school buildings in which academic activities occur.

LEED-NC Version 2.2 Rating System and Resources:

- [Download LEED for New Construction Version 2.2 Rating System](#). The rating system lists the intent, requirements, submittals, and technologies/strategies for each credit and includes the LEED for New Construction [Checklist](#).
- **NEW!** Get started with a free download of the [Introduction Chapter from the LEED for New Construction Reference Guide](#). (PDF)
- [Download sample PDF versions of the LEED for New Construction v2.2 Online credit templates](#). These PDFs are an excellent resource for potential projects to see the basic fields and documentation requirements. (Please note that the PDFs do not have the same functionality as the actual LEED Online credit templates. Only registered LEED for New Construction Version 2:2 projects have access to the fully functioning Letter Templates at [LEED-Online](#).)
- Submit Reference Guide and Rating System errata through [our online errata form](#).
- Purchase the [LEED for New Construction v2.2 Second Edition Reference Guide](#) or view the [errata sheet](#) listing corrections to the document. Note: The First Edition has its own specific errata sheet, available [here](#).
- View the [Combined Heat and Power Methodology](#) for LEED 2.2. This can be used for projects that are installing new, or connecting to existing, CHP systems, in lieu of the EAc1 calculation methodology in the LEED for New Construction v2.2 Reference Guide.

U.S. Green Building Council

March 2000: Twelve initial pilot projects achieve certification under LEED for New Construction Version 1.0. LEED for New Construction Version 2.0, based on modifications made during the pilot period, is released.

November 2002: LEED for New Construction continues to evolve to incorporate the best available science and technologies and to respond to the needs of the market. LEED for New Construction Version 2.1 is released.

November 2005: The most current system, LEED for New Construction Version 2.2, is released. USGBC also launches a series of major enhancements and refinements to the LEED documentation and certification process.

Questions?

Visit the LEED Help section of our website.

DEPARTMENT OF TRANSPORTATION

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November 27, 2006

06SAC0207
03-Sac-05 PM 23.425
500 Capitol Mall (P05-108)
Draft Environmental Impact Report
SCH# 2005112038

Scott Johnson, Associate Planner
City of Sacramento
Development Services Department
Environmental Planning Services
2101 Arena Boulevard, Suite 200
Sacramento, CA 95834

Dear Mr. Johnson:

Re: DEIR for 500 Capitol Mall (SCH No. 2005112038)

Thank you for the opportunity to review and comment on the Draft Environmental Impact Report (DEIR) for the 500 Capitol Mall Project (Project) (SCH No. 2005112038). The Project is one of eight high-rise projects that were included in the recently completed Downtown Traffic Study (dated June 2006). It is exciting to see the potential of Downtown Sacramento being realized. Because the State highway system provides the primary access to the government, job, and entertainment centers located in the city center, we want to reiterate our desire to work cooperatively with the City of Sacramento to identify potential mitigations for the impacts to the State highway system, that will accompany the planned growth, to ensure that an appropriate level of access and mobility are retained.

The Project is the first submitted to Caltrans for review that includes the Downtown Traffic Study as a basis for its transportation analysis for the environmental impact assessment. Caltrans supported the concept of a consolidated Downtown Traffic Study as an opportunity for all parties to efficiently analyze the impacts of cumulative development and to develop a more comprehensive approach to mitigation for the impacts. We presume that the City of Sacramento (City) intends to consistently apply the results of the Downtown Traffic Study to all projects that were part of the study and to also use the study's results in evaluating additional downtown projects. We are concerned that study does not fulfill its promise and would like to work with the City to modify the findings.

"Caltrans improves mobility across California"

As noted in the City's discussion, the MTP is the long-range, financially constrained transportation plan for the SACOG region and includes projects to be constructed within the planning horizon of the Plan based on reasonably assured funding. The two HOV projects are included in the MTP for all phases through construction, not just preliminary engineering and environmental as stated on Page 5.6-41. One of the HOV lane projects extends across the American River Bridge to Downtown, and thus, the widening of Interstate 5 across the American River is also included in the MTP.

5-6 continued

There is also a companion document to the MTP that the City did not mention in its discussion, the SACOG Metropolitan Transportation Improvement Program (MTIP). The MTIP is the document that programs Federal funding for projects. The current MTIP includes funding for the preliminary engineering and environmental phase of the two HOV lane projects. As is the case with all high-cost transportation projects, such as the HOV lanes, the MTIP does not program funding for all phases of a project at the same time. Programming is implemented as project phases are completed. The City's statement that, "The proposed freeway improvement projects are not currently approved and funded" is not entirely correct. It is correct that the environmental documents for the projects have not been completed and approved, but the project concepts themselves have been approved for development phases and are active.

5-7

The lack of reference to Measure A is an important oversight regarding the assessment of mitigation project feasibility and funding. Measure A is a voter-approved transportation sales tax measure that identifies funding for a variety of transportation projects and specifically both of the HOV lane projects recommended by Caltrans as mitigation for the Project. Measure A will be providing 50% of the funding for the HOV lane projects. This status contradicts the City's statement that, "there is no fee or other funding mechanism currently in place for future funding."

5-8

Caltrans does not agree as is stated on Page 5.6-41 that "the City cannot determine either the cost of the proposed freeway improvement projects or the proposed project's fair share proportional contribution to the improvement projects with sufficient certainty to enable the City to develop a fee-based mitigation measure that would satisfy the legal requirements for fee-based mitigation under both CEQA (see CEQA Guidelines 15126.4) and constitutional principles that call for a nexus and rough proportionality between a project's impacts and the fee-based mitigation measure." Caltrans has provided the City with cost estimates for the three projects. The fair share proportionality determination is based on the Project's traffic study and should be readily determined from the information provided in the study. As the lead agency, the City is responsible for determining the fair share proportionality, but Caltrans is willing to assist the City to develop both interim and permanent processes for adequate mitigation that will not unnecessarily delay projects.

5-9

Scott Johnson
November 27, 2006
Page 5

- c: Fran Halbakken, City of Sacramento
- Jerry Way, City of Sacramento
- Mike McKeevcr, Sacramento Area Council of Governments
- Brian Williams, Sacramento Transportation Authority
- Will Kempton
- State Clearinghouse