



REPORT TO COUNCIL

City of Sacramento

17

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PUBLIC HEARING
February 27, 2007

**Honorable Mayor and
Members of the City Council**

Title: 500 Capitol Mall (P05-108; DR05-241)

Location/Council District: 500 Capitol Mall / District 1

Recommendation: Conduct a public hearing and upon conclusion: 1) Adopt a **Resolution** certifying the Environmental Impact Report and adopting the Mitigation Monitoring Plan, 2) adopt a **Resolution** denying the third party appeal and approving the entitlements necessary to develop the 500 Capitol Mall project.

Contact: Lindsey Alagozian, Senior Planner, (916) 808-2659; William Thomas, Director of Development, (916) 808-3535

Presenter: William Thomas, Director of Development, 808-3535

Department: Development Services

Division: Planning

Organization No: 4881

Description/Analysis

Issue: The applicant is requesting the necessary entitlements to construct a 24-story, 396-foot tall high rise building. The project was approved by both the Design Review and Preservation Board and the Planning Commission, but subsequently appealed by Jody Jones of the California Department of Transportation on the basis that the Environmental Impact Report (EIR) prepared for 500 Capitol Mall is not in compliance with the California Environmental Quality Act (CEQA).

Policy Considerations: Staff has determined that the project is consistent with the General Plan Update Vision and Guiding Principles, the General Plan, the Central City Community Plan, the City's Smart Growth Principles, the Zoning Code, and the Sacramento Urban Design Plan as it provides a high density office project with retail uses at the ground floor level within the Central Business District that is well served by public transportation.

General Plan Update Vision and Guiding Principles: While the City's General Plan is being updated, the City Council has adopted a vision for the future of the City as well as several guiding principles to help achieve this vision. This was done to ensure that new developments submitted during the ongoing update comply with the goals and policies that are being incorporated into the General

Plan through the update. The applicable guiding principles this proposal complies with include:

- Create a vibrant downtown that serves as a regional destination for the arts, culture, and entertainment while accommodating residents that live, work, and gather in the city center.
- Use the existing assets of infrastructure and public facilities to increase infill and re-use, while maintaining important qualities of community character.
- Protect and replicate the pattern and character of Sacramento's unique and traditional neighborhoods.

The proposed project complies with the above guiding principles and is not contrary to any of the proposed policies.

General Plan: The General Plan designates the site as Regional Commercial & Offices. This category is generally defined as including larger (regional) shopping centers, the Central Business District, and suburban office parks. The Central Business District is included in this category because of its regional function as an employment, retail trade, service, and office center. (SGP, Sec. 4-10)

The project is consistent with the following General Plan goals and policies:

- Maintain and strengthen Downtown's role as a major regional office, retail, commercial, governmental, and cultural/entertainment center (sec 4-12).
- Implement the provisions of the Central Business District Urban Design Plan (sec 4-13).
- Ensure that the City of Sacramento captures a Regional Central City's share of the regional office market (sec 4-15).

Central City Community Plan: The Central City Community Plan designates the subject site as Multi Use. The project is consistent with the land-use designations and policies contained in the Community Plan by providing quality office developments and further revitalizing the Central Business District as a major commercial center in the region. The project provides a mix of uses including high density office use which will serve to increase the economic viability and livability of the area. The restaurant and retail uses will contribute toward the creation of an 18-24 hour city. The proposed project is consistent with the following Central City Community Plan goals and policies:

- Continue the revitalization of the Central Business District as a major commercial center in the region (p. 8).

- Encourage public and private office development, where compatible with the adjacent land uses and circulation system, in the Central Business District (p. 8).
- Continue to provide cultural and entertainment activities in the Central City so as to increase usage of the Central Business District (p. 8).
- Encourage full utilization of existing office areas in the Central City (p. 9).

Smart Growth Principles: The proposed project is consistent with Smart Growth Principles which aim to support development that revitalizes central cities and existing communities, supports public transportation and preserves open space. Approval of the project would contribute to the creation of a vibrant city center, concentrating new development within the urban core of the region, and promoting infill development.

Zoning Code: The project site is located in the Central Business District, Special Planning District (C-3-SPD) zone and is consistent with the zone's requirements. The central business district (CBD or C-3 zone) applies to an approximately seventy (70) block portion of the central city. The C-3 zone, with the exception of the area covered by the Capitol View Protection Ordinance, is the only classification which has no height limit and is intended for the most intense retail, commercial and office developments in the city. The goals of the CBD-SPD are as follows:

- Accelerate the economic revitalization process by creating a marketplace attractive to private investment;
- Achieve a plan for long-term economic growth through private sector incentive measures;
- Enhance the character of Sacramento's downtown and ensure the development of well-designed new projects by adopting the architectural design guidelines;
- Provide for a pleasant, rich and diverse pedestrian experience by implementing the streetscape design guidelines;
- Provide for the humanization of the downtown through promotion of the arts, program of special events and activities, and overall excellence of design.

Sacramento Urban Design Plan: The Sacramento Urban Design Plan designates Capitol Mall as a protected view corridor in which landscaping and building massing should enhance views of landmarks. Furthermore, it labels Capitol Mall as "*the front yard for the State Capital. It represents the primary role of the community as the seat of State Government. This role should be amplified.*"(p. 15) The plan further outlines two concepts that support this goal including compliance with the building massing setbacks in order to accentuate its broad open character and streetscape improvements which add to the symbolic importance of the street as one approaches the Capital. The City Zoning Ordinance does not require specific building setbacks in the C-3-SPD zone; however, the Sacramento Urban Design Plan contains Capitol Mall Massing Guidelines. The guidelines recommend a 90' setback from the centerline of Capitol Mall to the street wall and a 140' setback from

the centerline of Capitol Mall to the tower. Additionally, the guidelines recommend a 15' building street wall setback on the side street (5th Street). There is no recommendation for N Street within the Sacramento Urban Design Plan. The proposed project is in general compliance with the Sacramento Urban Design Plan as illustrated in the project design section of this staff report.

Committee/Commission Action: On December 20, 2007 the project was reviewed and unanimously approved by the Design Review and Preservation Board. Subsequently, the project was appealed by William D. Kopper, Attorney at Law for IBEW340. On January 18, 2007 the project was presented to the Planning Commission in which the appellant did not appear. The appeal was denied and the project was approved by the Planning Commission. This approval was subsequently appealed by Jody Jones, California Department of Transportation, indicating that the EIR prepared for 500 Capitol Mall is not in compliance with CEQA.

Environmental Considerations: In accordance with CEQA Guidelines, Section 15081, Environmental Planning Services (EPS) determined that an Environmental Impact Report (EIR) should be prepared for the proposed project. The Draft EIR identified significant impacts for Noise, Cultural Resources, Public Utilities, Traffic and Circulation and Air Quality. Mitigation measures were identified to reduce many project impacts to a less than significant impact. However, significant and unavoidable impacts remain for Air Quality, Noise, Traffic and Circulation. A Mitigation Monitoring Plan (MMP) that lists all of the mitigation measures and required implementing actions was prepared and is attached (Exhibit A, Pg 52).

The Draft EIR was prepared and released for a forty-five (45) day public review period, established by the State Clearinghouse, beginning on October 11, 2006 and ending on November 27, 2006. A public notice was placed in the Daily Recorder on October 11, 2006, which stated that 500 Capitol Mall Project Draft EIR was available for public review and comment. A public notice was posted with the Sacramento County Clerks Office on October 11, 2006. A Notice of Availability (NOA) dated October 5, 2006 was distributed to all interested groups, organizations, and individuals on October 11, 2006, for the Draft EIR. The NOA stated that the City of Sacramento had completed the Draft EIR and that copies were available at the City of Sacramento, Development Services Department, Environmental Planning Services, 2101 Arena Blvd., Suite 200, Sacramento, CA 95834. The NOA also indicated that the official forty-five day public review period for the Draft EIR would end on November 27, 2006.

Comment letters on the Draft EIR were received from Sacramento Regional County Sanitation District (SRCSD), California Department of Water Resources (DWR), Sacramento Regional Transit (RT), Larry Micheli, California Department of Transportation (Caltrans), and the Sacramento Metropolitan Air Quality Management District (SMAQMD). The comment letters and responses to comments are included in the Final EIR. The FEIR responds to all comments received on the Draft EIR and revises text and/or analysis where needed.

Rationale for Recommendation: The California Department of Transportation

(appellant) has appealed the City Planning Commission's approval of the 500 Capitol Mall project on the basis that the environmental impact report (EIR) is not in compliance with the California Environmental Quality Act (CEQA) because feasible mitigation is available for impacts to the State Highway System, but the City has refused to require it. Staff's position is that the EIR is in compliance with CEQA, because the mitigation measures proposed by Caltrans (I-5/American River Bridge widening, 1-5 High Occupancy Vehicle (HOV) lanes – Garden Highway to I-80 with direct connectors, and 1-5 HOV lanes – U.S. 50 Interchange to Elk Grove Boulevard), are infeasible and outside the jurisdiction of the City.

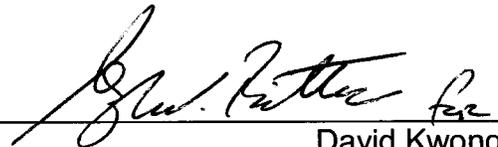
Pursuant to CEQA Section 21091, a public agency may approve a project with one or more significant impacts if findings are made that mitigation of the significant effects is the responsibility and jurisdiction of another public agency and have been, or can and should be, adopted by that other agency (see Attachment 1, the Resolution Certifying the EIR, Section 2,B, Page 25); or specific economic, legal, social, technological, or other considerations make infeasible the mitigation measures or alternatives identified in the EIR (see Attachment 1, the Resolution Certifying the EIR, Section 2,C Page 29), and the public agency determines to approve the project despite the unmitigated significant impacts due to findings and overriding considerations (CEQA Guidelines Section 15093; Resolution Certifying the EIR, Section 2 G, Page 48).

Pursuant to CEQA Guidelines Section 15364, the City has determined that the mitigation measures identified in the EIR are not capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, legal, social, and technological factors and are therefore, infeasible.

Financial Considerations: The project has no fiscal considerations.

Emerging Small Business Development (ESBD): City Council approval of these proceedings is not affected by city policy related to the ESBD program. No goods or services are being purchased.

Respectfully Submitted by:



David Kwong
Planning Manager

Approved by:



William Thomas
Director of Development

Recommendation Approved:



 Ray Kerridge
City Manager

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Attachment 1 – Environmental Resolution

RESOLUTION NO. 2007-

Adopted by the Sacramento City Council

**CERTIFYING THE ENVIRONMENTAL IMPACT REPORT
AND ADOPTING THE MITIGATION MONITORING PLAN FOR THE 500 CAPITOL
MALL PROJECT (P05-108)**

BACKGROUND

A. Based on the initial study conducted for 500 Capitol Mall, P05-108 (“Project”), the City of Sacramento’s Environmental Planning Services determined, on substantial evidence, that the Project may have a significant effect on the environment and prepared an environmental impact report (“EIR”) on the Project. The EIR was prepared, noticed, published, circulated, reviewed, and completed in full compliance with the California Environmental Quality Act (Public Resources Code §21000 *et seq.* (“CEQA”), the CEQA Guidelines (14 California Code of Regulations §15000 *et seq.*), and the City of Sacramento environmental guidelines, as follows:

1. A Notice of Preparation of the Draft EIR was filed with the Office of Planning and Research and each responsible and trustee agency on April 13, 2006, and was circulated for public comments from April 13, 2006, to May 12, 2006.

2. A Notice of Completion (NOC) and copies of the Draft EIR were distributed to the Office of Planning and Research on October 11, 2006, to those public agencies that have jurisdiction by law with respect to the Project, or which exercise authority over resources that may be affected by the Project, and to other interested parties and agencies as required by law. The comments of such persons and agencies were sought.

3. An official forty-five (45) day public comment period for the Draft EIR was established by the Office of Planning and Research. The public comment period began on October 11, 2006, and ended on November 27, 2006.

4. A Notice of Availability (NOA) of the Draft EIR was mailed to all interested groups, organizations, and individuals who had previously requested notice in writing on October 11, 2006. The NOA stated that the City of Sacramento had completed the Draft EIR and that copies were available at the City of Sacramento, Development Services Department, New City Hall, 915 I Street, Third Floor, Sacramento, California 95814. The letter also indicated that the official forty-five (45) day public review period for the Draft EIR would end on November 27, 2006.

5. A public notice was placed in the Daily Recorder on October 11, 2006, which stated that the Draft EIR was available for public review and comment.

6. A public notice was posted in the office of the Sacramento City Clerk and the Sacramento County Clerk on October 11, 2006.

7. Following closure of the public comment period, all comments received on the Draft EIR during the comment period, the City's written responses to the significant environmental points raised in those comments, and additional information added by the City were added to the Draft EIR to produce the Final EIR.

B. The following information is incorporated by reference and made part of the record supporting these findings:

1. The Draft and Final EIR and all documents relied upon or incorporated by reference.
2. The City of Sacramento General Plan, City of Sacramento, January, 1988 and all updates.
3. Environmental Impact Report City of Sacramento General Plan Update, City of Sacramento, March, 1987 and all updates.
4. Findings of Fact and Statement of Overriding Considerations for the Adoption of the Sacramento General Plan Update, City of Sacramento, 1988 and all updates.
5. Zoning Ordinance of the City of Sacramento
6. Blueprint Preferred Scenario for 2050, Sacramento Area Council of Governments, December, 2004
7. Central City Community Plan
8. Sacramento Housing and Redevelopment Agency, Sacramento Department of City Planning, Urban Design Plan 3.0, Architectural Design Policies
9. City of Sacramento, 2005-2010, Capitol Improvement Program, Utilities Program Overview
10. The Mitigation Monitoring Plan for the Project.
11. All records of decision, staff reports, public testimony, memoranda, maps, exhibits, letters, synopses of meetings, and other documents approved, reviewed, relied upon, or prepared by the City Council or any City commissions, boards, officials, consultants, or staff relating to the Project.

C. The City Council has final approval authority over the following Project entitlements: Certification of the EIR, Adoption of the Mitigation Monitoring Plan, Special Permit for Major Project over 75,000 square feet, and Design Review.

D. Pursuant to Guidelines section 15091(e), the documents and other materials that constitute the record of proceedings upon which the City Council has based its decision are located in and may be obtained from, the Office of the City Clerk at 915 I Street, Sacramento, California. The City Clerk is the custodian of records for all matters before the City Council.

BASED ON THE FACTS SET FORTH IN THE BACKGROUND, THE CITY COUNCIL RESOLVES AS FOLLOWS:

Section 1. The City Council certifies that:

A. The Final EIR constitutes an adequate, accurate, objective and complete final environmental impact report in full compliance with the requirements of CEQA, the State CEQA Guidelines and the City of Sacramento environmental guidelines;

B. The Final EIR has been presented to the City Council, and the Council has reviewed and considered the information contained in the Final EIR prior to taking action on the Project;

C. The Final EIR reflects the City Council's independent judgment and analysis.

Section 2. CEQA requires that the lead agency adopt mitigation measures or alternatives, where feasible, to substantially lessen or avoid significant environment impacts that would otherwise occur. Mitigation measures or alternatives are not required, however, where such changes are infeasible or where the responsibility for the project lies with some other agency. (CEQA Guidelines, § 15091, sub. (a), (b).)

With respect to a project for which significant impacts are not avoided or substantially lessened, a public agency, after adopting proper findings, may nevertheless approve the project if the agency first adopts a statement of overriding considerations setting forth the specific reasons why the agency found that the project's "benefits" rendered "acceptable" its "unavoidable adverse environmental effects." (CEQA Guidelines, §§ 15093, 15043, sub. (bb); see also Pub. Resources Code, § 21081, subd. (b).)

In seeking to effectuate the substantive policy of CEQA to substantially lessen or avoid significant environmental effects to the extent feasible, an agency, in adopting findings, need not necessarily address the feasibility of *both* mitigation measures and environmentally superior alternatives when contemplating approval of a proposed project with significant impacts. Where a significant impact can be mitigated to an "acceptable" level solely by the adoption of feasible mitigation measures, the agency, in

drafting its findings, has no obligation to consider the feasibility of any environmentally superior alternative that could also substantially lessen or avoid that same impact — even if the alternative would render the impact less severe than would the proposed project as mitigated. (*Laurel Hills Homeowners Association v. City Council* (1978) 83 Cal.App.3d 515, 521; see also *Kings County Farm Bureau v. City of Hanford* (1990) 221 Cal.App.3d 692, 730-731; and *Laurel Heights Improvement Association v. Regents of the University of California* (“*Laurel Heights I*”) (1988) 47 Cal.3d 376, 400-403.)

In these Findings, the City first addresses the extent to which each significant environmental effect can be substantially lessened or avoided through the adoption of feasible mitigation measures. Only after determining that, even with the adoption of all feasible mitigation measures, an effect is significant and unavoidable does the City address the extent to which alternatives described in the EIR are (i) environmentally superior with respect to that effect and (ii) “feasible” within the meaning of CEQA.

In cases in which a project’s significant effects cannot be mitigated or avoided, an agency, after adopting proper findings, may nevertheless approve the project if it first adopts a statement of overriding considerations setting forth the specific reasons why the agency found that the “benefits of the project outweigh the significant effects on the environment.” (Public Resources Code, Section 21081, sub. (b); see also, CEQA Guidelines, Sections 15093, 15043, subd.(b).) In the Statement of Overriding Considerations found at the end of these Findings, the City identifies the specific economic, social, and other considerations that, in its judgment, outweigh the significant environmental effects that the Project will cause.

The California Supreme Court has stated that “[t]he wisdom of approving ... any development project, a delicate task which requires a balancing of interests, is necessarily left to the sound discretion of the local officials and their constituents who are responsible for such decisions. The law as we interpret and apply it simply requires that those decisions be informed, and therefore balanced.” (*Goleta II* (1990) 52 Cal.3d 553 at 576.)

In support of its approval of the Project, the City Council makes the following findings for each of the significant environmental effects and alternatives of the Project identified in the EIR pursuant to Section 21080 of CEQA and section 15091 of the CEQA Guidelines:

A. Significant or Potentially Significant Impacts Mitigated to a Less Than Significant Level.

The following significant and potentially significant environmental impacts of the Project, including cumulative impacts, are being mitigated to a less than significant level and are set out below. Pursuant to section 21081(a)(1) of CEQA and section 15091(a)(1) of the CEQA Guidelines, as to each such impact, the City Council, based on the evidence in the record before it, finds that changes or alterations incorporated into the Project by means of conditions or otherwise, mitigate, avoid or substantially lessen to a level of insignificance these significant or potentially significant environmental impacts of the Project. The basis for the finding for each identified

impact is set forth below.

Air Quality

5.2-1 Construction of the proposed project would generate emissions of ozone precursors. This is a *significant impact* (Less than Significant after Mitigation).

Facts in Support of Finding

This impact can be reduced to a less-than-significant level through implementation of Mitigation Measure 5.2-1, a-e. Changes or alternatives have been required in, or incorporated into, the project which mitigate or avoid the significant environmental effect as identified in the DEIR.

Since ozone has significant adverse health effects, it is important to consider ozone precursors ROG and NO_x when addressing project development impacts. The SMAQMD has not developed a threshold of significance for ROG associated with construction activities because the main source of ROG during construction, architectural coatings, can be effectively regulated by SMAQMD Rule 442, Architectural Coatings. Although some measures address NO_x emissions from heavy-duty diesel construction equipment, the SMAQMD has found it necessary to develop a construction threshold for NO_x of 85 pounds per day.

Following SMAQMD's recommended methodology and assumptions, construction emissions were modeled for the proposed project with the results illustrated in Table 5.2-6 of the DEIR. Modeling indicated that NO_x emissions during construction could reach a maximum of 239.07 pounds per day. This would be above the 85 pounds-per-day threshold of significance for construction NO_x, and would be a *significant impact*.

Mitigation Measure 5.2-1

The following measures shall be incorporated into construction bid documents as recommended by the SMAQMD:

- (a) The project applicant shall provide a plan for approval by SMAQMD demonstrating that the heavy-duty (>50 horsepower) off-road vehicles to be used in the construction project, including owned, leased, and subcontractor vehicles, shall achieve a project wide fleet-average 20 percent NO_x reduction and 45 percent particulate reduction compared to the most recent CARB fleet average at time of construction.
- (b) The following measure shall be incorporated into construction bid documents: At least one piece of diesel equipment used on the site during the demolition, earthmoving and clearing stages of construction shall be fitted with a level 3 California Air Resources Board verified diesel emission control system.

- (c) The project applicant and/or contractor shall submit to SMAQMD a comprehensive inventory of all off-road construction equipment, equal to or greater than 50 horsepower, that shall be used an aggregate of 40 or more hours during any portion of the construction project. The inventory shall include the horsepower rating, engine production year, and projected hours of use or fuel throughput for each piece of equipment. The inventory shall be updated and submitted monthly throughout the duration of the project, except that an inventory shall not be required for any 30-day period in which no construction activity occurs. At least 48 hours prior to the use of subject heavy-duty off-road equipment, the project applicant and/or contractor shall provide SMAQMD with the anticipated construction timeline, including start date and name and phone number of the project manager and on-site foreman.
- (d) The project applicant and/or contractor shall ensure that emissions from all off-road diesel powered equipment used on the project site do not exceed 40 percent opacity for more than three minutes in any one hour. Any equipment found to exceed 40 percent opacity (or Ringelmann 2.0) shall be repaired immediately and SMAQMD shall be notified within 48 hours of identification of non-compliant equipment. A visual survey of all in-operation equipment shall be made at least weekly, and a monthly summary of the visual survey results shall be submitted to the SMAQMD throughout the duration of the project, except that the monthly summary shall not be required for any 30-day period in which no construction activity occurs. The monthly summary shall include the quantity and type of vehicles surveyed as well as the dates of each survey.
- (e) Prior to issuance of a grading permit, the project applicant shall provide the City with proof of payment of the NO_x off-site mitigation fee in the amount of \$23,375 (as detailed in Table 5.2-7).
- (f) If the equipment list or hours of use substantially differ from those used for the model inputs for construction emissions included in Appendix C of the DEIR, the project proponent shall notify the SMAQMD, who shall contact the City Development Services Department to recalculate the off-site mitigation fee. The project applicant shall be responsible for payment of additional fees if the actual equipment and/or schedule would result in increased emissions that exceed the 85 pounds per day NO_x standard.

Finding

While the proposed project's impact would be substantially reduced through implementation of mitigation measures 5.2-1a-d, f, the impact during construction would remain significant. In order to reduce the impact to a less-than-significant level, the SMAQMD requires implementation of a one-time NO_x off-site mitigation fee of \$14,300

per ton, as required by mitigation measure 5.2-1e. Compliance with these measures would reduce the impact to a *less-than-significant* level.

Implementation of Mitigation Measure 5.2-1 a-f would ensure that mitigations required in the SMAQMD Rule 442 are implemented and that the project proponent would pay the one-time NO_x off-site mitigation fee.

This impact is less than significant after mitigation.

Cultural Resources

5.3-2 The proposed project could cause a substantial adverse change in the significance of an archaeological resource pursuant to section 15064.5 of the State CEQA Guidelines. This is a *potentially significant impact*. (Less than Significant after Mitigation).

Facts in Support of Finding

This impact can be reduced to a less-than-significant level through implementation of Mitigation Measure 5.3-2. Changes or alterations have been required in, or incorporated into, the project which mitigate or avoid the significant environmental effect as identified in the DEIR.

The NCIC search revealed five records of archaeological studies conducted within or adjacent to the project site, none of which resulted in the discovery of prehistoric archaeological sites within the project area. However, given the well-documented and intensive use of the project area by prehistoric and ethnographic-period peoples, there is a moderate to high potential for the presence of prehistoric or ethnographic-period sites in the project area. In addition, known patterns of local historic land use create high potential for historic-period cultural resources in the project area. Consequently, ground-disturbing project construction activities could cause significant adverse impacts on previously unknown subsurface prehistoric, ethnographic, and/or historic-period archaeological resources. This would be considered a *potentially significant impact*.

Mitigation Measure 5.3-2

Prior to the issuance of grading or construction permits, the project applicant shall retain an archaeologist with knowledge of prehistoric and historic-period archaeology to prepare an Archaeological Testing, Monitoring, and Data Recovery Plan (ATMDRP). The ATMDRP shall require that a qualified archaeologist conduct test trenching on site prior to the commencement of demolition and construction activities. The project applicant shall be responsible for clearing the existing surface parking lot per the ATMDRP to allow test trenching. The ATMDRP shall require that a qualified archaeologist be present for all ground-disturbing activities (i.e., excavation, compaction, heavy-equipment operation) that occur on the project site. The ATMDRP

shall define how archaeological monitoring will be conducted, the protocol to be followed in the event that significant resources are discovered during monitoring, and where and how data recovery will be conducted for any important archaeological resources discovered. The ATMDRP shall specify that all construction personnel will be alerted to the possibility of buried cultural resources prior to the initiation of ground-disturbing activities. The ATMDRP shall specify that if any cultural resources, such as structural features, unusual amounts of bone or shell, artifacts, human remains, or architectural remains are encountered during any development activities, work shall be suspended within 50 meters (165 feet) of the find. The City of Sacramento Development Services Department shall be immediately notified, and a qualified archaeologist shall develop, as necessary, mitigation measures to reduce archaeological impacts to less-than-significant levels before construction resumes. The final improvement plans shall document any discoveries of cultural resources and the resultant mitigation measures. Any additional mitigation measures that are developed shall be approved by the City prior to implementation.

Finding

Implementation of Mitigation Measure 5.3-2 would ensure that mitigations required in the Archaeological Testing, Monitoring, and Data Recovery Plan (ATMDRP) are implemented.

This impact is less than significant after mitigation.

5.3-3 The proposed project could disturb human remains, including those interred outside of formal cemeteries. This is a *potentially significant impact*. (Less than Significant after Mitigation).

Facts in Support of Finding

This impact can be reduced to a less-than-significant level through implementation of Mitigation Measure 5.3-3. Changes or alterations in, or incorporated into, the project which mitigate or avoid the significant environmental effect as identified in the DEIR.

The NCIC records search identified no recorded prehistoric archaeological sites within the ¼-mile radius of the project site. The NAHC search of the sacred lands database failed to indicate the presence of Native American resources in the immediate project area, and, as of the printing of this document, there have been no responses from tribal representatives indicating the presence of Native American cultural resources in the project area. However, there is a possibility that human remains, including those interred outside of formal cemeteries, exist on the project site that could be disturbed during grading, excavation, and other earth-moving activities during construction. This would be considered a *potentially significant impact*.

Mitigation Measure 5.3-3

If human remains are discovered during any phase of archaeological testing or construction, work shall be suspended immediately within 50 meters (165 feet) of the remains and the City of Sacramento Development Services Department and the Sacramento County Coroner shall be notified immediately. If the remains are determined by the county coroner to be Native American, the Native American Heritage Commission (NAHC) shall be notified within 24 hours, and the guidelines of the NAHC shall be adhered to in the treatment and disposition of the remains. The project applicant shall also retain a professional archaeologist with Native American burial experience to conduct a field investigation of the specific site and consult with the Most Likely Descendant, if any, identified by the NAHC. As necessary, the archaeologist may provide professional assistance to the Most Likely Descendant, including the excavation and removal of the human remains. The City of Sacramento Development Services Department will be responsible for approval of recommended mitigation as it deems appropriate, taking account of the provisions of state law, as set forth in CEQA Guidelines section 15064.5(e) and Public Resources Code section 5097.98. The project applicant shall implement approved mitigation, to be verified by the City of Sacramento Development Services Department, before the resumption of activities at the site where the remains were discovered.

Finding

This method of approving additional mitigation and adherence to protocol of the mitigation measure shall reduce the impact to a less-than-significant level.

Implementation of Mitigation Measures 5.3-3 would ensure that mitigations required by the NAHC are implemented.

This impact is less than significant after mitigation.

5.3-4 The proposed project, in combination with other development in the Sacramento region, could adversely affect unique archaeological resources or historical resources as defined in section 21083.2 of the Public Resources Code and section 15064.5 of the State CEQA Guidelines. This is a cumulative *potentially significant impact*. (Less than Significant after Mitigation).

Facts in Support of Finding

This impact can be reduced to a less-than-significant level through implementation of Mitigation Measures 5.3-2 and 5.3-3. Changes or alterations have been required in, or incorporated into, the project which mitigate or avoid the significant environmental effect as identified in the DEIR.

Based upon previous cultural resource surveys and research, the Sacramento region has been inhabited by prehistoric and historic-period peoples for thousands of years.

The proposed project, in combination with other development in the Sacramento region, could contribute to the loss of significant cultural resources, unidentified prehistoric- and historic-period resources and historic-period structures. Because all significant cultural resources are unique and non-renewable members of finite classes, all adverse effects or negative impacts erode a dwindling resource base. For example, the loss of any one archaeological site affects all others in a region because these resources are best understood in the context of the entirety of the cultural system of which they are a part. The boundaries of an archaeologically important site often extend beyond the boundaries of a project site. As a result, a meaningful approach to preserving and managing cultural resources must focus on the likely distribution of cultural resources, rather than on project or parcel boundaries. The cultural system is represented historically and archaeologically by the total inventory of all sites, features, structures, and other cultural remains in the region. Proper planning and appropriate mitigation can help to capture and preserve knowledge of such resources and can provide opportunities for increasing our understanding of the past environmental conditions and cultures by recording data about sites discovered and preserving artifacts found. Federal, state, and local laws are also in place, as discussed above, that protect these resources. Nevertheless, development projects in the Sacramento region have the potential to adversely affect significant cultural resources that are unique and non-renewable members of finite classes. Therefore, the cumulative impact is potentially significant. Because the proposed project has the potential to adversely affect cultural resources, the project's contribution would be cumulatively considerable, resulting in a potentially significant cumulative impact.

Mitigation Measure 5.3-4

Implement Mitigation Measures 5.3-2 and 5.3-3.

Finding

Implementation of Mitigation Measures 5.3-2 and 5.3-3 would ensure that the project's cumulative contribution could be reduced to a less-than-considerable level, rendering the cumulative impact less than significant.

This cumulative impact is less than significant after mitigation.

Transportation

5.6-1 Intersections – The project would increase traffic volumes at study area intersections. This is considered a *significant impact*. (Less than Significant after Mitigation).

Facts in Support of Finding

This impact can be reduced to less-than-significant levels through implementation of Mitigation Measure 5.6-1 a-d. Changes or alterations have therefore been required in, or incorporated into, the project which mitigate or avoid the significant environmental effect as identified in the DEIR.

The project would increase traffic volumes in the study area. The changes in intersection operating conditions with the addition of project-generated traffic exceed the standards of significance for impacts to intersections at:

- 3rd Street / J Street – In the a.m. peak hour, the intersection operates at LOS “E” with an increase in average delay of 6.4 seconds.
- 3rd Street / L Street – In the p.m. peak hour, the intersection operates at LOS “D” with an increase in average delay of 11.1 seconds.
- 3rd Street / P Street – In the p.m. peak hour, traffic generated by the project degrades the intersection operating condition from LOS “C” to LOS “D.”
- 15th Street / J Street – In the p.m. peak hour, the intersection operates at LOS “E” with an increase in average delay of 10.4 seconds.

Therefore, the impacts are considered significant. However, with implementation of the following mitigation measures, they can be reduced to less than significant.

Mitigation Measure 5.6-1

(a) Intersection of 3rd Street / J Street – Modify the traffic signal phase splits during the a.m. peak period by increasing the phase time for the southbound I-5 off-ramp approach (eastbound) to 40 seconds, maintaining the 50 second phase time for the northbound I-5 off-ramp, and decreasing the north and southbound 3rd Street phase time to 10 seconds. The applicant for the proposed project shall pay a fair share to recover the costs for the City’s Traffic Operation Center monitoring and retiming of this intersection.

This mitigation measure would reduce average vehicle delay by 14.7 seconds during the a.m. peak hour and would reduce the baseline plus project impact to less than significant.

(b) Intersection of 3rd Street/ L Street - Modify the westbound approach to provide one left-turn lane, two through lanes, (to the northbound I-5 on-ramp), and one right-turn lane. The applicant shall pay its fair share toward the City project to improve and re-stripe the intersection.

This mitigation measure would reduce average vehicle delay by 25.2 seconds during the p.m. peak hour and would reduce the baseline plus project impact to less than significant.

(c) Intersection of 3rd Street / P Street – Modify the traffic signal phase splits during the p.m. peak period by increasing the signal phase time to 32 seconds for the westbound P Street approach and decreasing the southbound 3rd Street approach to 18

seconds. The applicant for the proposed project shall pay a fair share to recover the costs for the City's Traffic Operation Center monitoring and retiming of this intersection. This mitigation measure would reduce average vehicle delay by 7.7 seconds during the p.m. peak hour and would reduce the baseline plus project impact to less than significant.

(d) Intersection of 15th Street / J Street – Modify the traffic signal phase splits during the p.m. peak period by increasing the phase time for the eastbound J Street approach to 30 seconds, and decreasing the southbound 15th Street signal phase time to 20 seconds. The applicant for the proposed project shall pay a fair share to recover the costs for the City's Traffic Operation Center monitoring and retiming of this intersection. This mitigation measure would reduce average vehicle delay by 18.5 seconds during the p.m. peak hour and would reduce the baseline plus project impact to less than significant.

Finding

Once implemented, Mitigation Measures 5.6-1 would ensure that intersections would operate at acceptable levels.

This impact is less than significant after mitigation.

5.6-4 Freeway Ramp Queuing – The project would increase the length of freeway ramp queues. This is considered a *significant impact*. (Less than Significant after Mitigation).

Facts in Support of Finding

This impact can be reduced to a less-than-significant level through implementation of Mitigation Measure 5.6-1(a). Changes or alterations have been required in, or incorporated into, the project which mitigate or avoid the significant environmental effect as identified in the DEIR.

The project would increase freeway ramp queues. The changes in freeway system operating conditions with the addition of project-generated traffic exceed the standards of significance for impacts to the freeway system, since the project traffic increases the length of queuing at a location where queues are anticipated to exceed available storage without the project. An impact occurs on the Southbound I-5 exit ramp to J Street during the a.m. peak hour. The impact is considered significant.

This change in traffic signal timing required in Mitigation Measure 5.6-1(a) would reduce the queue length to 3,400 feet, which is less than the available storage of 3,600 feet, and would reduce the baseline plus project impact to less than significant.

Mitigation Measure 5.6-4

Implement Mitigation Measure 5.6-1(a).

Finding

Implementation of Mitigation Measure 5.6-1 (a) would reduce the queue length at the exit ramp to within the available storage.

This impact is less than significant after mitigation.

5.6-9 Construction – The construction of the project may include the temporary closure of numerous transportation facilities, including portions of City streets, sidewalks, bikeways, on-street parking, off-street parking, and transit facilities. This is considered a *significant impact*. (Less than Significant after Mitigation).

Facts in Support of Finding

This impact can be reduced to less than significant through implementation of Mitigation Measure 5.6-9. Changes or alterations have therefore been required in, or incorporated into, the project which mitigate or avoid the significant environmental effect as identified in the DEIR.

Construction will include disruptions to the transportation network near the site, including the possibility of temporary lane closures, street closures, sidewalk closures, and bikeway closures. Existing on-street parking will be disrupted during construction, and replacement spaces may not be available. Pedestrian and transit access may be disrupted. Heavy vehicles will access the site and will need to be staged for construction. These activities will result in degraded roadway operations. The addition of construction personnel will result in the temporary need for additional parking. Therefore, the impacts are considered significant.

Mitigation Measure 5.6-9

Prior to beginning of construction, a construction traffic management plan shall be prepared by the applicant to the satisfaction of the City traffic engineer, Regional Transit, and any other affected agency.

Finding

Implementation of Mitigation Measure 5.6-9 requires a construction traffic management plan to be prepared by the applicant to the satisfaction of the City traffic engineer, Regional Transit, and any other affected agency to ensure these facilities are not substantially affected during construction.

The impact will be less than significant after mitigation.

5.6-10 Impacts to study intersections under Near Term Plus Project Conditions. These are considered *significant impacts*. (Less than Significant after mitigation).

Facts in Support of Finding

These impacts can be reduced to less-than-significant levels through implementation of Mitigation Measures 5.6-10 (a-m). Changes or alterations have therefore been required in, or incorporated into, the project which mitigate or avoid the short-term significant environmental effects as identified in the DEIR.

The proposed project, in combination with other proposed downtown projects, would add traffic to study intersections and cause significant impacts for near-term cumulative conditions where the traffic generated by the project would degrade the level of service from LOS C to LOS E during the p.m. peak hour or cause the area to be LOS F during the a.m. peak hour. In addition, the traffic generated by the project would degrade the level of service from LOS B to LOS D during the p.m. peak hour in other intersections. Project generated traffic would increase the average vehicle delay at the following intersections:

3rd Street / J Street, L Street, N Street, P Street, 5th Street / L Street, 7th Street / L Street, 8th Street / L Street, 9th Street / J Street, 10th Street / J Street, 12th Street / J Street, 15th Street / J Street, X Street, 16th Street / H Street. Modification of the traffic signal phase splits throughout the affected project area will additionally mitigate these impacts to a less than significant level.

Mitigation Measure 5.6-10

- (a) At the 3rd Street / J Street intersection, modify the traffic signal phase splits during the a.m. peak period by increasing the phase time for the southbound I-5 off-ramp approach (eastbound) to 40 seconds, maintaining the 50 second phase time for the northbound I-5 off-ramp, and decreasing the north and southbound 3rd Street phase time to 10 seconds. The project applicant shall pay a fair share to recover the costs of the City's Traffic Operation Center monitoring and retiming of this intersection.
- (b) At the 3rd Street / L Street intersection, modify the westbound approach to provide one left-turn lane, two through lanes (to the northbound I-5 on-ramp), and one right-turn lane. The project applicant shall pay a fair share to recover the costs of the City's Traffic Operation Center monitoring and retiming of this intersection.
- (c) At the 3rd Street / N Street intersection, modify the traffic signal phase splits during the a.m. peak period by increasing the southbound 3rd Street signal phase time to 34 seconds, decreasing the eastbound N Street approach to 15 seconds,

and maintaining the phase time for the eastbound Tower Bridge approach at 21 seconds. The project applicant shall pay a fair share to recover the costs of the City's Traffic Operation Center monitoring and retiming of this intersection.

- (d) At the 3rd Street / P Street intersection, modify the traffic signal phase splits during the p.m. peak period by increasing the signal phase time to 32 seconds for the westbound P Street approach and decreasing the southbound 3rd Street approach to 18 seconds. The project applicant shall pay a fair share to recover the costs of the City's Traffic Operation Center monitoring and retiming of this intersection.
- (e) At the 5th Street / L Street intersection, modify the traffic signal phase splits during the p.m. peak period by increasing the signal phase time to 28 seconds for the westbound L Street approach and decreasing the northbound and southbound 5th Street approaches to 42 seconds. The project applicant shall pay a fair share to recover the costs of the City's Traffic Operation Center monitoring and retiming of this intersection.
- (f) At the 7th Street / L Street intersection, modify the traffic signal phase splits during the p.m. peak period by increasing the signal phase time to 22 seconds for the westbound L Street approach and decreasing the northbound and southbound 5th Street approaches to 28 seconds. This mitigation measure would improve traffic operations to LOS C during the p.m. peak hour and would reduce the near-term cumulative impact to a less-than-significant level. The project applicant shall pay a fair share to recover the costs of the City's Traffic Operation Center monitoring and retiming of this intersection.
- (g) At the 8th Street / L Street intersection, modify the traffic signal phase splits during the p.m. peak period by increasing the signal phase time to 25 seconds for the westbound L Street approach and decreasing the northbound 8th Street signal phase time to 25 seconds. The project applicant shall pay a fair share to recover the costs of the City's Traffic Operation Center monitoring and retiming of this intersection.
- (h) At the 9th Street / J Street intersection, modify the traffic signal phase splits during the p.m. peak period by increasing the signal phase time to 28 seconds for the eastbound J Street approach and decreasing the southbound 9th Street signal phase time to 22 seconds. The project applicant shall pay a fair share to recover the costs of the City's Traffic Operation Center monitoring and retiming of this intersection.
- (i) At the 10th Street / J Street intersection, modify the traffic signal phase splits during the p.m. peak period by increasing the signal phase time to 28 seconds for the eastbound J Street approach and decreasing the northbound 10th Street signal phase time to 22 seconds. The project applicant shall pay a fair share to

recover the costs of the City's Traffic Operation Center monitoring and retiming of this intersection.

- (j) At the 12th Street / J Street intersection, , modify the traffic signal phase splits during the p.m. peak period by increasing the signal phase time to 22 seconds for the eastbound J Street approach and decreasing the 12th Street signal phase time to 28 seconds. The project applicant shall pay a fair share to recover the costs of the City's Traffic Operation Center monitoring and retiming of this intersection.
- (k) At the 15th Street / J Street intersection, modify the traffic signal phase splits during the p.m. peak period by increasing the phase time for the eastbound J Street approach to 30 seconds, and decreasing the southbound 15th Street signal phase time to 20 seconds. The project applicant shall pay a fair share to recover the costs of the City's Traffic Operation Center monitoring and retiming of this intersection.
- (l) At the 15th Street / X Street intersection, modify the traffic signal phase splits during the p.m. peak period by increasing the phase time for the southbound 15th Street approach to 28 seconds, decreasing the eastbound U.S. 50 off-ramp phase time to 28 seconds, and maintaining 17 seconds for the X Street approach. The project applicant shall pay a fair share to recover the costs of the City's Traffic Operation Center monitoring and retiming of this intersection.
- (m) At the 16th Street / H Street intersection, modify the traffic signal phase splits during the p.m. peak period by increasing the phase time for the northbound 15th Street approach to 26 seconds, decreasing the phase times for the eastbound H Street left and through movements to 18 and 24 seconds, respectively, and maintaining 6 seconds for the westbound H Street right-turning movement. The project applicant shall pay a fair share to recover the costs of the City's Traffic Operation Center monitoring and retiming of this intersection.

Once implemented, Mitigation Measures 5.6-10 (a-m) would include changes to the roadway network, such as changes to signal timing and changes to lane configurations, which would ensure traffic operates at acceptable levels. .

The impacts would be reduced to a less than significant level after mitigation.

5.6-17 Impacts to study intersections under Long Term Plus Project Conditions. These are considered *significant impacts*. (Less than Significant after Mitigation).

Facts in Support of Finding

This impact can be reduced to less-than-significant levels through implementation of Mitigation Measure 5.6-17 (a-n). Changes or alterations have therefore been required in, or incorporated into, the project which mitigate or avoid the significant environmental effect as identified in the DEIR.

The proposed project, in combination with other downtown projects, would add traffic to study intersections and cause significant impacts for long-term cumulative conditions. In addition, the level of service without the proposed project in combination with other downtown projects would be LOS F during the a.m. peak hour and project generated traffic would increase the average vehicle delay and where the level of service without the proposed project in combination with other downtown projects would be LOS D during the p.m. peak hour and project generated traffic would increase the average vehicle delay where the traffic generated by the proposed project in combination with other downtown projects would degrade the level of service from LOS C to LOS E during the p.m. peak hour.

Mitigation Measure 5.6-17

- (a) 3rd Street / J Street intersection, implement the near-term Mitigation Measure 5.6-10(a) (modification of signal phase splits) and also re-stripe the lanes on the southbound I-5 off-ramp approach (eastbound) to provide one combination left-through lane, one through lane, one combination through-right lane, and one exclusive right turn lane. The project applicant shall pay a fair share to recover the costs of the City's Traffic Operation Center monitoring and retiming of this intersection.
- (b) 3rd Street / L Street intersection, implement the near-term Mitigation Measure 5.6-10(b) (modification of the westbound approach lanes) and also modify the traffic signal phase splits during the p.m. peak period by increasing the southbound 3rd Street approach to 23 seconds, decreasing the westbound L Street signal phase time to 38 seconds, and decreasing the northbound 3rd Street left-turning movement to 9 seconds. The project applicant shall pay a fair share to recover the costs of the City's Traffic Operation Center monitoring and retiming of this intersection.
- (c) 3rd Street / N Street intersection, implement the near-term Mitigation Measure 5.6-10(c) (modification of signal phase splits). The project applicant shall pay a fair share to recover the costs of the City's Traffic Operation Center monitoring and retiming of this intersection.
- (d) 3rd Street / P Street intersection, implement the near-term Mitigation Measure 5.6-10(d) (modification of signal phase splits). The project applicant shall pay a fair share to recover the costs of the City's Traffic Operation Center monitoring and retiming of this intersection.

- (e) 5th Street / I Street intersection, modify the traffic signal phase splits during the p.m. peak period by increasing the signal phase time to 30 seconds for the northbound and southbound 5th Street approaches and decreasing the westbound I Street approach to 70 seconds. The project applicant shall pay a fair share to recover the costs of the City's Traffic Operation Center monitoring and retiming of this intersection.
- (f) 5th Street / L Street intersection, implement the near-term Mitigation Measure 5.6-10(e) (modification of signal phase splits). The project applicant shall pay a fair share to recover the costs of the City's Traffic Operation Center monitoring and retiming of this intersection.
- (g) 7th Street / L Street intersection, implement the near-term Mitigation Measure 5.6-10(f) (modification of signal phase splits). The project applicant shall pay a fair share to recover the costs of the City's Traffic Operation Center monitoring and retiming of this intersection.
- (h) 8th Street / L Street intersection, implement the near-term Mitigation Measure 5.6-10(g) (modification of signal phase splits). The project applicant shall pay a fair share to recover the costs of the City's Traffic Operation Center monitoring and retiming of this intersection.
- (i) 9th Street / J Street intersection, implement the near-term Mitigation Measure 5.6-10(h) (modification of signal phase splits). The project applicant shall pay a fair share to recover the costs of the City's Traffic Operation Center monitoring and retiming of this intersection.
- (j) 10th Street / J Street intersection, implement the near-term Mitigation Measure 5.6-10(i) (modification of signal phase splits). The project applicant shall pay a fair share to recover the costs of the City's Traffic Operation Center monitoring and retiming of this intersection.
- (k) 12th Street / J Street intersection, modify the traffic signal phase splits during the p.m. peak period by increasing the eastbound J Street approach to 23 seconds and decreasing the southbound 12th Street and northbound right-turn movement signal phase time to 27 seconds. The project applicant shall pay a fair share to recover the costs of the City's Traffic Operation Center monitoring and retiming of this intersection.
- (l) 15th Street / J Street intersection, implement the near-term Mitigation Measure 5.6-10(k) (modification of signal phase splits). The project applicant shall pay a fair share to recover the costs of the City's Traffic Operation Center monitoring and retiming of this intersection.
- (m) 15th Street / X Street intersection, implement the near-term Mitigation Measure 5.6-10(l) (modification of signal phase splits). The project applicant shall pay a

fair share to recover the costs of the City's Traffic Operation Center monitoring and retiming of this intersection.

- (n) 16th Street / H Street intersection, implement the near-term Mitigation Measure 5.6-10(m) (modification of signal phase splits). The project applicant shall pay a fair share to recover the costs of the City's Traffic Operation Center monitoring and retiming of this intersection.

Finding

Mitigation Measures 5.6-17 (a-n) would reduce average vehicle delay during the a.m. peak hour and would improve traffic operations during the p.m. peak hour to LOS C under Long Term Plus Project Conditions.

The impacts would be less than significant after mitigation.

B. Significant or Potentially Significant Impacts for which Mitigation is Outside the City's Responsibility and/or Jurisdiction.

Mitigation measures to mitigate, avoid, or substantially lessen the following significant and potentially significant environmental impacts of the Project, are within the responsibility and jurisdiction of another public agency and not the City. Pursuant to section 21081(a)(2) of the Public Resources Code and section 15091(a)(2) of the CEQA Guidelines, the City Council, based on the evidence in the record before it, specifically finds that implementation of these mitigation measures can and should be undertaken by the other public agency. The City Council will request, but cannot compel implementation of the identified mitigation measures described. The impact and mitigation measures and the facts supporting the determination that mitigation is within the responsibility and jurisdiction of another public agency and not the City, are set forth below. Notwithstanding the disclosure of these impacts, the City Council elects to approve the Project due to the overriding considerations set forth below in Section G, the statement of overriding considerations.

5.6-2 Freeway Mainline – The project would increase traffic volumes on the freeway mainline. This is considered a *significant impact*. (Significant and Unavoidable).

Facts in Support of Finding

Mitigation measures proposed by the California Department of Transportation (Caltrans) to lessen or avoid the project's significant effects associated with increased traffic volumes at freeway mainlines are outside of the City's responsibility and/or jurisdiction. The effects, therefore, remain significant and unavoidable.

The EIR determined that the project would have significant and unavoidable traffic impacts to the I-5 freeway mainline which is already operating at LOS "F" during peak hours without the additional traffic that would be generated by the project. These sections include portions of Southbound I-5 during the a.m. peak hour and portions of Northbound I-5 during the p.m. peak hour. The EIR determined that there were no feasible mitigation measures available to mitigate for those impacts.

The City does require as part of Title 17, Division VI, Chapter 17.184 of the Sacramento Municipal Code that the project comply with the elements of the Transportation System Management (TSM) program. The purpose of the TSM program is to establish TSM requirements for employers and developers within the City in order to meet the thirty-five (35) percent trip reduction goal. These requirements will promote alternative commute modes and encourage transit use in order to reduce traffic congestion, optimize use of the transportation system, and improve air quality. However, even with implementation of the TSM program, the impact to the freeway mainline will remain significant.

In its comments on the EIR, Caltrans stated its opinion that the following conceptual improvements to I-5 were feasible mitigation measures for the project's impact to increased traffic volumes at the I-5 freeway mainline:

*Widen the two existing I-5 American River Bridges in order to add one standard lane to the freeway in each direction of travel and re-establish standard shoulders on each bridge.

*I-5 HOV lanes - Add HOV lanes from the Garden Highway to I-80 HOV lanes with direct connectors.

*I-5 HOV lanes - Add HOV lanes from the U.S. 50 Interchange south to Elk Grove Blvd.

Caltrans further stated that the City should impose a mitigation fee on the project to fund the Project's "fair share" on the improvements.

Freeway mainline improvements are within the exclusive jurisdiction of Caltrans, which can and should propose and adopt appropriate improvement plans that would reduce freeway mainline impacts, pursuant to Public Resources Code Section 21081 and CEQA Guideline Section 15091. The City does not have the legal authority to impose such a mitigation fee on the Project as suggested. These improvements are outside the City's responsibility and/or jurisdiction. The effects, therefore, remain significant and unavoidable.

Mitigation Measure

No feasible mitigation is available.

Finding

Caltrans indicated that they have developed general cost estimates for the following projects. Though these projects are designed to address regional transportation needs that extend far beyond the downtown area, Caltrans believes they would serve to mitigate impacts from pending downtown developments and are viable:

- I-5 American River Bridge widening - two structures. Add one standard lane and re-establish standard shoulders to each structure: \$134 million.
- I-5 HOV lanes - Garden Highway to I-80 HOV lanes with direct connectors: \$300 million.
- I-5 HOV lanes - U.S. 50 Interchange to Elk Grove Blvd: \$200 million.

No preliminary improvement plans and no environmental analysis have been prepared for these freeway improvements, and it is unclear what the cost estimates are based on or include.

These proposed freeway improvement projects are included in Sacramento Area Council of Governments (SACOG) existing Metropolitan Transportation Plan (MTP) for preliminary engineering and environmental evaluation only. The MTP is a long-range plan which is based on growth and travel demand projections coupled with financial projections. The MTP lists hundreds of locally and regionally important projects. It is updated every three years, at which time projects can be added or deleted. SACOG uses the plan to help prioritize projects and guide regional transportation project funding decisions. The projects included in the MTP have not gone through the environmental review process and are not guaranteed for funding or construction.

Given the conceptual status of the improvement projects identified by Caltrans and the information available at this time, the City has concluded that there is currently insufficient information and certainty on which to base a feasible and viable mitigation measure to address the proposed project's impacts on the identified freeway mainline segments. The proposed freeway improvement projects are not currently approved and funded. There is no fee or other funding mechanism currently in place for future funding. Furthermore, 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. Because the prospects of the proposed freeway improvements ever being constructed remain uncertain due to funding priorities and on-going policy developments that may favor other approaches to

addressing freeway congestion, collection of a mitigation fee under these circumstances at this time may well be an idle act.

Furthermore, Caltrans has acknowledged that the City participates in a ½ percent sales tax under Measure A to raise funds for local and regional traffic improvements, which could provide 50% of the costs for construction of HOV lanes in the region. Assuming that the HOV lane project were ultimately approved and constructed, the Project and the City would participate in funding such construction through payment of Measure A taxes. Any additional mitigation fee would result in the Project being assessed and required to pay a disproportionate share of funding for such improvements.

Widening the freeway mainline right of way would create adverse impacts by requiring the removal of historic buildings in the Old Sacramento District, and potentially the Crocker Art Museum, which are already situated adjacent to the existing freeway right of way; would potentially require modifications to the flood wall/levee that protects Downtown Sacramento; and would create further physical barriers between people living and working in Downtown Sacramento and the Sacramento River and the Old Sacramento District. Such new impacts from widening the freeway would not be capable of mitigation to a less than significant level and would violate City policies concerning: the preservation of the Old Sacramento District; promoting ease of pedestrian access between Downtown Sacramento and the Sacramento River; promoting ease of pedestrian access between Downtown Sacramento and the Old Sacramento District; and protecting the integrity of Sacramento's flood control system.

Downtown Sacramento is a heavily developed area with little opportunity to gain right-of-way for freeway facilities without substantial alterations or removal of existing buildings, roads, and infrastructure. In some instances the existing configuration of traffic lanes restricts the ability to increase capacity. The combined effect of these constraints makes the improvements to the affected freeway facilities, as proposed by Caltrans to achieve acceptable levels of service, infeasible.

Moreover, the City also finds the mitigation measures proposed by Caltrans infeasible because; (a) they are of such nature that they, by themselves, would constitute a project nearly as complex, costly and ambitious as the current project itself; (b) they are concepts for capital improvement projects that Caltrans, not the City, needs to design, engineer and adopt, so the City has no certainty that any fee it imposed would be spent on them within a reasonable timeframe; (c) they are not part of an existing plan of actual mitigation that Caltrans definitely has committed itself to implement; (d) as a result of (a), (b) and (c), the City has no basis upon which to make the necessary legal findings concerning nexus and a fair share determination which any mitigation fee on the project would require; (e) were the City to participate in HOV lane construction, its share of such facilities are already funded through Measure A Sales Taxes, which, if utilized, would include more than the Project's fair share of mitigation; and, (f) the HOV lanes are contrary to City policy as expressed by the City on two previous occasions when it refused to support the extension of HOV lanes on other major highways within the City because doing so would facilitate urban sprawl, fail to promote infill

development, and would discourage the use of light rail and bus public transit systems by making long commutes preferable. In addition, the HOV lanes raise public health and safety concerns in light of a recent study by the Texas Transportation Institute's "Crash Analysis of Selected High Occupancy Vehicle Facilities in Texas" (2005) which found that HOV lanes increase the rate of automobile accidents. As a result of the foregoing, the City has determined that the mitigation measures proposed by Caltrans are infeasible and should be rejected.

Consequently, the City has been unable to identify any feasible mitigation measures within its power to impose that could reduce or avoid the impact of the proposed project on the three I-5 freeway mainline segments to a less than significant level. The California Environmental Quality Act (Pub. Resources Code, §21000 et seq.) defines "feasible" for these purposes as capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technological factors (Pub. Resources Code, §21061.1). Therefore, the impacts of the proposed project on the three I-5 freeway segments would remain significant and unavoidable.

Because mitigation to reduce project impacts to increased traffic volumes at freeway mainlines is outside the City's responsibility and/or jurisdiction, this impact would remain significant and unavoidable.

C. Significant or Potentially Significant Impacts for which Mitigation Measures Found To Be Infeasible.

Mitigation measures to mitigate, avoid, or substantially lessen the following significant and potentially significant environmental impact of the Project have been identified. However, pursuant to section 21081(a)(3) of the Public Resources Code and section 15091(a)(3) of the CEQA Guidelines, as to each such impact and mitigation measure, the City Council, based on the evidence in the record before it, specifically finds that the mitigation measures are infeasible. The impact and mitigation measures and the facts supporting the finding of infeasibility of each mitigation measure are set forth below. Notwithstanding the disclosure of these impacts and the finding of infeasibility, the City Council elects to approve the Project due to the overriding considerations set forth below in Section (G), the statement of overriding considerations.

5.6-2 Freeway Mainline – The project would increase traffic volumes on the freeway mainline. This is considered a *significant impact*. (Significant and Unavoidable).

Facts in Support of Finding

The EIR determined that the project would have significant and unavoidable traffic impacts to the I-5 freeway mainline which is already operating at LOS "F" during peak

hours without the additional traffic that would be generated by the project. These sections include portions of Southbound I-5 during the a.m. peak hour and portions of Northbound I-5 during the p.m. peak hour. The EIR determined that there were no feasible mitigation measures available to mitigate for those impacts.

The City does require as part of Title 17, Division VI, Chapter 17.184 of the Sacramento Municipal Code that the project comply with the elements of the Transportation System Management (TSM) program. The purpose of the TSM program is to establish TSM requirements for employers and developers within the City in order to meet the thirty-five (35) percent trip reduction goal. These requirements will promote alternative commute modes and encourage transit use in order to reduce traffic congestion, optimize use of the transportation system, and improve air quality. However, even with implementation of the TSM program, the impact to the freeway mainline will remain significant.

In its comments on the EIR, Caltrans stated its opinion that the following conceptual improvements to I-5 were feasible mitigation measures for the project's impact to increased traffic volumes at the I-5 freeway mainline:

*Widen the two existing I-5 American River Bridges in order to add one standard lane to the freeway in each direction of travel and re-establish standard shoulders on each bridge.

*I-5 HOV lanes - Add HOV lanes from the Garden Highway to I-80 HOV lanes with direct connectors.

*I-5 HOV lanes - Add HOV lanes from the U.S. 50 Interchange south to Elk Grove Blvd.

Caltrans further stated that the City should impose a mitigation fee on the project to fund the project's "fair share" on the improvements. However, the City does not have the legal authority to impose such a mitigation fee on the Project as suggested, and these improvements are outside the City's responsibility and/or jurisdiction. There is no feasible mitigation for these impacts and, therefore, they remain significant and unavoidable.

Mitigation Measure

No feasible mitigation is available.

Finding

The mitigation measures proposed by Caltrans to reduce the Project's impacts to the I-5 freeway mainline by adding HOV lanes and widening the I-5 American River bridge are rejected as infeasible for the reasons stated above in Section 2 (B). The City has been unable to identify any other feasible mitigation measures within its power to impose that could reduce or avoid the impact of the proposed project on the I-5 freeway mainline to a less than significant level. The California Environmental Quality Act (Pub. Resources Code, §21000 et seq.) defines "feasible" for these purposes as capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technological factors (Pub. Resources Code, §21061.1). Therefore, the impacts of the proposed project on the I-5 freeway mainline would remain significant and unavoidable.

D. Significant and Unavoidable Impacts.

The following significant and potentially significant environmental impacts of the Project, including cumulative impacts, are unavoidable and cannot be mitigated in a manner that would substantially lessen the significant impact. Notwithstanding disclosure of these impacts, the City Council elects to approve the Project due to overriding considerations as set forth below in Section G, the statement of overriding considerations.

Air Quality

5.2-4 Operation of the proposed project would contribute to emissions of ozone precursors. This is a *significant impact*. (Significant and Unavoidable after Mitigation).

Facts in Support of Finding

Changes or alterations have been required in, or incorporated into, the project which aid to mitigate or avoid the significant environmental effect as identified in the DEIR. No mitigation is available to render the effects less than significant. The effects therefore remain significant and unavoidable.

Once the proposed project is built and occupied, activities associated with various uses in the proposed project would generate ozone precursors ROG and NO_x. These precursors are of chief concern due to their role in the formation of smog, acid rain, particulate matter, toxic chemicals, and their contribution to water quality deterioration. The majority of precursor emissions would be generated by vehicle trips associated with people visiting and working at the proposed project. Smaller sources of precursors

would be generated by fuel-burning equipment (such as that used for the heating and cooling of the building) and by various consumer products (such as paints).

As identified in Table 5.2-6 of the DEIR, emissions of ROG would not be above the SMAQMD threshold of significance for operational emissions. While the location of the proposed project would provide a number of elements that would help to reduce operational emissions, such as numerous commercial and retail uses in the vicinity of the project site, an extensive sidewalk network, and the availability of mass transit options, NO_x emissions would still exceed the SMAQMD threshold. Since NO_x emissions would exceed the threshold, the impact of operational emissions of ozone precursors would be considered a *significant impact*.

Preparation and implementation of an Air Quality Mitigation Plan, as required by the SMAQMD, would reduce operational emissions by 15 percent, to approximately 71 pounds per day. Even through the implementation of this plan, operational emissions would remain above the threshold. Consequently, the impact would be considered significant and unavoidable.

Mitigation Measure

Prior to issuance of a Certificate of Occupancy, the project applicant shall prepare and receive written endorsement from the SMAQMD of an operational Air Quality Mitigation Plan detailing the measures that shall be employed to reduce the proposed project's operational emissions by at least 15 percent. The project applicant shall obtain the endorsement from the SMAQMD and provide it to the City's Environmental Services Department.

Finding

Implementation of Mitigation Measure 5.2-4 would reduce the project's operational emissions by 15 percent, but the emissions would still exceed the SMAQMD thresholds.

This impact would remain significant and unavoidable after mitigation.

Noise

5.4-1 Construction of the proposed project would temporarily produce noise. This is a *significant impact*. (Significant and Unavoidable After Mitigation).

Facts in Support of Finding

Changes or alterations have been required in, or incorporated into, the project that substantially lessen, but do not avoid the project's significant effects associated with

temporary noise. No mitigation is available to render the effects less than significant. The effects therefore remain significant and unavoidable.

Mitigation Measure

5.4-1

The prime contractor shall ensure that the following measures are implemented during all phases of project construction:

- (a) Erect a solid plywood construction/noise barrier along the exposed project boundaries. The barrier should not contain any significant gaps at its base or face, except for site access and surveying openings.
- (b) Construction activities shall comply with the City of Sacramento Noise Ordinance, including Section 8.68.060 requiring the use of exhaust and intake silencers for internal combustion engines.
- (c) Locate fixed construction equipment, such as compressors and generators, as far as possible from sensitive receptors located along N Street. Shroud or shield all impact tools and muffle or shield all intake and exhaust ports on power construction equipment.
- (d) High noise activities, such as pile driving, the use of jackhammers, drills, and other generators of sporadic high noise peaks, shall be restricted to the hours of 8:00 a.m. to 6:00 p.m. Monday through Friday or other such hours satisfactory to the Planning Director and shall not occur on Saturday or Sunday.
- (e) Prior to issuance of a building permit, the applicant shall submit a plan subject to the satisfaction of the Planning Director demonstrating how the proposed project shall mitigate construction noise to the extent feasible.
- (f) Designate a disturbance coordinator and conspicuously post this person's number around the project site and in adjacent public spaces. This disturbance coordinator will receive all public complaints about construction noise disturbances and will be responsible for determining the cause of the complaint, and implement any feasible measures to be taken to alleviate the problem.

Finding

During construction of the proposed project, noise levels would be produced by the operation of heavy-duty equipment and various other construction activities. According to the project applicant, pile driving would be used in conjunction with drilling for establishing the building foundation or "founding" the building. The current program for founding the building would employ drilling to a certain depth, followed by pile driving.

Construction noise would affect surrounding uses to varying degrees throughout the construction schedule, approximately 26 months. There are sensitive uses surrounding the project site, specifically residential uses to the south and southwest, although the majority of uses in the project vicinity are office and commercial. Construction noise

would be noticeable at residential, office, and commercial uses in the area, but construction would occur during the daytime when most residents would be at work. It should be noted that Pioneer Towers is a senior facility and, as such, residential units would likely be occupied during construction activities, thereby increasing the possibility of an adverse community reaction. However, it is unlikely that residents would be subject to significant levels of construction noise due to distance and the presence of intervening structures. The Sacramento Municipal Code, Title 8 - Health and Safety, Chapter 8.68 – Noise Control, requires that construction activity take place between the hours of 7 a.m. and 6 p.m. Monday through Saturday. Construction is also limited to the hours between 9 a.m. and 6 p.m. on Sunday. The City director of building inspections may also permit work to be done outside of these hours in the case of urgent necessity and in the interest of public health and welfare for a period not to exceed three days. Since typical sleeping hours fall outside of the time during which construction must occur, construction noise would not be expected to disturb the sleep of nearby residents. Office and commercial uses in the vicinity of the project site would be open during the day when construction would occur. The noise from construction could disturb people working in these buildings, making it difficult to concentrate. Older California building standards (pre-1970) generally provide a reduction of exterior-to-interior noise levels up to about 20 dB with closed windows; newer buildings generally provide a reduction up to about 30 dB. Therefore, the noise levels produced by the equipment (shown in Table 5.4-4) are higher than what would actually be experienced within residential units in the vicinity of the project.

The Sacramento Municipal Code includes an exemption for noise produced by construction activities between the hours of 7 a.m. and 6 p.m. on weekdays; however, a 1990 Notice of Decision and Finding of Fact for the Wells Fargo Center includes the condition that high noise activities be restricted to the hours between 8 a.m. and 6 p.m. on weekdays (or other such hours satisfactory to the Planning Director), with no high-noise construction activities allowed on Saturday or Sunday. Because of the proximity of the proposed project site to the Wells Fargo Center, that mitigation is included here. Although Mitigation Measure 5.4-1 would reduce construction noise impacts, surrounding residents and businesses would be affected by development of the proposed project.

Mitigation Measure 5.4-1 requires that the project developer implement measures that would reduce the exposure of nearby residents to construction noise. However, implementation of this plan will not guarantee that sensitive receptors would not be exposed to increased noise levels.

This impact would remain significant and unavoidable after mitigation.

5.4-2 Construction activity would temporarily produce ground-borne vibration. This is considered a *significant impact*. (Significant and Unavoidable after Mitigation).

Facts in Support of Finding

Changes or alterations have been required in, or incorporated into, the project that substantially lessen, but do not avoid the project's significant effects associated with temporary ground-borne vibration impacts. No mitigation is available to render the effects less than significant. The effects therefore, remain significant and unavoidable.

Mitigation Measure 5.4-2

The project applicant shall use pile driving to the extent feasible prior to commencement of impact pile driving. Prior to issuance of a building permit, the project applicant shall submit to the City for approval the anticipated depth to which piles will be drilled and the estimated start date and end date of impact pile driving.

Finding

In addition to noise, construction activity can also produce vibration. Construction-related vibration is normally associated with impact equipment, such as jackhammers and pile drivers, and the operation of some heavy-duty construction equipment, such as trucks and bulldozers. Construction-related vibration has two potential impacts. First, vibration at high enough levels can disturb people trying to sleep. Thresholds for this land use have been developed by the Federal Transit Administration, which has determined that infrequent events producing vibration levels in excess of 80 VdB can result in a significant impact at places where people sleep. Second, ground-borne vibration over 102 VdB can potentially damage the foundations and exteriors of existing, fragile structures. For extremely fragile buildings, the vibration damage threshold is approximately 90 VdB. Ground-borne vibration that can cause this kind of damage is typically limited to impact equipment, especially pile-drivers. No fragile or extremely fragile buildings have been identified near the proposed project site.

There are residential and office uses directly adjacent to the proposed project site. The closest residential and office uses to the project site are approximately 75 feet away. As shown in Table 5.4-6, this distance could potentially expose people to levels in excess of 80 VdB during pile driving activity. Since construction would occur during daylight hours, sleep disturbance would likely not occur. Pile driving would produce the highest vibration levels, but would only occur for a brief amount of time (relative to the overall construction length), approximately 50 days. Equipment used after the pile driving phase would expose receptors to levels less than 80 VdB, and these levels would be intermittent. Residents and office employees may be able to feel ground-borne vibration produced during construction, but most likely only during pile driving. The extent to which these receptors would be affected depends largely on soil conditions, building design and materials, and the particular floor the receptors are on. While construction related vibration would be limited to the duration of the construction schedule, due to the close proximity of existing receptors during pile driving, vibration impacts would be considered significant.

Mitigation Measure 5.4-2 would require the drilling of pilot holes prior to pile driving, which would reduce the amount of pile driving necessary. Because some pile driving would still be required, the effects of the pile driving would still be experienced by the surrounding area.

This impact would remain significant and unavoidable after mitigation.

Transportation

5.6-3 Freeway Interchanges – The project would increase traffic volumes at the freeway interchanges. This is considered a *significant impact*. (Significant and Unavoidable).

Facts in Support of Finding

No feasible mitigation measures or alterations that could substantially lessen, or avoid the project's significant effects associated with increased traffic volumes at freeway interchanges were identified. The effects, therefore, remain significant and unavoidable.

The project would increase traffic volumes at freeway interchanges. The changes in freeway system operating conditions with the addition of project-generated traffic exceed the standards of significance for impacts to the freeway system, since traffic is added to freeway interchanges already operating at LOS "F." Impacts occur at the interchange of I-5 and U.S. 50 during the a.m. and p.m. peak hours. This would be a significant impact.

Mitigation

No feasible mitigation is available.

Finding

Caltrans' proposed mitigation measures to widen the I-5 freeway mainline would reduce the Project's impacts to the freeway interchanges. However, for the reasons stated in Section 2 (B), above, these mitigation measures are rejected as infeasible. The City has been unable to identify any other feasible mitigation measures within its power to impose that could reduce or avoid the impact of the proposed project on the freeway interchanges to a less than significant level. The California Environmental Quality Act (Pub. Resources Code, §21000 et seq.) defines "feasible" for these purposes as capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technological factors

(Pub. Resources Code, §21061.1). Therefore, the impacts of the proposed project on the freeway interchanges would remain significant and unavoidable.

5.6-11 Impacts to freeway mainline under Near Term Plus Project Condition. This is considered a *significant impact*. (Significant and Unavoidable).

Facts in Support of Finding

No feasible mitigation measures or alterations that could substantially lessen, or avoid the project's significant effects associated with impacts to freeway mainline under Near Term Plus Project Conditions were identified. The effects therefore remain significant and unavoidable.

The proposed project, in combination with other proposed downtown projects, would add traffic to freeway mainline segments but would not cause freeway levels of service to deteriorate beyond LOS E. Other downtown projects would add traffic to I-5 freeway segments that would cause it to operate at LOS F even without the proposed project. This is considered a significant impact.

Mitigation Measure

No feasible mitigation is available.

Finding

Caltrans' proposed mitigation measures to widen the I-5 freeway mainline would reduce the Project's impacts to this facility. However, for the reasons stated in Section 2 (B), above, these mitigation measures are rejected as infeasible. The City has been unable to identify any other feasible mitigation measures within its power to impose that could reduce or avoid the impact of the proposed project on the I-5 freeway mainline segments to a less than significant level. The California Environmental Quality Act (Pub. Resources Code, §21000 et seq.) defines "feasible" for these purposes as capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technological factors (Pub. Resources Code, §21061.1). Therefore, the impacts of the proposed project on the I-5 freeway segments would remain significant and unavoidable.

5.6-12 Impacts to freeway merge / diverge / weave areas under Near Term Plus Project Condition. This is a *significant impact*. (Significant and Unavoidable).

Facts in Support of Finding

The proposed project, in combination with other proposed downtown projects, would add traffic to freeway ramps and weaving areas, but would not cause levels of service to deteriorate beyond LOS E on these facilities. The Project would add traffic to I-5 and U.S. 50 freeway ramps that would operate at LOS F without the projects. Because these facilities currently operate at LOS F, this is considered a significant impact.

No feasible mitigation measures that could substantially lessen, or avoid the project's significant effects on I-5 and US 50 freeway ramps under Near Term Project Plus Condition were identified. The effects therefore remain significant and unavoidable.

Mitigation Measure

No feasible mitigation is available.

Finding

Caltrans' proposed mitigation measures to widen the I-5 freeway mainline would reduce the Project's impacts to the I-5 and U.S. 50 freeway ramps. However, , for the reasons stated in Section 2 (B), above, these mitigation measures are rejected as infeasible. The City has been unable to identify any other feasible mitigation measures within its power to impose that could reduce or avoid the impact of the proposed project on the I-5 and U.S. 50 freeway ramps to a less than significant level. The California Environmental Quality Act (Pub. Resources Code, §21000 et seq.) defines "feasible" for these purposes as capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technological factors (Pub. Resources Code, §21061.1). Therefore, the impacts of the proposed project on the I-5 and U.S. 50 freeway ramps would remain significant and unavoidable.

5.6-13 Impacts to freeway ramp queues under Near Term Plus Project Conditions. This is considered a *significant impact*. (Significant and Unavoidable after Mitigation).

Facts in Support of Finding

Changes or alterations have been required in, or incorporated into, the project that substantially lessen, but do not avoid the project's significant effects associated with impacts to freeway ramp queues under Near Term Project Plus Conditions. No feasible

mitigation is available to render the effects less than significant. The effects therefore remain significant and unavoidable.

The proposed project, in combination with other downtown projects, would add traffic to the northbound I-5 off ramp to J Street, which currently experiences queues during the a.m. peak hour that extend onto the freeway mainline. In addition, the proposed project, in combination with the other downtown projects would cause queues for the southbound I-5 off ramp to J Street to extend onto the freeway mainline during the a.m. peak hour. This is considered a significant impact.

Mitigation Measure 5.6-13

Implement Mitigation Measure 5.6-1(a).

Finding

Mitigation measure 5.6-1 (a) would reduce the queue for the southbound I-5 off ramp at J Street to 6,125 feet during the a.m. peak hour, but this would not be enough to eliminate the near-term cumulative impact. This mitigation measure would not affect the northbound I-5 off ramp queue at J Street, and no other feasible mitigation measures were identified that would reduce the impact of the projects at that location.

Caltrans' proposed mitigation measures to widen the I-5 freeway mainline would reduce this impact. However, for the reasons stated in Section 2 (B), above, these mitigation measures are rejected as infeasible. The City has been unable to identify any other feasible mitigation measures within its power to impose that could reduce or avoid the impact of the proposed project on freeway ramp queues to a less than significant level.

The California Environmental Quality Act (Pub. Resources Code, §21000 et seq.) defines "feasible" for these purposes as capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technological factors (Pub. Resources Code, §21061.1). Therefore, the impacts of the proposed project on the freeway ramp queues would remain significant and unavoidable.

5.6-18 **Impacts to freeway mainline under Long Term Plus Project Conditions. This is considered a *significant impact*. (Significant and Unavoidable).**

Facts in Support of Finding

No feasible mitigation measures or alterations that could substantially lessen, or avoid the project's significant effects associated with impacts to freeway mainline under Long Term Plus Project Conditions were identified. The effects therefore remain significant and unavoidable.

The proposed project, in combination with other downtown projects, would add traffic to freeway mainline segments but would not cause freeway levels of service to deteriorate beyond LOS E. The proposed project in combination with the other downtown projects would add traffic to I-5 freeway segments that would operate at LOS F even without the projects. This is considered a significant impact.

Mitigation Measure

No feasible mitigation is available.

Finding

Caltrans' proposed mitigation measures to widen the I-5 freeway mainline would reduce the Project's impacts to these facilities. However, for the reasons stated in Section 2 (B), above, these mitigation measures are rejected as infeasible. The City has been unable to identify any other feasible mitigation measures within its power to impose that could reduce or avoid the impact of the proposed project on the I-5 freeway mainline to a less than significant level. The California Environmental Quality Act (Pub. Resources Code, §21000 et seq.) defines "feasible" for these purposes as capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technological factors (Pub. Resources Code, §21061.1). Therefore, the impacts of the proposed project on the I-5 freeway would remain significant and unavoidable.

5.6-19 Impacts to freeway merge / diverge / weave areas under Long Term Plus Project Conditions. This is considered a *significant impact*. (Significant and Unavoidable).

Facts in Support of Finding

The proposed project, in combination with other downtown projects, would add traffic to freeway ramps and weaving areas but would not cause levels of service to deteriorate beyond LOS E on these facilities. The proposed project in combination with other downtown projects would add traffic to I-5 and U.S. 50 freeway ramps that would operate at LOS F without the projects. This is considered a significant impact.

No feasible mitigation measures or alterations that could substantially lessen, or avoid the project's significant effects associated with impacts to freeway ramps under Long Term Plus Project Conditions were identified. The effects therefore remain significant and unavoidable.

Mitigation Measure

No feasible mitigation is available.

Finding

Caltrans' proposed mitigation measures to widen the I-5 freeway mainline would reduce the Project's impacts to the I-5 and U.S. 50 freeway ramps. However, for the reasons stated above in Section 2 (B), these mitigation measures are rejected as infeasible. The City has been unable to identify any other feasible mitigation measures within its power to impose that could reduce or avoid the impact of the proposed project on the I-5 and U.S. 50 freeway ramps to a less than significant level. The California Environmental Quality Act (Pub. Resources Code, §21000 et seq.) defines "feasible" for these purposes as capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technological factors (Pub. Resources Code, §21061.1). Therefore, the impacts of the proposed project on the I-5 and U.S. 50 freeway ramps would remain significant and unavoidable.

5.6-20 Impacts to freeway ramp queues under Long Term Plus Project Conditions. This is considered a *significant impact*. (Significant and Unavoidable after Mitigation).

Facts in Support of Finding

Changes or alterations have therefore been required in, or incorporated into, the project that substantially lessen, but do not avoid the project's significant effects associated with impacts to freeway ramp queues under Long Term Plus Project Conditions. No feasible mitigation is available to render the effects less than significant. The effects therefore remain significant and unavoidable.

The proposed project, in combination with other downtown projects, would add traffic to the northbound I-5 off ramp to J Street during both the a.m. and p.m. peak hours, when the queue would exceed the ramp's storage capacity without the proposed projects. Similarly, the proposed Downtown projects would add traffic to the southbound I-5 off ramp to J Street during the a.m. peak hour, when the queue would exceed the ramp's storage capacity without the proposed projects. This is considered a significant impact.

Mitigation Measure

Implement Mitigation Measure 5.6-17.

Finding

Mitigation Measure 5.6-17 (a) (for the 3rd Street/J Street intersection) would reduce the queue for the northbound I-5 off ramp queue at J Street during the p.m. peak hour to 1,725 lane feet and would reduce the long-term cumulative impact during this time period to a less-than-significant level. This mitigation measure would not significantly affect this northbound I-5 off ramp queue at J Street during the a.m. peak hour. The mitigation measure would reduce the queue for the southbound I-5 off ramp at J Street to 6,100 feet during the a.m. peak hour, but this would not be enough reduction to eliminate the long-range cumulative impact.

Caltrans' proposed mitigation measures to widen the I-5 freeway mainline would reduce this impact. However, for the reasons stated in Section 2 (B), above, these mitigation measures are rejected as infeasible. The City has been unable to identify any other feasible mitigation measures within its power to impose that could reduce or avoid the impact of the proposed project on freeway ramp queues to a less than significant level. The California Environmental Quality Act (Pub. Resources Code, §21000 et seq.) defines "feasible" for these purposes as capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technological factors (Pub. Resources Code, §21061.1). Therefore, the impacts of the proposed project on the freeway ramp queues would remain significant and unavoidable.

E. Findings Related to the Relationship Between Local Short-term Uses of the Environment and Maintenance and Enhancement of Long-term Productivity.

Based on the EIR and the entire record before the City Council, the City Council makes the following findings with respect to the project's balancing of local short term uses of the environment and the maintenance of long term productivity:

i. As the project is implemented, certain impacts would occur on a short term level. Such short term impacts are discussed fully above. Such short term impacts include, without limitation, impacts relating to noise, air quality, and traffic increases due to the project, although measures have been and will be incorporated in the project to mitigate these potential impacts.

ii. The long term implementation of the project would serve to balance the need for jobs and office space and reduction of blight in the project and surrounding areas with maintenance of long-term economic development at the City's Central Business District, and reutilization of infill areas. Notwithstanding the foregoing, some long term impacts would result. These impacts include adverse impacts on air quality and increased traffic congestion. However, implementation of the project would provide many long term benefits, including, without limitation, greater economic productivity, more efficient use of land for office and retail uses, the reduction of blight, revitalization of the City's Central Business District in line with City policies for Smart Growth, reuse

of an infill site and reduction of pressure for the development of outlying areas.

iii. Although there are short term adverse impacts from the project, the short and long term benefits of the project justify its immediate implementation.

F. Project Alternatives.

The City Council has considered the Project alternatives presented and analyzed in the final EIR and presented during the comment period and public hearing process. Some of these alternatives have the potential to avoid or reduce certain significant or potentially significant environmental impacts, as set forth below. The City Council finds, based on specific economic, legal, social, technological, or other considerations, that these alternatives are infeasible. Each alternative and the facts supporting the finding of infeasibility of each alternative are set forth below.

The selection of alternatives takes into account the project objectives provided in Chapter 2 (Project Description). The project objectives include:

- Develop an architecturally significant, premier highrise office building adjacent to Capitol Mall in the City of Sacramento.
- Provide for office, retail, and potential restaurant uses consistent with existing land use designations on the project site.
- Promote the development of high quality office opportunities within the Capitol Mall corridor of the City of Sacramento.
- Foster economic and employment opportunities within the City of Sacramento's Central Business District through the utilization of a currently underutilized property.
- Provide necessary circulation and infrastructure improvements associated with development of the site.
- Promote site design and building orientation that is compatible with adjacent uses and the Capitol Mall Corridor.

Equally important to attaining the project objectives is the reduction of some or all significant impacts, particularly those that could not be mitigated to a level below the threshold of significance. The project-specific and cumulative significant and unavoidable impacts of the proposed project, after mitigation, are:

Project-Specific Significant and Unavoidable Impacts

5.2-4 Operation of the proposed project would contribute to emissions of ozone precursors.

5.4-1 Construction of the proposed project would temporarily produce noise.

5.4-2 Construction activity would temporarily produce ground-borne vibration.

5.6-2 The project would increase traffic volumes on the freeway mainline.

5.6-3 The project would increase traffic volumes at the freeway interchanges.

Cumulative Significant and Unavoidable Impacts

5.6-11 Impacts to freeway mainline under Near Term Plus Project Condition.

5.6-12 Impacts to freeway merge / diverge / weave areas under Near Term Plus Project Condition.

5.6-13 Impacts to freeway ramp queues under Near Term Plus Project Conditions.

5.6-18 Impacts to freeway mainline under Long Term Plus Project Conditions.

5.6-19 Impacts to freeway merge / diverge / weave areas under Long Term Plus Project Conditions.

5.6-20 Impacts to freeway ramp queues under Long Term Plus Project Conditions.

Alternatives Considered and Dismissed from Further Consideration

Consistent with CEQA, primary consideration was given to alternatives that would reduce significant impacts while still meeting most of the project objectives. Those alternatives that would have impacts identical to or more severe than the proposed project, or that would not meet most of the project objectives, were rejected from further consideration. The alternatives included in this chapter were derived after the establishment of significance thresholds for those issue areas with significant and unavoidable post-construction impacts, which are construction and operational air emissions, construction and operational noise, and traffic impacts. Alternatives that would exceed the significance thresholds for the aforementioned issue areas would not substantially lessen any significant environmental impacts identified in Chapter 5 of the EIR and were rejected from further analysis. Although any number of alternatives could be designed that could result in the reduction or elimination of project impacts, a total of three representative alternatives, each intended to reduce or eliminate one or more of the significant impacts identified for the proposed project, are evaluated in the EIR.

Summary of Alternatives Considered

- No Project/ No Development Alternative, which assumes that the proposed project would not occur and there would be no new development of the site. This alternative assumes the existing building on the site would remain.
- Reduced Intensity Development Alternative, which would include the construction of a smaller building on the project site with approximately 310,000 sf of office use and 27,000 sf of retail.
- Off-Site Alternative, in which the proposed land uses are developed at another location in the Central Business District.

Each of the alternatives is described in more detail in the DEIR, followed by an assessment of the alternative's impacts relative to the proposed project. The focus of the analysis is the difference between the alternative and the proposed project, with an emphasis on addressing the significant impacts identified under the proposed project. For each issue area, the analysis indicates which mitigation measures would be required of the alternative and which significant and unavoidable impacts would be avoided. In some cases, the analysis could indicate additional mitigation measures, if

any, that may be required for the alternative being discussed, and what significant and unavoidable impacts would be more or less severe. Unless otherwise indicated, the level of significance and required mitigation would be the same for the alternative as for the proposed project and no further statement of the level of significance is made. Table 6-1 in the DEIR provides a summary comparison of the severity of impacts for each alternative by topic.

No Project/No Development Alternative

Facts in Support of Finding of Infeasibility

Under CEQA, the No Project Alternative must consider the effects of forgoing the project. The purpose of analyzing the No Project Alternative is to allow decision-makers to compare the impacts of the proposed project versus no project. The No Project Alternative describes the environmental conditions that exist at the time that the environmental analysis is commenced (CEQA Guidelines, section 15126.6(e)(2)).

Under the No Project Alternative, the existing structure on the site would remain and the site would not be redeveloped. Although the No Project Alternative would not result in any of the significant effects identified for the proposed project, the No Project/No Development Alternative would not achieve any of the project objectives. The No Project/No Development Alternative would not promote the development of high quality office opportunities within the Capitol Mall corridor of the City of Sacramento. The existing building is not a mixed-use development and lacks the size and scale to provide the office, retail, and restaurant amenities provided under the proposed project. The No Project/No Development Alternative would provide some office space in the Central Business District, but would not foster economic and employment opportunities within the City of Sacramento's Central Business District through utilization of a currently underutilized property.

Reduced Intensity Alternative

Facts in Support of Finding of Infeasibility

The Reduced Intensity Alternative would include development of a high-rise building with approximately 310,000 sf of office use and 27,000 sf of retail, resulting in the construction of a building approximately 75 percent of the square footage of the proposed project. All of the mitigation measures applied to the proposed project would be required as a part of the Reduced Intensity Alternative, although the 15 percent reduction called for in Mitigation Measure 5.2-4 would not be required for this alternative. The operational air impact of the Reduced Intensity Alternative would be reduced to a less-than-significant level with any reduction in emissions, since it is at the threshold without mitigation. With implementation of Mitigation Measure 5.2-4 (or with

any reduction in emissions), the Reduced Intensity Alternative would result in a less-than-significant impact from operational air emissions.

The Reduced Intensity Alternative would achieve the proposed project objectives of an architecturally significant high-rise office building adjacent to Capitol Mall and would include office, retail, and potential restaurant uses within the Capitol Mall corridor; however, the Reduced Intensity Alternative would be a shorter building than the proposed project, which is approximately the same height as the existing Wells Fargo Center. This alternative, therefore, would be less prominent than the project as proposed. The Reduced Intensity Alternative would foster economic and employment opportunities within the City of Sacramento's Central Business District, although to a lesser extent than the proposed project. It is assumed that the Reduced Intensity Alternative would also provide necessary circulation and infrastructure improvements associated with development of the site. However, the extent to which the Reduced Intensity Alternative would foster economic and employment opportunities within the City of Sacramento's Central Business District would be approximately 25 percent less than the proposed project.

Off-Site Alternative

Facts in Support of Finding of Infeasibility

For the Off-Site Alternative, it is assumed that the proposed project could be developed at another location in order to best meet the goals and objectives of the proposed project and to minimize or reduce any of the significant impacts identified as part of the project. One of the project objectives is to provide a premier high-rise office building adjacent to Capitol Mall. There are no viable sites along Capitol Mall with the exception of the block bounded by L Street to the north, 6th Street to the west, Capitol Mall (621 Capitol Mall) to the south, and 7th Street to the east. However, this site has been approved for an office high-rise and is currently being developed. Due to the high-intensity nature of the proposed project, it is assumed that the Off-Site Alternative would need to occur within the Central Business District (CBD), since a project of this size and intensity would not be appropriate in lower-scale areas of the City. There are several sites within the CBD that could be considered "under-utilized", or at least are currently developed less intensively than is proposed under the proposed project. However, the determination as to whether a particular site is under-utilized is dependent upon market conditions of the existing use and the proposed use, the analysis of which is beyond the scope of this EIR. For this reason, a single off-site location was not analyzed.

Development of the project at any site within the CBD would include the same uses as the proposed project and many of same impacts related to aesthetics, construction and operational air emissions, construction and operational noise, public utilities, and transportation would still occur. An alternative location within the CBD would generally displace, but not necessarily eliminate, the impacts identified for the proposed project

because the CBD is already developed. Different sites, due to particular characteristics of the site, proximity to sensitive uses, or other factors, could result in more or less intense impacts than the proposed project, which could include impacts that were not identified for the proposed project. However, these impacts would generally be localized (such as affecting an intersection immediately adjacent to an alternative site), since all project effects would contribute to those already existing and those that would occur in the future within the CBD (such as adding traffic to the CBD, which already experiences some traffic effects).

Air emissions from construction of the project on an alternative site would be identical to that of the proposed project. However, depending on whether there is an existing building on the alternative site and the size of the existing building if present, effects of demolition could differ or may not be required. Overall emissions associated with building demolition could be less than the proposed project if there is no existing building on the alternative site or if the existing building is smaller than on the project site. Assuming some demolition, noise impacts would be similar during the demolition phase, although operational impacts would be the same as the proposed project. If the alternative site includes nearby residential uses, residents would likely be affected by construction noise, as would residents of the buildings to the south of the proposed project.

While the Off-Site Alternative would generate the same peak hour trips as the proposed project, their distribution on City streets would be different. Therefore, it is likely that some road segments and intersections could be affected by project traffic, although the affected intersections would differ from those identified for the proposed project. Impacts at affected intersections may be reduced to a less-than-significant level with mitigation similar to that identified for the proposed project (i.e., changing the timing on signal lights or re-striping). It is also likely that a similar number of trips would occur at the impacted I-5 on- and off-ramps, so the impact would remain significant and unavoidable. Therefore, it is anticipated that traffic impacts associated with this alternative would be similar to the proposed project.

Additional drainage and runoff impacts associated with the proposed project would be similar under the Off-Site Alternative. It is assumed the alternative site would likely include some sort of development, so development of the alternative site would not substantially increase runoff when compared to existing conditions, similar to the proposed project. If the site is served by Basin 52, it is not anticipated this alternative would contribute to capacity problems in the Basin 52 system, the same as the project.

The alternate location could contribute the same flows to the City's Combined Sewer System as the proposed project. Therefore, payment of the City's Combined Sewer Development fee would still be required to ensure that the system would be upgraded to accommodate development. Similarly, with water demand, because the Off-Site Alternative would include the same amount of development as the proposed project, the water demand would be the same. Therefore, the difference in the level of mitigation required under the proposed project and the Off-Site Alternative is negligible.

It is likely that all of the mitigation measures applied to the proposed project or measures of similar intensity would be required as a part of the Off-Site Alternative, although traffic measures could differ somewhat because different intersections would be affected at another site.

G. Statement of Overriding Considerations:

Pursuant to Guidelines section 15092, the City Council finds that in approving the Project it has eliminated or substantially lessened all significant and potentially significant effects of the Project on the environment where feasible, as shown in Sections 5.0 through 5.6. The City Council further finds that it has balanced the economic, legal, social, technological, and other benefits of the Project against the remaining unavoidable environmental risks in determining whether to approve the Project and has determined that those benefits outweigh the unavoidable environmental risks and that those risks are acceptable. The City Council makes this statement of overriding considerations in accordance with section 15093 of the Guidelines in support of approval of the Project.

Statement of Overriding Considerations:

- i. The Project would provide new jobs. Development of the 500 Capitol Mall Project would increase economic and employment activity in Central Business District of Sacramento. (DEIR, p. 2-5.) The Project would include 406,384 square feet of rentable office area and 27,124 square feet of rentable retail and/or restaurant area, which would directly increase employment through the addition of office and retail space. The Project would also provide services in the Central Business District that would promote further development in the Central Business District.
- ii. The Project is expected to create a number of secondary jobs, as implementation of the Project will require construction jobs for the development of the building and associated site improvements. Such jobs will provide income and work experience for City residents and other workers and their families.
- iii. The Project would provide fiscal benefits from taxes generated by the commercial portions related to the project. The creation of temporary construction jobs and permanent jobs will create a financial benefit to the City, along with the increase in property taxes and local sales tax from the purchase of goods and services within the community.
- iv. The Project will also generate other revenues to the City through the payment of development impact fees. These monies will benefit the City and other governmental agencies, and their residents and constituencies, by providing needed revenue for the provision of required services and amenities. Further, the 500 Capitol Mall Project will include

redevelopment of an underutilized property on Capitol Mall, and will thus contribute to the ongoing economic development of the area.

- v. The Project would be consistent with the City's General Plan Policies and the Sacramento Central City Community Plan ("CCCP"). The project site is designated as RCO in the General Plan. The proposed project would not change the land use designation and would not require any General Plan Amendments in order to be approved by the City. (DEIR, p. 4-6.) The Project would also be consistent with the CCCP. The CCCP land use designation for the Project site is Multi-Use. Because the Multi-Use designation is not defined in the CCCP, the City relies upon policies and goals of the residential and commercial sections of the CCCP for Multi-Use designations. (DEIR, p. 4-4.) The project is consistent with the land-use designations and policies contained in the Community Plan by providing quality office developments and further revitalizing the Central Business District as a major commercial center in the region. The project provides a mix of uses including high density office use which will serve to increase the economic viability and livability of the area. Because the Project would meet many of the goals set forth in the CCCP, it would be considered consistent with the intent of the CCCP. (DEIR, p. 4-6.)
- vi. The Project would provide traffic improvements. The Project would complement the existing neighborhood and environment by providing road and intersection improvements to reduce traffic in the surrounding neighborhood and enhance pedestrian safety to the extent feasible. (DEIR, p. 2-5.)
- vii. The Project area is proximate to a light rail station, and thus promotes the use of public transit. The Project includes parking to accommodate the Project uses during regular business hours and would also be available after hours to provide parking to other uses in the Central Business District.
- viii. The Project is consistent with Smart Growth Principles. The City Council adopted Smart Growth Principles into the General Plan that are aimed to support development that revitalizes central cities and existing communities, supports public transportation and preserves open space. The Project would contribute to the creation of a vibrant city center (Smart Growth Principle 1), concentrating new development within the urban core of the region (Smart Growth Principle 7), and promoting infill development (Smart Growth Principle 15). Development of the Project is consistent with Smart Growth Principles.
- ix. The Project is consistent with the General Plan Update Vision and Guiding Principles. While the City's General Plan is being updated, the City Council has adopted a vision for the future of the City, as well as

several guiding principles to help achieve this vision. This was done to ensure that new developments submitted during the ongoing update comply with the goals and policies that are being incorporated into the General Plan through the update. The Project complies with the following guiding principles:

- Create a vibrant downtown that serves as a regional destination for the arts, culture, and entertainment while accommodating residents that live, work, and gather in the city center.
- Use the existing assets of infrastructure and public facilities to increase infill and re-use, while maintaining important qualities of community character.
- Protect and replicate the pattern and character of Sacramento's unique and traditional neighborhoods.

The Project complies with the above guiding principles and is not contrary to any of the proposed policies.

The City Council has determined that any remaining significant effects on the environment attributable to the Project which are found to be unavoidable, irreversible or not substantially mitigated are acceptable due to the overriding considerations set forth in this Statement of Overriding Considerations. The City Council has concluded that with all the environmental trade-offs of the Project taken into account, its implementation will represent a net positive impact on the City, and based upon such considerations after a comprehensive analysis of all the underlying planning and environmental documentation, the City Council has approved the Project. Any of the mitigation measures or mitigation proposals which were recommended in the Final EIR or in comments on the Draft EIR, but not incorporated into the Project due to their infeasibility, are infeasible in part because such measures or proposals would impose limitations and restrictions on the Project so as to prohibit the attainment of specific economic, social and other benefits of the Project which this City Council finds outweigh the unmitigated impacts of the Project. The City Council has determined that the three freeway traffic mitigation measures proposed by Caltrans are infeasible for the reasons stated in subsection 5.c. above and that the economic, social and other benefits of the project outweigh its significant and unavoidable impacts to the freeway mainline in the absence of such mitigation measures. In reaching its decision to approve the Project and all related documentation, the City Council has carefully considered each of the unavoidable impacts, each of the impacts that have not been substantially mitigated to the point of insignificance, as well as each of the residual impacts over which there is a dispute concerning the impact's significance and the feasibility of mitigation.

Section 3. Pursuant to CEQA section 21081.6 and CEQA Guidelines section 15091, and in support of its approval of the Project, the City Council adopts a Mitigation Monitoring Program to require all reasonably feasible mitigation measures be implemented by means

of Project conditions, agreements, or other measures, as set forth in the Mitigation Monitoring Program.

Section 4. Upon approval of the Project, the City's Environmental Planning Services shall file a notice of determination with the County Clerk of Sacramento County and, if the Project requires a discretionary approval from any state agency, with the State Office of Planning and Research, pursuant to the provisions of CEQA section 21152.

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Exhibit A: Mitigation Monitoring Program

5.0 MITIGATION MONITORING PLAN

500 CAPITOL MALL PROJECT MITIGATION MONITORING PLAN				
Mitigation Measure	Action DEIR Section 5.2 Air Quality	Implementing Party	Timing	Monitoring Party
<p>5.2-1 The following measures shall be incorporated into construction bid documents as recommended by the SMAQMD:</p> <p>(a) The project applicant shall provide a plan for approval by SMAQMD demonstrating that the heavy-duty (>50 horsepower) off-road vehicles to be used in the construction project, including owned, leased, and subcontractor vehicles, shall achieve a project wide fleet-average 20 percent NO_x reduction and 45 percent particulate reduction compared to the most recent CARB fleet average at time of construction.</p> <p>(b) The following measure shall be incorporated into construction bid documents: At least one piece of diesel equipment used on the site during the demolition, earthmoving and clearing stages of construction shall be fitted with a level 3 California Air Resources Board verified diesel emission control system.</p> <p>(c) The project applicant and/or contractor shall submit to SMAQMD a comprehensive inventory of all off-road construction equipment, equal to or greater than 50 horsepower, that shall be used an aggregate of 40 or more hours during any portion of the construction project. The inventory shall include the horsepower rating, engine production year, and projected hours of use or fuel throughput for each piece of equipment. The inventory shall be updated and submitted monthly throughout the duration of the project, except that an inventory shall not be required for any 30-day period in which no construction activity occurs. At least 48 hours prior to the use of subject heavy-duty off-road equipment, the project applicant and/or contractor shall provide SMAQMD with the anticipated construction timeline, including start date and name and phone number of the project manager and on-site foreman.</p> <p>(d) The project applicant and/or contractor shall ensure that emissions from all off-road diesel powered equipment used on the project site do not exceed 40 percent opacity for more than three minutes in any one hour. Any equipment found to exceed 40 percent opacity (or Ringelmann 2.0) shall be repaired immediately and SMAQMD shall be notified within 48 hours of identification of non-compliant equipment. A visual survey of all in-operation equipment shall be made at least weekly, and a monthly summary of the visual survey results shall be submitted to the SMAQMD throughout the duration of the project, except that the monthly summary shall not be required for any 30-day period in which no construction activity occurs. The monthly summary shall include the quantity and type of vehicles surveyed as well as the dates of each survey.</p>	<p>Ensure that the project applicant has included required measures in construction bid documents.</p> <p>Ensure that the project applicant has included required measures in construction bid documents.</p> <p>Ensure that the project applicant has submitted equipment inventory to the SMAQMD.</p> <p>Perform a visual survey for equipment emission opacity; prepare monthly report.</p>	<p>Project Applicant</p> <p>Project Applicant</p> <p>Project Applicant/ Project Contractor</p> <p>Project Applicant</p>	<p>Prior to construction activities.</p> <p>Prior to construction activities.</p> <p>Prior to construction activities monthly updates thereafter.</p> <p>Perform weekly surveys and monthly reports.</p>	<p>City of Sacramento Development Services Department</p>

5.0 MITIGATION MONITORING PLAN

500 CAPITOL MALL PROJECT MITIGATION MONITORING PLAN				
Mitigation Measure	Action	Implementing Party	Timing	Monitoring Party
(e) Prior to issuance of a grading permit, the project applicant shall provide the City with proof of payment of the NO _x off-site mitigation fee in the amount of \$23,375 (as detailed in Table 5.2-7).	Ensure that the project developer has paid the SMAQMD NO _x fees.	Project Applicant	Prior to issuance of grading permit.	City of Sacramento Development Services Department
(f) If the equipment list or hours of use substantially differ from those used for the model inputs for construction emissions included in Appendix C of the DEIR, the project proponent shall notify the SMAQMD, who shall contact the City Development Services Department to recalculate the off-site mitigation fee. The project applicant shall be responsible for payment of additional fees if the actual equipment and/or schedule would result in increased emissions that exceed the 85 pounds per day NO _x standard.	Ensure that the project developer has paid the SMAQMD NO _x fees.	Project Applicant	Prior and during grading and construction activities	City of Sacramento Development Services Department
5.2-4 Prior to issuance of Certificate of Occupancy, the project applicant shall prepare and receive written endorsement from the SMAQMD of an operational Air Quality Mitigation Plan detailing the measures that shall be employed to reduce the proposed project's operational emissions by at least 15 percent. The project applicant shall obtain the endorsement from the SMAQMD and provide it to the City's Environmental Services Department.	Prepare and receive written endorsement from the SMAQMD for an operational Air Quality Mitigation Plan.	Project Applicant	Prior to issuance of Certificate of Occupancy.	City of Sacramento Development Services Department
DEIR Section 5.3 Cultural Resources				
5.3-2 Prior to the issuance of grading or construction permits, the project applicant shall retain an archaeologist with knowledge of prehistoric and historic-period archaeology to prepare an Archaeological Testing, Monitoring, and Data Recovery Plan (ATMDRP). The ATMDRP shall require that a qualified archaeologist conduct test trenching on site prior to the commencement of demolition and construction activities. The project applicant shall be responsible for clearing the existing surface parking lot per the ATMDRP to allow test trenching. The ATMDRP shall require that a qualified archaeologist be present for all ground-disturbing activities (i.e., excavation, compaction, heavy-equipment operation) that occur on the project site. The ATMDRP shall define how archaeological monitoring will be conducted, the protocol to be followed in the event that significant resources are discovered during monitoring, and where and how data recovery will be conducted for any important archaeological resources discovered. The ATMDRP shall specify that all construction personnel will be alerted to the possibility of buried cultural resources prior to the initiation of ground-disturbing activities. The ATMDRP shall specify that if any cultural resources, such as structural features, unusual amounts of bone or shell, artifacts, human remains, or architectural remains are encountered during any development activities, work shall be suspended within 50 meters (165 feet) of the find.	Prepare an Archaeological Testing, Monitoring, and Data Recovery Plan as described in MM 5.3-2.	Project Applicant	Prior to the issuance of grading or construction permits.	City of Sacramento Development Services Department

5.0 MITIGATION MONITORING PLAN

500 CAPITOL MALL PROJECT MITIGATION MONITORING PLAN				
Mitigation Measure	Action	Implementing Party	Timing	Monitoring Party
<p>The City of Sacramento Development Services Department shall be immediately notified, and a qualified archaeologist shall develop, as necessary, mitigation measures to reduce archaeological impacts to less-than- significant levels before construction resumes assistance to the Most Likely Descendant, including the excavation and removal of the human remains. The City of Sacramento Development Services Department will be responsible for approval of recommended mitigation as it deems appropriate, taking account of the provisions of state law, as set forth in CEQA Guidelines section 15064.5(e) and Public Resources Code section 5097.98. The project applicant shall implement approved mitigation, to be verified by the City of Sacramento Development Services Department, before the resumption of activities at the site where the remains were discovered. The final improvement plans shall document any discoveries of cultural resources and the resultant mitigation measures. Any additional mitigation measures that are developed shall be approved by the City prior to implementation.</p>	<p>Suspend work if any remains are discovered during site work. Comply with notification, and mitigation requirements set forth in MM 5.3-3.</p>	<p>Project Applicant/ Project Contractor</p>	<p>During any phase of archaeological testing, excavation, or construction.</p>	<p>City of Sacramento Development Services Department and the Sacramento County Coroner</p>
<p>5.3-3 If human remains are discovered during any phase of archaeological testing or construction, work shall be suspended immediately within 50 meters (165 feet) of the remains and the City of Sacramento Development Services Department and the Sacramento County Coroner shall be notified immediately. If the remains are determined by the county coroner to be Native American, the Native American Heritage Commission (NAHC) shall be notified within 24 hours, and the guidelines of the NAHC shall be adhered to in the treatment and disposition of the remains. The project applicant shall also retain a professional archaeologist with Native American burial experience to conduct a field investigation of the specific site and consult with the Most Likely Descendant, if any, identified by the NAHC. As necessary, the archaeologist may provide professional assistance to the Most Likely Descendant, including the excavation and removal of the human remains. The City of Sacramento Development Services Department will be responsible for approval of recommended mitigation as it deems appropriate, taking account of the provisions of state law, as set forth in CEQA Guidelines section 15064.5(e) and Public Resources Code section 5097.98. The project applicant shall implement approved mitigation, to be verified by the City of Sacramento Development Services Department, before the resumption of activities at the site where the remains were discovered.</p>	<p>See MMs 5.3-2 and 5.3-3.</p>	<p>See MMs 5.3-2 and 5.3-3.</p>	<p>See MMs 5.3-2 and 5.3-3.</p>	<p>See MMs 5.3-2 and 5.3-3.</p>
<p>5.3-4 Implement Mitigation Measures 5.3-2 and 5.3-3.</p>				

5.0 MITIGATION MONITORING PLAN

500 CAPITOL MALL PROJECT MITIGATION MONITORING PLAN			
Mitigation Measure	Action	Implementing Party	Monitoring Party
<p>5.4-1 The prime contractor shall ensure that the following measures are implemented during all phases of project construction:</p> <p>(a) Erect a solid plywood construction/noise barrier along the exposed project boundaries. The barrier should not contain any significant gaps at its base or face, except for site access and surveying openings.</p> <p>(b) Construction activities shall comply with the City of Sacramento Noise Ordinance, including Section 8.68.060 requiring the use of exhaust and intake silencers for internal combustion engines.</p> <p>(c) Locate fixed construction equipment, such as compressors and generators, as far as possible from sensitive receptors located along N Street. Shroud or shield all impact tools and muffle or shield all intake and exhaust ports on power construction equipment.</p> <p>(d) High noise activities, such as pile driving, the use of jackhammers, drills, and other generators of sporadic high noise peaks, shall be restricted to the hours of 8:00 a.m. to 6:00 p.m. Monday through Friday or other such hours satisfactory to the Planning Director and shall not occur on Saturday or Sunday.</p> <p>(e) Prior to issuance of a building permit, the applicant shall submit a plan subject to the satisfaction of the Planning Director demonstrating how the proposed project shall mitigate construction noise to the extent feasible.</p> <p>(f) Designate a disturbance coordinator and conspicuously post this person's number around the project site and in adjacent public spaces. This disturbance coordinator will receive all public complaints about construction noise disturbances and will be responsible for determining the cause of the complaint, and implement any feasible measures to be taken to alleviate the problem.</p>	<p>DEIR Section 5.4 Noise Implement noise reduction and attenuation measures set forth in MM 5.4-1.</p>	Project applicant	City of Sacramento Building Division
<p>5.4-2 The project applicant shall drill pilot holes for piles, to the extent feasible, prior to commencement of impact pile driving. Prior to issuance of a building permit, the project applicant shall submit to the City for approval the anticipated depth to which piles will be drilled and the estimated start date and end date of impact pile driving.</p>	Drill pilot holes for piles.	Project Applicant	City of Sacramento Building Division

5.0 MITIGATION MONITORING PLAN

500 CAPITOL MALL PROJECT MITIGATION MONITORING PLAN			
Mitigation Measure	Action	Implementing Party	Monitoring Party
DEIR Section 5.6 Public Utilities and Services			
5.5-1 The project applicant shall submit to the City of Sacramento Solid Waste Division a construction and demolition diversion plan that targets cardboard, wood waste, scrap metal, brick, concrete, asphalt, and dry wall for recovery. As part of this diversion plan, the applicant shall submit to the Solid Waste Division the following information: method of recovery, hauler information, disposal facility, diversion percentages, and weigh tickets documenting disposal and diversion.	Prepare and submit a construction and demolition diversion plan.	Project Applicant	City of Sacramento Solid Waste Division
DEIR Section 5.6 Transportation and Circulation			
5.6-1 (a) Intersection of 3 rd Street / J Street – Modify the traffic signal phase splits during the a.m. peak period by increasing the phase time for the southbound I-5 off-ramp approach (eastbound) to 40 seconds, maintaining the 50 second phase time for the northbound I-5 off-ramp, and decreasing the north and southbound 3 rd Street phase time to 10 seconds. The applicant for the proposed project shall pay a fair share to recover the costs for the City's Traffic Operation Center monitoring and retiming of this intersection.	City of Sacramento modify signal phases at intersection of 3 rd Street/J Street as described in MM 5.6-1(a) and Project Applicant pay fair share.	Project Applicant/City of Sacramento Department of Transportation	City Development Services Department and City Department of Transportation
(b) Intersection of 3 rd Street / L Street – Modify the westbound approach to provide one left-turn lane, two through lanes (to the northbound I-5 on-ramp), and one right-turn lane. The applicant shall pay fair share toward the City project to improve and re-stripe the intersection.	Modify westbound approach to provide one left-turn lane, two through, and one right-turn lane at intersection of 3 rd Street/J Street as described in MM 5.6-1(b) and pay fair share.	Project Applicant/City of Sacramento Department of Transportation	City Development Services Department and City Department of Transportation
(c) Intersection of 3 rd Street / P Street – Modify the traffic signal phase splits during the p.m. peak period by increasing the signal phase time to 32 seconds for the westbound P Street approach and decreasing the southbound 3 rd Street approach to 18 seconds. The applicant for the proposed project shall pay a fair share to recover the costs for the City's Traffic Operation Center monitoring and retiming of this intersection.	Modify signal phases at intersection of 3 rd Street/P Street as described in MM 5.6-1(c) and pay fair share.	Project Applicant/City of Sacramento Department of Transportation	City Development Services Department and City Department of Transportation
(d) Intersection of 15 th Street / J Street – Modify the traffic signal phase splits during the p.m. peak period by increasing the phase time for the eastbound J Street approach to 30 seconds, and decreasing the southbound 15 th Street signal phase time to 20 seconds. The applicant for the proposed project shall pay a fair share to recover the costs for the City's Traffic Operation Center monitoring and retiming of this intersection.	Modify signal phases at intersection of 15 th Street/J Street as described in MM 5.6-1(d) and pay fair share.	Project Applicant/City of Sacramento Department of Transportation	City Development Services Department and City Department of Transportation
5.6-4 Implement Mitigation Measure 5.6-1(a).	See MM 5.6-1(a).	See MM 5.6-1(a).	See MM 5.6-1(a).

5.0 MITIGATION MONITORING PLAN

500 CAPITOL MALL PROJECT MITIGATION MONITORING PLAN			
Mitigation Measure	Action	Implementing Party	Monitoring Party
<p>5.6-9 Prior to beginning of construction, a construction traffic management plan shall be prepared by the applicant to the satisfaction of the City traffic engineer, Regional Transit, and any other affected agency.</p> <p>5.10-9 (a) At the 3rd Street / J Street intersection, modify the traffic signal phase splits during the a.m. peak period by increasing the phase time for the southbound I-5 off-ramp approach (eastbound) to 40 seconds, maintaining the 50 second phase time for the northbound I-5 off-ramp, and decreasing the north and southbound 3rd Street phase time to 10 seconds. The project applicant shall pay a fair share to recover the costs of the City's Traffic Operation Center monitoring and retiming of this intersection.</p> <p>(b) At the 3rd Street / L Street intersection, modify the westbound approach to provide one left-turn lane, two through lanes (to the northbound I-5 on-ramp), and one right-turn lane. The project applicant shall pay a fair share to recover the costs of the City's Traffic Operation Center monitoring and retiming of this intersection.</p> <p>(c) At the 3rd Street / N Street intersection, modify the traffic signal phase splits during the a.m. peak period by increasing the southbound 3rd Street signal phase time to 34 seconds, decreasing the eastbound N Street approach to 15 seconds, and maintaining the phase time for the eastbound Tower Bridge approach at 21 seconds. The project applicant shall pay a fair share to recover the costs of the City's Traffic Operation Center monitoring and retiming of this intersection.</p> <p>(d) At the 3rd Street / P Street intersection, modify the traffic signal phase splits during the p.m. peak period by increasing the signal phase time to 32 seconds for the westbound P Street approach and decreasing the southbound 3rd Street approach to 18 seconds. The project applicant shall pay a fair share to recover the costs of the City's Traffic Operation Center monitoring and retiming of this intersection.</p>	<p>Prepare and submit construction traffic management plan as described in MM 5.6-9. Modify signal phases at intersection of 3rd Street/J Street as described in MM 5.6-10(a) and pay fair share.</p> <p>Modify westbound approach to provide one left-turn lane, two through, and one right-turn lane at intersection of 3rd Street/J Street as described in MM 5.6-10(b) and pay fair share.</p> <p>Modify signal phases at intersection of 3rd Street/N Street as described in MM 5.6-10(c) and pay fair share.</p> <p>Modify signal phases at intersection of 3rd Street/P Street as described in MM 5.6-10(d) and pay fair share.</p>	<p>Project Applicant</p> <p>Project Applicant/City of Sacramento Department of Transportation</p>	<p>City Development Services Department and City Department of Transportation</p> <p>City Development Services Department and City Department of Transportation</p> <p>City Development Services Department and City Department of Transportation</p> <p>City Development Services Department and City Department of Transportation</p> <p>City Development Services Department and City Department of Transportation</p>
	<p>Prior to beginning of construction</p> <p>Prior to construction and prior to project occupancy.</p>		

5.0 MITIGATION MONITORING PLAN

500 CAPITOL MALL PROJECT MITIGATION MONITORING PLAN				
Mitigation Measure	Action	Implementing Party	Timing	Monitoring Party
(e) At the 5 th Street / L Street intersection, modify the traffic signal phase splits during the p.m. peak period by increasing the signal phase time to 28 seconds for the westbound L Street approach and decreasing the northbound and southbound 5 th Street approaches to 42 seconds. The project applicant shall pay a fair share to recover the costs of the City's Traffic Operation Center monitoring and retiming of this intersection.	Modify signal phases at intersection of 5 th Street/L Street as described in MM 5.6-10(e) and pay fair share.	Project Applicant/City of Sacramento Department of Transportation	Prior to construction and prior to project occupancy.	City Development Services Department and City Department of Transportation
(f) At the 7 th Street / L Street intersection, modify the traffic signal phase splits during the p.m. peak period by increasing the signal phase time to 22 seconds for the westbound L Street approach and decreasing the northbound and southbound 7 th Street approaches to 28 seconds. This mitigation measure would improve traffic operations to LOS C during the p.m. peak hour and would reduce the near-term cumulative impact to a less-than-significant level. The project applicant shall pay a fair share to recover the costs of the City's Traffic Operation Center monitoring and retiming of this intersection.	Modify signal phases at intersection of 7 th Street/L Street as described in MM 5.6-10(f) and pay fair share.	Project Applicant/City of Sacramento Department of Transportation	Prior to construction and prior to project occupancy.	City Development Services Department and City Department of Transportation
(g) At the 8 th Street / L Street intersection, modify the traffic signal phase splits during the p.m. peak period by increasing the signal phase time to 25 seconds for the westbound L Street approach and decreasing the northbound 8 th Street signal phase time to 25 seconds. The project applicant shall pay a fair share to recover the costs of the City's Traffic Operation Center monitoring and retiming of this intersection.	Modify signal phases at intersection of 8 th Street/L Street as described in MM 5.6-10(g) and pay fair share.	Project Applicant/City of Sacramento Department of Transportation	Prior to construction and prior to project occupancy.	City Development Services Department and City Department of Transportation
(h) At the 9 th Street / J Street intersection, modify the traffic signal phase splits during the p.m. peak period by increasing the signal phase time to 28 seconds for the eastbound J Street approach and decreasing the southbound 9 th Street signal phase time to 22 seconds. The project applicant shall pay a fair share to recover the costs of the City's Traffic Operation Center monitoring and retiming of this intersection.	Modify signal phases at intersection of 9 th Street/J Street as described in MM 5.6-10(h) and pay fair share.	Project Applicant/City of Sacramento Department of Transportation	Prior to construction and prior to project occupancy.	City Development Services Department and City Department of Transportation
(i) At the 10 th Street / J Street intersection, modify the traffic signal phase splits during the p.m. peak period by increasing the signal phase time to 28 seconds for the eastbound J Street approach and decreasing the northbound 10 th Street signal phase time to 22 seconds. The project applicant shall pay a fair share to recover the costs of the City's Traffic Operation Center monitoring and retiming of this intersection.	Modify signal phases at intersection of 10 th Street/J Street as described in MM 5.6-10(i) and pay fair share.	Project Applicant/City of Sacramento Department of Transportation	Prior to construction and prior to project occupancy.	City Development Services Department and City Department of Transportation
(j) At the 12 th Street / J Street intersection, modify the traffic signal phase splits during the p.m. peak period by increasing the signal phase time to 22 seconds for the eastbound J Street approach and decreasing the 12 th Street signal phase time to 28 seconds. The project applicant shall pay a fair share to recover the costs of the City's Traffic Operation Center monitoring and retiming of this intersection.	Modify signal phases at intersection of 12 th Street/J Street as described in MM 5.6-10(j) and pay fair share.	Project Applicant/City of Sacramento Department of Transportation	Prior to construction and prior to project occupancy.	City Development Services Department and City Department of Transportation

5.0 MITIGATION MONITORING PLAN

500 CAPITOL MALL PROJECT MITIGATION MONITORING PLAN				
Mitigation Measure	Action	Implementing Party	Timing	Monitoring Party
(k) At the 15 th Street / J Street intersection, modify the traffic signal phase splits during the p.m. peak period by increasing the phase time for the eastbound J Street approach to 30 seconds, and decreasing the southbound 15 th Street signal phase time to 20 seconds. The project applicant shall pay a fair share to recover the costs of the City's Traffic Operation Center monitoring and retiming of this intersection.	Modify signal phases at intersection of 15 th Street/J Street as described in MM 5.6-10(k) and pay fair share.	Project Applicant/City of Sacramento Department of Transportation	Prior to construction and prior to project occupancy.	City Development Services Department and City Department of Transportation
(l) At the 15 th Street / X Street intersection, modify the traffic signal phase splits during the p.m. peak period by increasing the phase time for the southbound 15 th Street approach to 28 seconds, decreasing the eastbound U.S. 50 off-ramp phase time to 28 seconds, and maintaining 17 seconds for the X Street approach. The project applicant shall pay a fair share to recover the costs of the City's Traffic Operation Center monitoring and retiming of this intersection.	Modify signal phases at intersection of 15 th Street/X Street as described in MM 5.6-10(l) and pay fair share.	Project Applicant/City of Sacramento Department of Transportation	Prior to construction and prior to project occupancy.	City Development Services Department and City Department of Transportation
(m) At the 16 th Street / H Street intersection, modify the traffic signal phase splits during the p.m. peak period by increasing the phase time for the northbound 15 th Street approach to 26 seconds, decreasing the phase times for the eastbound H Street left and through movements to 18 and 24 seconds, respectively, and maintaining 6 seconds for the westbound H Street right-turning movement. The project applicant shall pay a fair share to recover the costs of the City's Traffic Operation Center monitoring and retiming of this intersection.	Modify signal phases at intersection of 16 th Street/H Street as described in MM 5.6-10(m) and pay fair share.	Project Applicant/City of Sacramento Department of Transportation	Prior to construction and prior to project occupancy.	City Development Services Department and City Department of Transportation
5.6-17 (a) 3 rd Street / J Street intersection, implement the near-term Mitigation Measure 5.6-10(a) (modification of signal phase splits) and also re-stripe the lanes on the southbound I-5 off-ramp approach (eastbound) to provide one combination left-through lane, one through lane, one combination through-right lane, and one exclusive right turn lane. The project applicant shall pay a fair share to recover the costs of the City's Traffic Operation Center monitoring and retiming of this intersection.	See MM 5.6-10(a).	See MM 5.6-10(a).	See MM 5.6-10(a).	See MM 5.6-10(a).
(b) 3 rd Street / L Street intersection, implement the near-term Mitigation Measure 5.6-10(b) (modification of the westbound approach lanes) and also modify the traffic signal phase splits during the p.m. peak period by increasing the southbound 3 rd Street approach to 23 seconds, decreasing the westbound L Street signal phase time to 38 seconds, and decreasing the northbound 3 rd Street left-turning movement to 9 seconds. The project applicant shall pay a fair share to recover the costs of the City's Traffic Operation Center monitoring and retiming of this intersection.	See MM 5.6-10(b).	See MM 5.6-10(b).	See MM 5.6-10(b).	See MM 5.6-10(b).
(c) 3 rd Street / N Street intersection, implement the near-term Mitigation Measure 5.6-10(c) (modification of signal phase splits). The project applicant shall pay a fair share to recover the costs of the City's Traffic Operation Center monitoring	See MM 5.6-10(c).	See MM 5.6-10(c).	See MM 5.6-10(c).	See MM 5.6-10(c).

5.0 MITIGATION MONITORING PLAN

500 CAPITOL MALL PROJECT MITIGATION MONITORING PLAN				
Mitigation Measure	Action	Implementing Party	Timing	Monitoring Party
and retiming of this intersection.				
(d) 3 rd Street / P Street intersection, implement the near-term Mitigation Measure 5.6-10(d) (modification of signal phase splits). The project applicant shall pay a fair share to recover the costs of the City's Traffic Operation Center monitoring and retiming of this intersection.	See MM 5.6-10(d).	See MM 5.6-10(d).	See MM 5.6-10(d).	See MM 5.6-10(d).
(e) 5 th Street / I Street intersection, modify the traffic signal phase splits during the p.m. peak period by increasing the signal phase time to 30 seconds for the northbound and southbound 5 th Street approaches and decreasing the westbound I Street approach to 70 seconds. The project applicant shall pay a fair share to recover the costs of the City's Traffic Operation Center monitoring and retiming of this intersection.	Modify signal phases at intersection of 5 th Street/ I Street as described in MM 5.6-17(e) and pay fair share.	Project Applicant/City of Sacramento Department of Transportation	Prior to construction and prior to project occupancy.	City Development Services Department and City Department of Transportation
(f) 5 th Street / L Street intersection, implement the near-term Mitigation Measure 5.6-10(e) (modification of signal phase splits). The project applicant shall pay a fair share to recover the costs of the City's Traffic Operation Center monitoring and retiming of this intersection.	See MM 5.6-10(e).	See MM 5.6-10(e).	See MM 5.6-10(e).	See MM 5.6-10(e).
(g) 7 th Street / L Street intersection, implement the near-term Mitigation Measure 5.6-10(f) (modification of signal phase splits). The project applicant shall pay a fair share to recover the costs of the City's Traffic Operation Center monitoring and retiming of this intersection.	See MM 5.6-10(f).	See MM 5.6-10(f).	See MM 5.6-10(f).	See MM 5.6-10(f).
(h) 8 th Street / L Street intersection, implement the near-term Mitigation Measure 5.6-10(g) (modification of signal phase splits). The project applicant shall pay a fair share to recover the costs of the City's Traffic Operation Center monitoring and retiming of this intersection.	See MM 5.6-10(g).	See MM 5.6-10(g).	See MM 5.6-10(g).	See MM 5.6-10(g).
(i) 9 th Street / J Street intersection, implement the near-term Mitigation Measure 5.6-10(h) (modification of signal phase splits). The project applicant shall pay a fair share to recover the costs of the City's Traffic Operation Center monitoring and retiming of this intersection.	See MM 5.6-10(h).	See MM 5.6-10(h).	See MM 5.6-10(h).	See MM 5.6-10(h).
(j) 10 th Street / J Street intersection, implement the near-term Mitigation Measure 5.6-10(i) (modification of signal phase splits). The project applicant shall pay a fair share to recover the costs of the City's Traffic Operation Center monitoring and retiming of this intersection.	See MM 5.6-10(i).	See MM 5.6-10(i).	See MM 5.6-10(i).	See MM 5.6-10(i).
(k) 12 th Street / J Street intersection, modify the traffic signal phase splits during the p.m. peak period by increasing the eastbound J Street approach to 23 seconds and decreasing the southbound 12 th Street and northbound right-turn movement signal phase time to 27 seconds. The project applicant shall pay a fair share to recover the costs of the City's Traffic Operation Center monitoring and retiming of this intersection.	Modify signal phases at intersection of 12 th Street/J Street as described in MM 5.6-17(k) and pay fair share.	Project Applicant/City of Sacramento Department of Transportation	Prior to construction and prior to project occupancy.	City Development Services Department and City Department of Transportation

5.0 MITIGATION MONITORING PLAN

500 CAPITOL MALL PROJECT MITIGATION MONITORING PLAN				
Mitigation Measure	Action	Implementing Party	Timing	Monitoring Party
(l) 15 th Street / J Street intersection, implement the near-term Mitigation Measure 5.6-10(k) (modification of signal phase splits). The project applicant shall pay a fair share to recover the costs of the City's Traffic Operation Center monitoring and retiming of this intersection.	See MM 5.6-10(k).	See MM 5.6-10(k).	See MM 5.6-10(k).	See MM 5.6-10(k).
(m) 15 th Street / X Street intersection, implement the near-term Mitigation Measure 5.6-10(l) (modification of signal phase splits). The project applicant shall pay a fair share to recover the costs of the City's Traffic Operation Center monitoring and retiming of this intersection.	See MM 5.6-10(l).	See MM 5.6-10(l).	See MM 5.6-10(l).	See MM 5.6-10(l).
(n) 16 th Street / H Street intersection, implement the near-term Mitigation Measure 5.6-10(m) (modification of signal phase splits). The project applicant shall pay a fair share to recover the costs of the City's Traffic Operation Center monitoring and retiming of this intersection.	See MM 5.6-10(m).	See MM 5.6-10(m).	See MM 5.6-10(m).	See MM 5.6-10(m).
Initial Study				
7. Biological Resources				
Bio-1 To prevent direct impacts on nesting birds, tree removal shall occur between September 16 and February 28.	Limit tree removal to the time between September 16 and February 28.	Project Applicant	Prior to issuance of tree removal permit.	City of Sacramento Development Services Department
Bio-2 If construction activities would occur during the breeding season (approximately March 1 through September 15), the project applicant, in consultation with the CDFG and USFWS, shall conduct a pre-construction, breeding season survey of the project site during the same calendar year that construction is planned to begin. The survey shall be conducted by a qualified avian biologist to determine if any birds are nesting on or directly adjacent to the project site. If phased construction procedures are planned for the proposed project, the results of the above survey shall be valid only for the season when it is conducted. A report shall be submitted to the project applicant and the City of Sacramento, following the completion of the nesting survey that includes, at a minimum, the following information: <ul style="list-style-type: none"> • A description of methodology including dates of field visits, the names of survey personnel with resumes, and a list of references cited, and persons contacted. • A map showing the location(s) of any nests observed within the project site. 	If construction activities occur during the breeding season, consult with CDFG and USFWS and prepare a pre-construction breeding season survey as described in MM Bio-2.	Project Applicant/ qualified avian biologist	Prior to project construction.	City of Sacramento Development Services Department
Bio-3 The project applicant, in consultation with CDFG and USFWS, shall avoid all active nest sites within the project area while the nest is occupied with adults and/or young. The occupied nest shall be monitored by a qualified avian biologist to	Consult with CDFG to establish a non-disturbance buffer zone, if active nest sites are	Project Applicant	Prior to and on-going during project construction.	City of Sacramento Development Services Department

5.0 MITIGATION MONITORING PLAN

500 CAPITOL MALL PROJECT MITIGATION MONITORING PLAN			
Mitigation Measure	Action	Implementing Party	Monitoring Party
<p>determine when the nest is no longer used. Avoidance shall include the establishment of a non-disturbance buffer zone, to be determined in consultation with CDFG, around the nest site, which will be delineated by highly visible temporary construction fencing.</p> <p>Active nest trees that would not be removed but are in close proximity to construction activities shall be monitored weekly to determine if construction activities are disturbing the adult or young birds, until the birds have left the nest.</p>	<p>Identified within the project area, and monitor active nests in trees not to be removed.</p>		
<p>Bio-4 If an active nest site cannot be avoided and would be destroyed, special permits would be required, depending on the bird species.</p> <p>a. For a State-listed bird (i.e. Swainson's hawk), the project applicant shall obtain a Section 2081 permit. Standard mitigation for the loss of an active nest tree generally requires planting 15 trees (a mix of cottonwood, sycamore and valley oaks) and monitoring the success of the trees for five years with a 55% success rate. Locating these trees would likely not be feasible so an alternative approach could be to participate in mitigation deemed appropriate by the CDFG.</p> <p>b. For any bird covered by the Migratory Bird Treaty Act, the project applicant would consult with the USFWS to determine appropriate mitigation measures.</p>	<p>Obtain Section 2081 permit and implement mitigation for loss of active nest tree if nests cannot be avoided.</p> <p>Consult with USFWS and implement appropriate mitigation measures.</p>	<p>Project Applicant</p> <p>Project Applicant</p>	<p>City of Sacramento Development Services Department</p> <p>City of Sacramento Development Services Department</p>
12. Utilities			
<p>Util-1 The project applicant shall install microwave dishes on the proposed project prior to building occupancy. The Public Safety Microwave Network shall be tested prior to building occupancy to ensure that there are no interruptions in service.</p>	<p>Install microwave dishes.</p>	<p>Project Applicant</p>	<p>City of Sacramento Department of Utilities</p>
14. Cultural Resources			
<p>Cult-1 Construction contractors involved in earth-moving activities shall be instructed on indicators that subsurface paleontological resources are present and shall be instructed in procedures to follow in the event that resources are encountered and the following measures shall be incorporated into all construction contracts:</p> <p>a. In the event any paleontological resources, such as fossils, are uncovered during construction, work within 100 feet of the find shall cease and a qualified paleontologist shall be contacted by the project proponent to determine if the resource is significant. If the find is determined to be of significance, an excavation plan shall be created and resources shall be donated to an appropriate cultural center. All work products and plans shall be reviewed and approved by the City prior to execution.</p>	<p>Instruct construction contractors involved in earth-moving activities on subsurface paleontological resource indicators.</p> <p>Cease construction and retain a qualified paleontologist to determine the significance of the resource. Prepare an excavation plan if necessary.</p>	<p>Project Applicant</p> <p>Project Applicant/qualified paleontologist</p>	<p>City of Sacramento Development Services Department</p> <p>City of Sacramento Development Services Department</p>

Attachment 2 – Resolution Denying Appeal

RESOLUTION NO.

Adopted by the Sacramento City Council

DENYING THE APPEAL AND APPROVING THE ENTITLEMENTS NECESSARY TO DEVELOP THE 500 CAPITOL MALL PROJECT, LOCATED IN THE CENTRAL CITY AT 500 CAPITOL MALL. (P05-108, DR05-241). (APN: 006-0146-030).

BACKGROUND

- A. On December 20, 2006 the Design Review and Preservation Board approved the design of the proposed project;
- B. On January 2, 2007 the decision of the Design Review and Preservation Board approving the design was appealed by William D. Kopper, Attorney at Law for IBEW340;
- C. On January 18, 2007 the Planning Commission denied the design review appeal and approved the requested entitlements thereby approving the project;
- D. On January 26, 2007 the decision of the Planning Commission to approve the requested entitlements was appealed by Jody Jones, California Department of Transportation; and
- E. On February 27, 2007 the City Council heard and considered evidence in the above-mentioned matter.

BASED ON THE FACTS SET FORTH IN THE BACKGROUND, THE CITY COUNCIL RESOLVES AS FOLLOWS:

Section 1. At the regular meeting of February 27, 2007, the City Council heard and considered evidence regarding the matters above. Based on verbal and documentary evidence at the hearing, the City Council takes the following actions:

- A. The City Council denies the appeal.
- B. The City Council approves the 500 Capitol Mall Project based on the findings of fact and subject to the conditions of approval as set forth below:

Section 2. Findings of Fact

A-B. Environmental Impact Report and Mitigation Monitoring Plan: The Environmental Impact Report for the 500 Capitol Mall Project, which consists of the Draft EIR, the Final EIR (Comments and Responses thereto) and Appendices ("EIR") has been certified, the Findings of Fact and Statement of Overriding Consideration have been adopted, and a Mitigation Monitoring Program has been adopted as provided in Resolution #_____ .

C. Special Permit for a major project over 75,000 gross square feet in size is approved subject to the following Findings of Fact and Conditions of Approval:

Findings of Fact:

1. Granting the Special Permit is based upon sound principles of land use in that the proposed development is designed to comply with the setback and stepback recommendations in the Urban Design Plan, the uses of the building will support public transit and add to an 18-24 hour city;
2. Granting the Special Permit would not be detrimental to the public welfare nor result in the creation of a public nuisance in that the project will provide amenities to support the office development such as retail, restaurant uses and on-site parking, as well as incorporating water quality features into the design and;
3. The proposed project is consistent with the City of Sacramento's General Plan and the Central City Community Plan land use designations, and supports policies that reinforce public transportation, strengthens Downtown's role as a major regional office center, and to enhance the cultural and entertainment activities of the Central City, as well as being consistent with the requirements of the Central Business District, Special Planning District (C-3-SPD) zone.

Conditions of Approval:

GENERAL

1. The applicant shall obtain all necessary building and/or encroachment permits prior to commencing construction.
2. The project shall substantially conform to the site plan and elevations as shown in **exhibits A-K**. Any modification to the project shall be subject to review and approval by Planning and Design Review staff prior to the issuance of building permits.
3. The landscaping plan shall comply with the approved site plan.

4. The applicant shall comply with the Design Review and Preservation Board conditions of approval of DR05-241.
5. Comply with requirements included in the Mitigation Monitoring Plan developed by, and kept on file in, the Planning Division Office (P05-108);
6. An approved transportation management plan (TMP) is required to be reviewed and approved prior to the occupancy permit. The TMP is based on the anticipated number of employees generated by the amount of total office space proposed. See Title 17.184 of the Zoning Code. At a minimum, showers and lockers shall be incorporated into the building and will be included in the TMP.
7. A sign permit shall be obtained prior to construction or installation of any attached or detached signs.
8. A comprehensive signage program for the entire project shall be submitted to Design Review staff for review and approval prior to applying for any sign permits. High quality signage with a design that complements the architecture is required.
9. All rooftop mechanical equipment and communications equipment shall be completely screened by the building parapet and architectural projections.

SOLID WASTE

10. Prior to the issuance of a building permit, the applicant shall submit for review and approval a recycling plan consistent with the City's Recycling Ordinance (Sacramento City Code, Chapter 17.72) related to providing trash and recycling enclosures.
 - a) Recycling capacity be met or exceeded.
 - b) A recycling program shall be established. The developer should send the name of the service provider, the frequency of service, and the processing facility to the Solid Waste Division to verify that service has been established.
 - c) This project shall be conditioned to divert construction waste. The project proponent should plan to target cardboard, wood waste, scrap metal, brick, concrete, asphalt, and dry wall for recovery. The developer should submit the following information to the Solid Waste Division:
 - Method of recovery
 - Hauler information
 - Disposal facility
 - Diversion percentage
 - Weigh tickets documenting disposal and diversion

PARKING / TRANSIT

11. A minimum of 780 and a maximum of 936 parking spaces are required.
12. The project is required to meet all requirements of the Sacramento City Code regulations, regarding bicycle parking (Section 17.64.040). A total of 78 bike parking spaces are required in which 50% shall be Class 1 facilities.
13. Transit information shall be displayed in a prominent location in the building and provided to tenants.
14. Prior to the issuance of building permits, the applicant shall contact Robert Hendrix, Regional Transit Facilities (916) 649-2759 to determine if a bus shelter pad shall be provided. If determined appropriate by RT, the applicant shall provide a bus shelter pad as directed.
15. Prior to certificate of occupancy, the applicant shall join the Sacramento TMA. Employers should offer employees subsidized transit passes at 50% or greater discount.
16. Project construction shall not impact transit service or pedestrian access to transit stops.

DEVELOPMENT ENGINEERING

17. Construct standard improvements as noted in these conditions pursuant to section 16.48.110 of the City Code. Improvements shall be designed and constructed to City standards in place at the time that the Building Permit is issued. All improvements shall be designed and constructed to the satisfaction of the Development Engineering Division. Any public improvement not specifically noted in these conditions shall be designed and constructed to City Standards. This condition shall include any needed street lights along the project's frontage per City standards;
18. Comply with requirements included in the Mitigation Monitoring Plan developed by, and kept on file in, the Planning Division Office (P05-108);
19. Repair or replace/reconstruct any existing deteriorated curb, gutter and sidewalk per City standards and to the satisfaction of the Development Engineering Division. Any proposed textured paving within the right of way shall be maintained by the applicant. The applicant shall also provide for pedestrian easements along Capitol Mall (if needed) if the proposed drop-off area encroaches into the existing sidewalk area;;
20. The site plan shall conform to A.D.A. requirements in all respects. This shall

include the replacement of any curb ramp that does not meet current A.D.A. standards along the project's frontage at the round corners;

21. The design of walls fences and signage near intersections and driveways shall allow stopping sight distance per Caltrans standards and comply with City Code Section 12.28.010 (25' sight triangle). Walls shall be set back 3' behind the sight line needed for stopping sight distance to allow sufficient room for pilasters. Landscaping in the area required for adequate stopping sight distance shall be limited 3.5' in height at maturity. The area of exclusion shall be determined by the Development Engineering Division;
22. All new driveways shall be designed and constructed to City Standards to the satisfaction of the Development Engineering Division;
23. Prior to Certificate of Occupancy, the applicant shall pay a fair share to recover the costs of the City's Traffic Operation Center monitoring and retiming of impacted intersections as defined in the EIR, per the Mitigation Monitoring Plan;
24. Prior to Certificate of Occupancy, the applicant shall pay a fair share toward City Improvement and Re-striping of the intersection of 3rd Street/L street, per the Mitigation Monitoring Plan;
25. Queuing space for at least two vehicles shall be provided for the two gates providing access to above ground parking. Pedestrian warning devices shall be installed where cars are exiting the garage adjacent to sidewalks. The warning devices shall have both visual and audio components to the satisfaction of the Development Engineering Division;;
26. Loading dock services should be restricted during the AM and PM peak commuter period. The applicant shall sign and stripe the loading area along N and 5th Streets to comply with this condition to the satisfaction of the Development Engineering Division. The area from the garage driveway to the curb return at the intersection of 5th street and N street shall be striped red except for the loading and unloading area to improve sight distance;
27. If unusual amounts of bone, stone, or artifacts are uncovered, work within 50 meters of the area will cease immediately and a qualified archaeologist shall be consulted to develop, if necessary, further mitigation measures to reduce any archaeological impact to a less than significant effect before construction resumes. A note shall be placed on the final improvement plans referencing this condition;
28. Prior to submittal of improvement plans for any phase of this project, the developer's design consultant(s) shall participate in a pre-design conference with City staff. The purpose of this conference is to allow City staff and the design consultants to exchange information on project design requirements and to

coordinate the improvement plan review process. Contact the Development Engineering Division, Plan Check Engineer at 808-7493 to schedule the conference. It is strongly recommended that the conference be held as early in the design process as possible;

URBAN FOREST SERVICES

29. Landscaping and irrigation shall comply with the landscape plan.
30. All trees are to be irrigated on a non-turf station by a minimum of two pop-up heads with 3' radius nozzles installed 30" to 40" from center trunk line.
31. All trees shall be planted in a gradual mound 2" to 3" higher than the surrounding grade.
32. All trees shall be mulched with wood chips (playground fiber will provide a neat uniform look) and soil shall be graded to accept an approximate mulch depth of 3 inches.
33. No turf, groundcover or shrubs shall be planted within 4 feet of any tree trunk.

FIRE

34. Compliance with the City of Sacramento Highrise Ordinance, Title 15, Chapter 15.100, Articles I-XIV.
35. Any booster pump required for pressure must have redundancy and be connected to an emergency back-up power system.
36. Provide the required fire hydrants in accordance with CFC 903.4.2 and Appendix III-B, Section 5.
37. Fire service mains shall not cross property lines unless a reciprocal easement agreement is provided.
38. Provide a water flow test. (Make arrangements at the North Permit Center's walk-in counter: 2101 Arena Boulevard, Suite 200, Sacramento, CA 95834)
39. Provide appropriate Knox access for site. Because of secured openings or where the building is served by a fire alarm system monitored by a central station, approved key switches, key boxes or padlocks are to be installed in approved accessible locations or areas in order to permit immediate fire department access.
40. Locate and identify Fire Department Connections (FDCs) on address side of building within 40 feet and of a fire hydrant.

UTILITIES

41. This project is served by the Combined Sewer System (CSS). Therefore, the developer/property owner will be required to pay the Combined Sewer System Development Fee prior to the issuance of any building permit. The impact to the CSS due to office and retail uses is estimated to be 68 ESD. The Combined Sewer System fee at time of building permit is estimated to be \$115,844 plus any increases to the fee due to inflation. The fee will be used for improvements to the CSS.
42. All new groundwater discharges to the Combined or Separated Sewers must be regulated and monitored by the Department of Utilities (City Council Resolution #92-439). Groundwater discharges to the City's sewer system are defined as follows:
 - a. Construction dewatering discharges
 - b. Treated or untreated contaminated groundwater cleanup discharges
 - c. Uncontaminated groundwater discharges

Foundation or basement dewatering discharges to the CSS will not be allowed. The CSS does not have adequate capacity to allow for dewatering discharges for foundations or basements. Foundations and basements shall be designed without the need for dewatering.

Groundwater discharges may contain toxic and/or explosive chemicals that could be harmful to the environment and to service workers working in the City's sewer system. Groundwater discharges to the sewer system go beyond the original design of the City's system, thus removing existing sewer capacity from other system users and potentially causing overflows or restricting development. The additional water from groundwater discharges must be conveyed and pumped by the City's existing facilities. The additional volume of water increases the City's operations and maintenance costs through increased capacity, power, and maintenance costs.

Currently, two types of groundwater discharges are recognized by the Department of Utilities; limited discharges and long-term discharges. These types of discharges are described as follows:

- a. "limited discharges" are short groundwater discharges of 7-days duration or less. Limited discharges must be approved through the Department of Utilities by acceptance letter.
- b. "long-term discharges" are groundwater discharges of greater duration than 7-days. Long-term discharge must be approved through the Department of Utilities and the City Manager through a Memorandum of Understanding (MOU) process.

The Groundwater MOU has a term of one year and requires the discharger to:

- a. Provide a description of the groundwater discharge,
 - b. Obtain a Regional Sanitation District permit,
 - c. Obtain approval from the Regional Water Quality Board if discharge is part of groundwater cleanup or contains contaminants above MCLs,
 - d. Pay fees based on flow amounts when a fee schedule is established by ordinance,
 - e. Comply with any new pertinent laws,
 - f. Assess and repair sewer lines if the discharge exceeds MCLs,
 - g. Suspend discharges during storm events or at City request,
 - h. Provide shut-off switches accessible to the City, and
 - i. Indemnify the City against all claims related to the MOU.
43. If this project disturbs greater than 1 acre of property, the project is required to comply with the State "NPDES General Permit for Stormwater Discharges Associated with Construction Activity" (State Permit). To comply with the State Permit, the applicant will need to file a Notice of Intent (NOI) with the State Water Resources Control Board (SWRCB) and prepare a Stormwater Pollution Prevention Plan (SWPPP) prior to construction. A copy of the State Permit and NOI may be obtained at www.swrcb.ca.gov/stormwtr/construction.html. The SWPPP will be reviewed by the Department of Utilities prior to issuing a grading permit or approval of improvement plans to assure that the following items are included: 1) vicinity map, 2) site map, 3) list of potential pollutant sources, 4) type and location of erosion and sediment BMPs, 5) name and phone number of person responsible for SWPPP, 6) signed certification page by property owner or authorized representative.
44. The applicant must comply with the City of Sacramento's Grading, Erosion and Sediment Control Ordinance. This ordinance will require the applicant to prepare erosion and sediment control plans for both during and after construction of the proposed project, prepare preliminary and final grading plans, and prepare plans to control urban runoff pollution from the project site during construction.
45. This project is adjacent to a separated drainage system and is greater than 1 acre therefore post construction, stormwater quality control measures shall be incorporated into the development to minimize the increase of urban runoff pollution caused by development of the area. Since the project is not served by a regional water quality control facility and is greater than 1 acre, both source controls and on-site treatment control measures are required. On-site treatment control measures may affect site design and site configuration and therefore, should be considered during the early planning stages. Improvement plans must include on-site treatment control measures. Refer to the "Guidance Manual for On-site Stormwater Quality Control Measures" dated January 2000 for appropriate source control measures and on-site treatment control measures.

46. Per City Code 13.04.070, except for separate irrigation service connections and fire service connections, each lot or parcel shall only have one (1) metered domestic water service. Requests for multiple domestic water service connections to a single commercial lot or parcel, consistent with the Department of Utilities "Commercial Tap Policy", may be approved on a case-by-case basis by the Department of Utilities. Contact the Department of Utilities at (916) 808-1400 for a copy of the tap policy. Excess services shall be abandoned to the satisfaction of the Department of Utilities.
47. Per City Code, the point of service for water, sewer and storm drain service is located at the back of curb for separated sidewalks and at the back of sidewalk for attached sidewalks. The onsite water, sewer and storm drain systems shall be private systems maintained by the ownership association.
48. All water connections shall comply with the City of Sacramento's Cross Connection Control Policy.

The following **advisory notes** are informational in nature and are not a requirement of the Special Permit:

Building

1. A fire pump and a fire pump room shall be installed on one of the upper floors for the fire sprinklers.
2. Handicap parking stalls shall comply with CBC Section 1129B.
3. For the vehicle ramps, either provide a shaft enclosure or submit an Alternate Means per CBC Section 104.2.8 with drawings for approval.
4. On the upper floors, the distance between the exit enclosures shall be equal or greater than one-half the length of the maximum overall diagonal dimension of the area served.
5. The exit enclosures shall be continuous and fully enclosed and shall exit directly to the exterior of the building.

Utilities

6. The project is located in the Flood zone designated as a Shaded X zone on the Federal Emergency Management Agency (FEMA) Federal Insurance Rate Maps (FIRMs) that have been revised by a Letter of Map Revision effective February 18, 2005. Within the Shaded X zone, there are no requirements to elevate or flood proof.
7. Prior to the design of the subject project, the Department of Utilities suggests

that the applicant request a water supply test to determine what pressure and flows the surrounding public water distribution system can provide to this site. This information can then be used to assist the engineers in the design of the fire suppression systems.

Parks and Recreation

8. As per City Code, the applicant will be responsible to meet his/her obligation regarding Title 18, 18.44 Park Development Impact Fee, due at the time of issuance of building permit. The Park Development Impact Fee due for this project is estimated at \$97,657. This is based on 467,942 square feet of office space at the infill fee of \$0.20 per square foot and 27,124 square feet of retail space at the infill fee of \$0.15 per square foot. Any change in these factors will change the amount of the PIF due. The fee is calculated using factors at the time that the project is submitted for building permit.

Regional Transit

9. Regional Transit (RT) staff is interested in engaging the developer in a discussion pertaining to its efforts in developing a streetcar starter line in the downtown Sacramento area. Local developer fees are anticipated to be an important part of the financing strategy for the construction and operation of the streetcar system. RT would like this development to provide a fair share of the local contribution to the streetcar program.

Transportation – Electrical System

10. This project does not require street lighting. There is an existing street lighting system in this project area. Improvements of right-of-way may require modification to the existing system. Electrical equipment shall be protected and remain functional during construction.

Police

Alarms

11. All alarm plans shall be approved by The Sacramento Police Department's Alarm Unit.

Misc. Security Measures

12. Any safe on site will have minimum rating of TL-15 or Class "C" and should be equipped with a duress alarm capability.
13. One or more closed circuit television cameras shall be employed to monitor the lobby areas in case of robbery or other serious felony. Additional cameras should be considered to monitor other areas of the complex, such as other ground-floor entry doors, if access is not limited to the front entry after dark, ground floor restroom doors and any vending area.

14. The complex shall employ at least one uniformed security person 24 hours daily to patrol the parking areas, hallways, and other public areas on site. The Police Department reserves the right to increase the minimum number of guards without further public hearings, should negative activity warrant it.
15. Access into miscellaneous storage, electrical rooms, should be strictly controlled.
16. As much care as possible shall be taken not to impair the view of the main floor lobby area by passing patrol units outside the business. Use of such restrictors, as potted plants, draperies, reflective window treatments, etc. should be closely monitored.
17. The elevators in the complex shall be equipped with mirrors to allow persons to view the interior of the car before entering.
18. Any vending machines installed on site should be positioned in such a location that they are visible to passersby and shall be emptied of money daily and sign posted to indicate this provision.
19. The applicant shall have the responsibility of assuring that the perimeter of the construction site is fenced during construction with security lighting and guard patrols employed as necessary. If the general contractor is assigned this responsibility, it shall be the applicant's responsibility to assure compliance.
20. The applicant shall install a system which allow the individual offices to be easily rekeyed on a frequent basis as renters change. A computer based card access system or a hard key computer based system is encouraged.

Building Security Requirements

Doors

21. Employee / pedestrian, unit entry, storage, linen, laundry, mechanical, electrical, maintenance, and roof access doors shall be of solid core wood or hollow sheet metal with a minimum thickness of 1 ¾ inches and shall be secured by a deadbolt lock with a minimum throw of one inch.
22. Entrance doors into individual units shall be secured with a single cylinder deadbolt lock with a minimum throw of one inch, in addition to door latches with a one-half inch minimum throw. The locks should be so constructed that both deadbolt and dead latch can be retracted by a single action of the inside door knob.
23. A viewing device (peephole) shall be installed in each individual unit entrance door and shall allow for 180 degree vision.
24. A 180 degree viewing device (or peephole) shall be installed in delivery (loading dock) area entry doors to screen persons before allowing entry.
25. Outside hinges on all exterior doors shall be provided with non-removable pins when pintype hinges are used or shall be provided with hinge studs, to prevent removal of the door.
26. Exterior doors into hallways and doors leading into stairwells shall have self locking (dead latch) devices allowing egress to the exterior of the building or stairwell but requiring a key to be used to gain access to the interior of the building from the outside or into the hallway from the stairwell.

27. Exterior doors into the building and doors leading into stairwells shall be equipped with self-closing devices.
28. The jamb on all aluminum frame swinging doors shall be so constructed or protected to withstand 1600 pounds of pressure in both a vertical distance of three inches and a horizontal distance of one inch each side of the strike.
29. Glass doors shall be secured with a deadbolt lock with a minimum throw of one inch. The outside ring should be free-moving and case hardened.
30. Doors with glass panels and doors with glass panels adjacent to the door frame shall be secured with burglary-resistant glazing or the equivalent, if double-cylinder deadbolt locks are not installed.
31. On pairs of doors, the active leaf shall be secured with the type of lock required for single doors in this section. The inactive leaf shall be equipped with automatic flush extension bolts protected by hardened material with a minimum throw of three-fourths inch at head and foot and shall have no door knob or surface-mounted hardware. Multiple point locks, cylinder activated from the active leaf and satisfying the requirements, may be used in lieu of flushbolts.
32. Any single or pair of doors requiring locking at the bottom or top rail shall have locks with a minimum of one throw bolt at both the top and bottom rails.
33. Doors with panic bars will have vertical rod panic hardware with top and bottom latch bolts.
34. Any rear door used to admit employees or deliveries shall be equipped with a 180 degree viewing device to screen persons before allowing entry.
35. Any office which contains a safe or will be used to count receipts shall be equipped with a 180 degree viewing device.

Windows

36. Windows shall be constructed so that when the window is locked it cannot be lifted from the frame (sliding).
37. The sliding portion of a sliding glass window shall be on the inside track.
38. Window locking devices shall be capable of withstanding a force of 300 pounds in any direction.
39. Secondary locking devices are required on ground floor windows and any windows accessible from outside connecting balconies.

Numbering

40. The address number of every commercial building shall be illuminated during the hours of darkness so that it shall be easily visible from the street. The numerals in these numbers shall be no less than 10 inches in height and of a color contrasting with the background.
41. Each individual office within the building shall display a prominent identification number not less than three to four inches in height, which is easily visible to pedestrian traffic on site and throughout the building.

Interior Lighting

42. Stairwell, hall, and elevator lighting shall be equipped with vandal-resistant lenses and shall remain on at all times.

Parking Structure

43. Parking in the structure should be limited to patrons and employees only.
44. Entry into the structure should be controlled.
45. The parking structure should be illuminated at a level of 5 foot-candles minimum at all hours, with ramps, corners, and entrances 10-50 foot-candles during evening hours.
46. The structure should be routinely patrolled by security anytime there are vehicles inside.
47. The structure should be equipped with an emergency panic alarm system that reports to a central security office. Alarm buttons should be placed no more than 40-50 feet apart.
48. In conjunction with the alarm system, a two way audio system should be installed.
49. An extensive closed circuit television system should be incorporated throughout the structure with recorder capability.
50. The perimeter design of the structure should restrict access to only persons with a legal right to enter, especially at ground level.
51. The structure should be equipped with emergency telephones (not pay phones).
52. The design of the structure should be simple, from a circulation aspect, with ample directional arrows, exit signs, and location maps provided.
53. Stairwells, elevator towers, and connecting bridges should be glass enclosed to provide added visibility and a sense of security.
54. The vertical clearance into the parking structure shall be sufficient to allow entry and exit by a tow truck with a vehicle in tow.
55. The entrance to the parking areas and other highly visible locations on-site shall be posted with appropriate signs per 22658 (a) CVC to assist in removing vehicles at the property owner/manager's request.

Commercial Retail

56. An effort should be made to separate Retail and Office Business activities, and to cluster businesses according to operating hours.
57. Landscaped areas should be planned for maximum growth while at the same time provide unobstructed observation of parking lots, buildings, and pathways; day and night.
58. Parking areas should be laid out to allow a high degree of observation. Close in employee parking for people working late should be provided adjacent to the employee entrances.
59. A Central Security Office with restricted access should be included to monitor:
Intrusion detection annunciators in all project phases
Closed circuit TV monitors

- Key card access control and mini-processor with hard copy print out and annunciators
 Base station radio equipment
 Telephones
 Fire protective devices
 Emergency-power supply equipment
 Public safety communications systems and inter-com system
 Documented procedures manuals for emergency operations
60. Entrances to the building should be clearly visible to patrol and the public and held to a minimum number.
61. Security personnel should be provided to monitor activity 24 hours, 7 days per week, including time of construction.
62. Security lighting must be provided for courtyards and entryways.
63. Intrusion detection for stairwell doors in the building, as well as a capability to electronically open stairwell doors in case of emergency.
64. Key card access for entrances and elevators in each building. Key cards used in elevators would be programmed for a specific floor within various buildings.
65. Access restrictions for restrooms above the ground floor.
66. External lighting requirements should consider general lighting level of one foot-candle minimum maintained at ground level for medium use facilities, utilizing High Intensity Discharge fixtures with vandal-resistant covers.
67. Intercom and public address systems for stairwells and internal corridors.
68. All exterior doors shall be provided with their own light source and shall be adequately illuminated at all hours to make clearly visible the presence of any person on or about the premises and provide adequate illumination for persons exiting the building.
69. The premises, while closed for business after dark, must be sufficiently lighted by use of interior night lights.
70. Exterior door, perimeter, parking area, and canopy lights shall be controlled by photocell and shall be left on during hours of darkness or diminished lighting.
71. All glass skylights on the roof of any building shall be provided with:
 Rated burglary resistant glass or glass like acrylic material
 Or
 Iron bars of at least ½" round or one by one-fourth inch flat steel material spaced no more than five inches apart under the skylight and securely fastened.
 Or
 A steel grill of at least 1/8" material or two inch mesh under skylight and securely fastened.
69. All hatchway openings on the roof of any building shall be secured as follows:
 If the hatchway is of wooden material, it shall be covered on the outside with at least 16 gauge sheet steel or its equivalent attached with screws.
- The hatchway shall be secured from the inside with a slide bar or slide bolts. The use of crossbar or padlock must be approved by the fire department.

Outside hinges on all hatchway openings shall be provided with nonremovable pins when using pin-type hinges.

70. All air duct or air vent openings exceeding 8" x 12" on the roof or exterior walls of any building shall be secured by covering the same with either of the following:

Iron bars of at least 1/2" round or one by one-fourth inch flat steel material, spaced no more than five inches apart and securely fastened.

Or

A steel grill of at least 1/8" material or two inch mesh and securely fastened.

71. If the barrier is on the outside, it shall be secured with galvanized rounded head flush bolts of at least 3/8" diameter on the outside.

General Site Issues:

72. The developer/applicant shall enclose the entire perimeter of the project with a chain link fence with necessary construction gates to be locked after normal construction hours. A security person shall be provided to patrol the project after normal working hours during all phases of construction, and adequate security lighting shall be provided to illuminate vulnerable equipment and materials.

SOLID WASTE

73. The Solid Waste Division provides free waste audits to interested businesses. City staff will then recommend a method of waste management to the businesses to increase waste diversion at the greatest cost avoidance.
74. Businesses that choose private sector service should ask about the recycling opportunities that company offers. Recycling should still be cheaper than disposal.
75. Businesses that subscribe to City solid waste collection and disposal services are also provided recycling services as a package. The Solid Waste Division provides a variety of commercial services. They include commercial solid waste collection and disposal, commercial recycling, in-office recycling, and debris box services.

Table of Contents:

Exhibits A-K: Project Plans

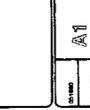




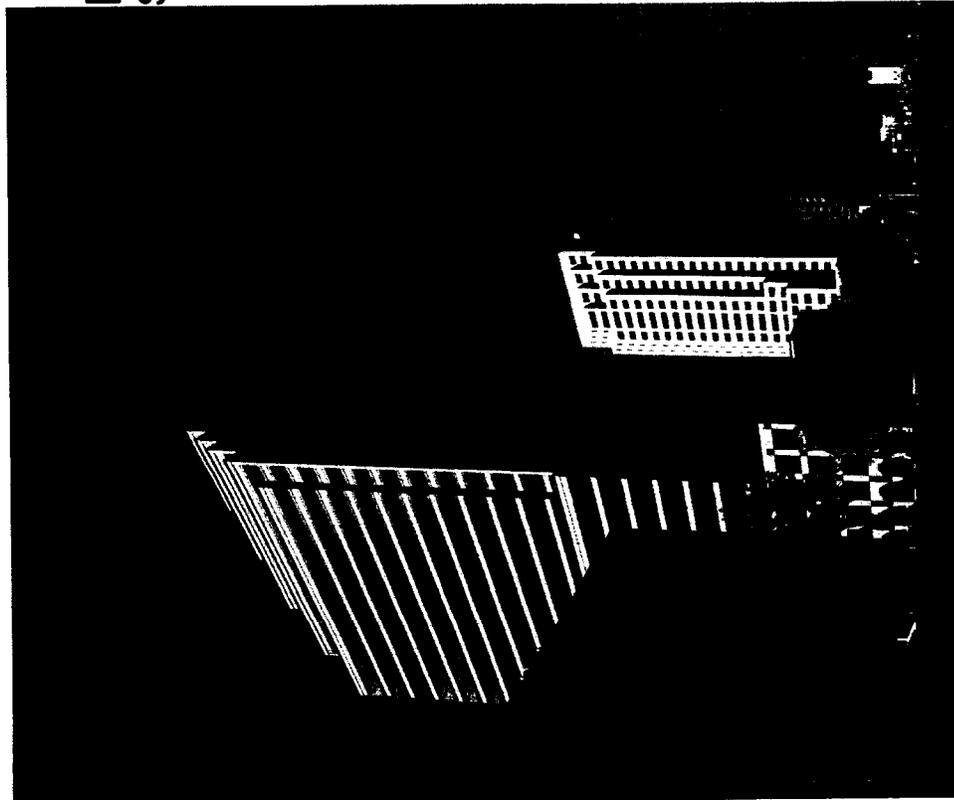








500 CAPITOL OFFICE BUILDING SACRAMENTO, CALIFORNIA



AREA CALCULATION			
FLOOR	GROSS FLOOR AREA	RENTABLE OFFICE AREA	RETAIL AREA
1	37,413 S.F.	11,958 S.F.	15,838 S.F.
2	11,958 S.F.	11,958 S.F.	
3	11,958 S.F.	11,958 S.F.	
4	12,043 S.F.	12,043 S.F.	
5	6,732 S.F.	6,732 S.F.	
6	6,732 S.F.	6,732 S.F.	
7	6,732 S.F.	6,732 S.F.	
8	6,732 S.F.	6,732 S.F.	
9	23,220 S.F.	23,220 S.F.	
10	23,220 S.F.	23,220 S.F.	
11	23,220 S.F.	23,220 S.F.	
12	23,304 S.F.	23,304 S.F.	
13	23,304 S.F.	23,304 S.F.	
14	23,304 S.F.	23,304 S.F.	
15	23,304 S.F.	23,304 S.F.	
16	23,304 S.F.	23,304 S.F.	
17	23,304 S.F.	23,304 S.F.	
18	23,304 S.F.	23,304 S.F.	
19	23,304 S.F.	23,304 S.F.	
20	23,304 S.F.	23,304 S.F.	
21	23,304 S.F.	23,304 S.F.	
22	23,304 S.F.	23,304 S.F.	
23	23,304 S.F.	23,304 S.F.	
24	18,332 S.F.	17,220 S.F.	
MECH	12,118 S.F.		5,374 S.F.
PNT.H.	8,475 S.F.		5,815 S.F.
TOTAL	467,842 S.F.	406,384 S.F.	27,124 S.F.

PARKING		
FLOOR	GROSS FLOOR AREA	NO
BSM1	35,907 S.F.	76
1	18,786 S.F.	33
2	23,340 S.F.	77
3	23,340 S.F.	77
4	23,340 S.F.	77
5	23,340 S.F.	77
6	23,340 S.F.	77
7	23,340 S.F.	77
8	23,340 S.F.	77
9	23,340 S.F.	77
10	23,340 S.F.	77
11	23,340 S.F.	77
12	23,340 S.F.	77
13	23,340 S.F.	77
14	23,340 S.F.	77
15	23,340 S.F.	77
16	23,340 S.F.	77
17	23,340 S.F.	77
18	23,340 S.F.	77
19	23,340 S.F.	77
20	23,340 S.F.	77
21	23,340 S.F.	77
22	23,340 S.F.	77
23	23,340 S.F.	77
24	23,340 S.F.	77
TOTAL	284,353 S.F.	784

467,842 SQ. FT. / 684,770 STALLS
 27,124 SQ. FT. / 784 STALLS
 PARKING STALLS REQUIRED - 780
 EXTRA - 14

BICYCLE PARKING PROVIDED
 40 CLASS I LOCKERS
 40 CLASS III RACKS

Exhibit B

	Scale:				500 CAPITOL MALL TRANSPORTATION TRUCK SERVICE PARKING TRUCK SERVICE TRUCK SERVICE TRUCK SERVICE TRUCK SERVICE	PROJECT NO. DATE DRAWING NO.	SHEET NO. TOTAL SHEETS
	Author:	Check:	Scale:	Scale:			

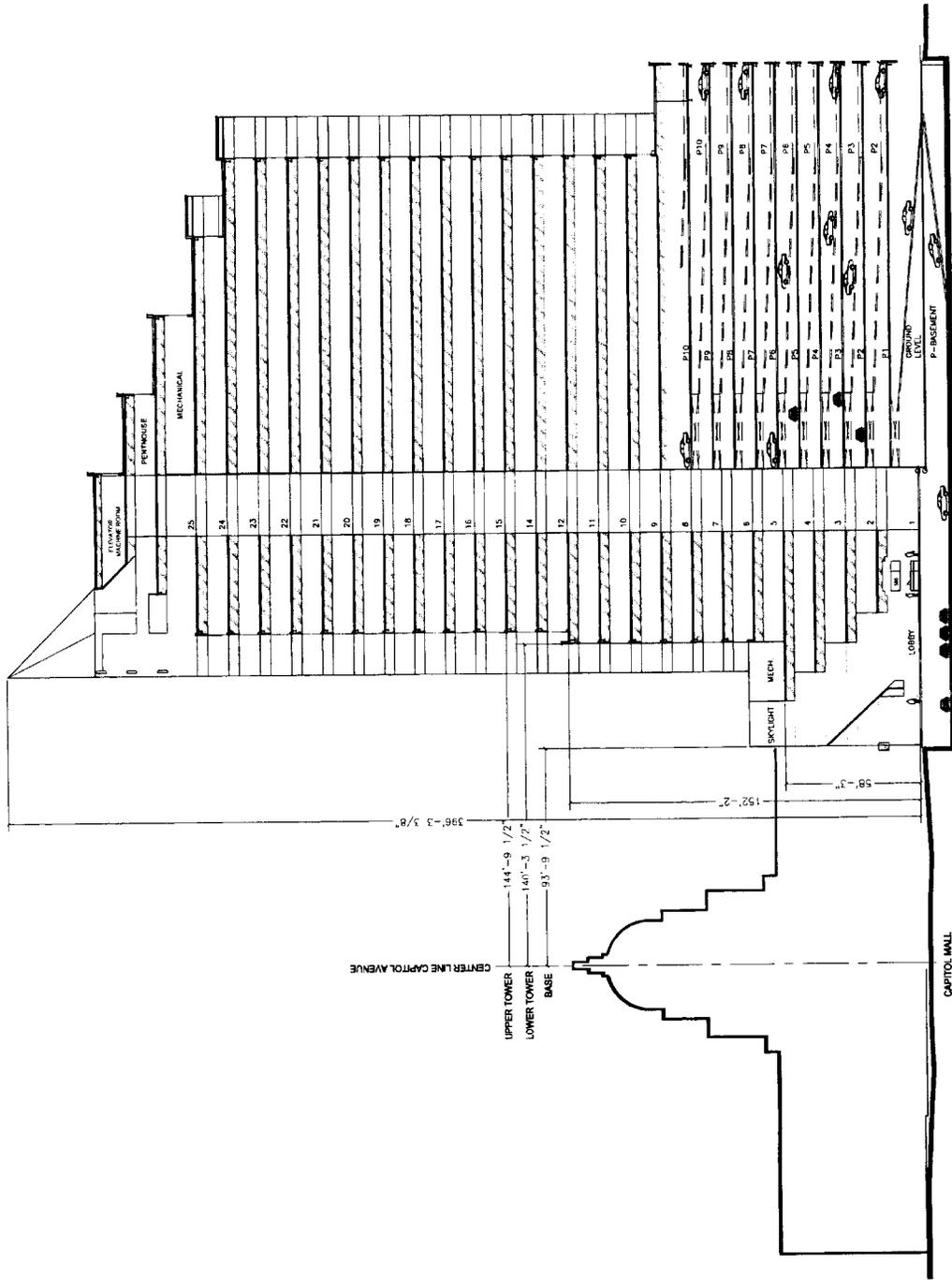
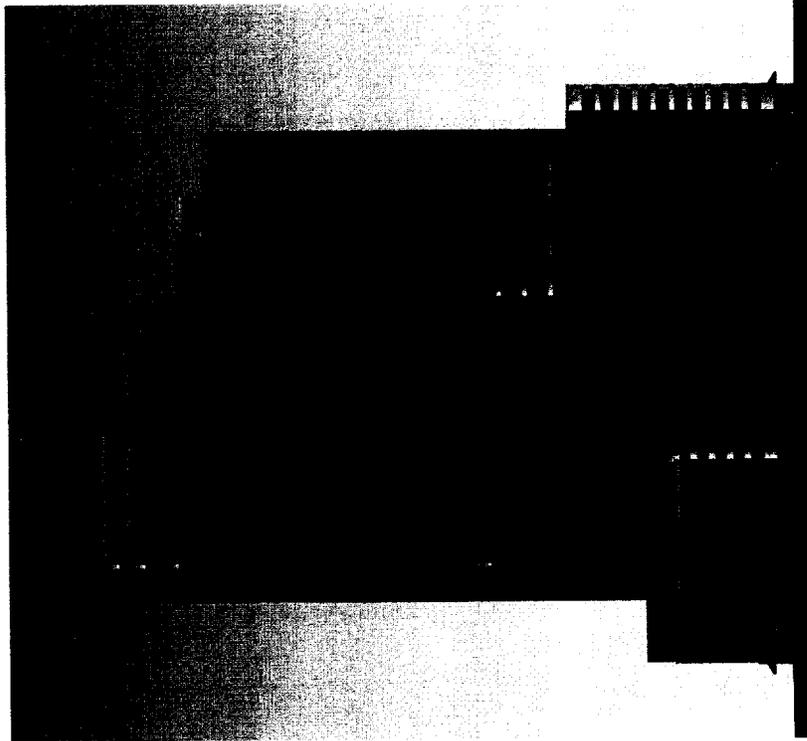
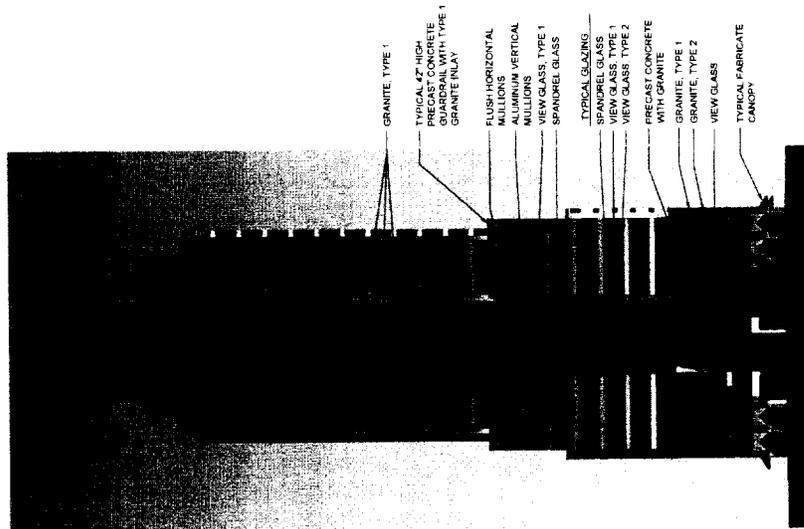


Exhibit C

	Title:	Date:	Drawn By:	Checked By:	500 CAPITOL MALL	PROJECT NO. 05-108 DRAWING NO. DR05-241 DATE: 02/27/07 PROJECT: 500 CAPITOL MALL	WEST ELEVATION NORTH ELEVATION	Scale:	A3 SHEET NO.
	Project:	Location:	Architect:	Engineer:	Designer:	Designer:	Designer:	Designer:	Designer:



WEST ELEVATION



NORTH ELEVATION

SCALE: 1/8" = 1'-0"

Exhibit E

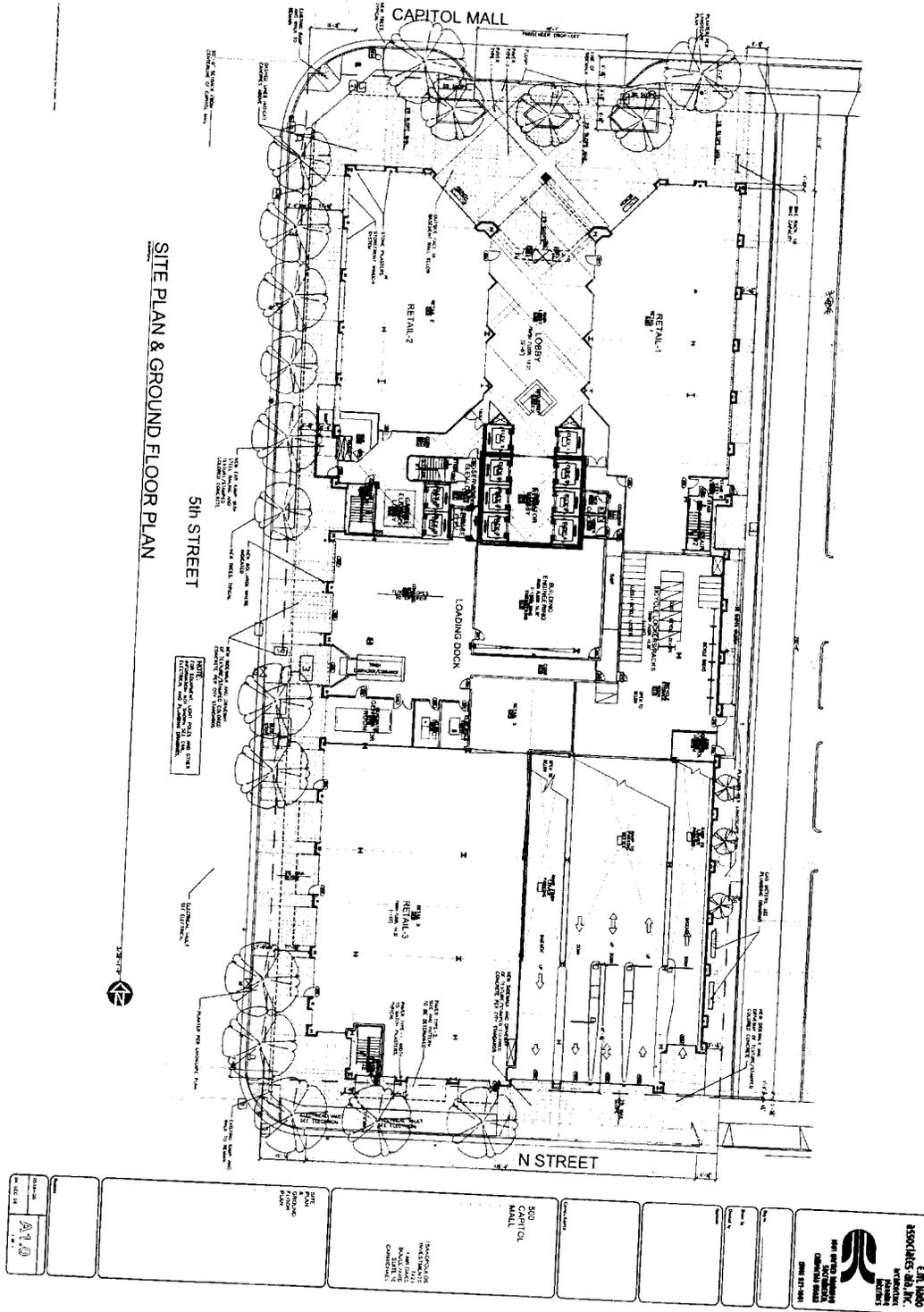


Exhibit F

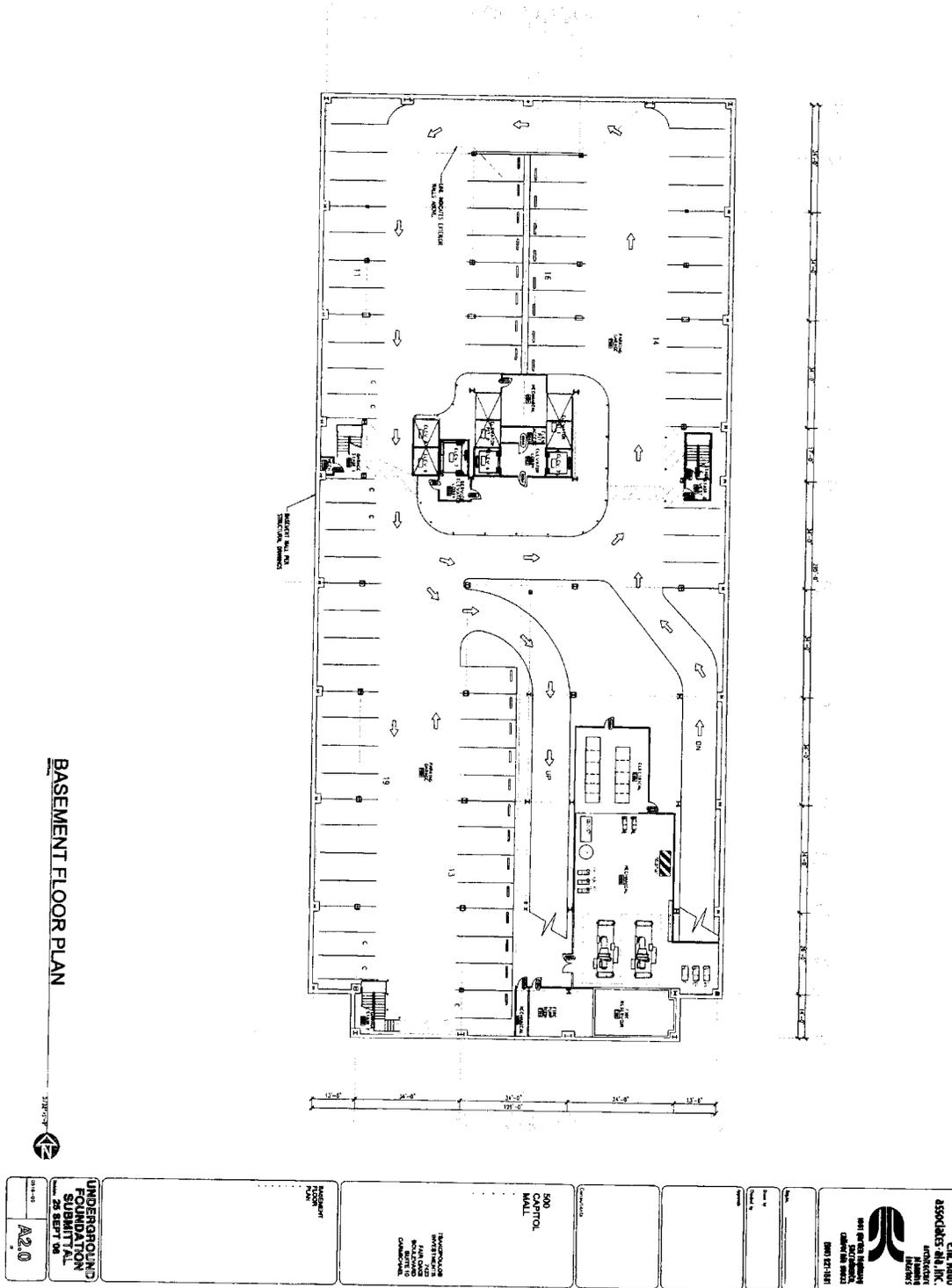
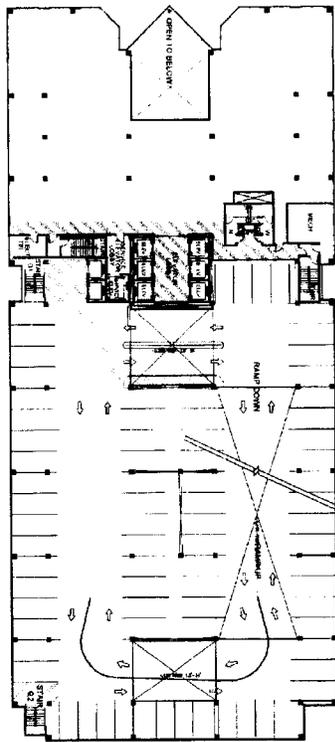
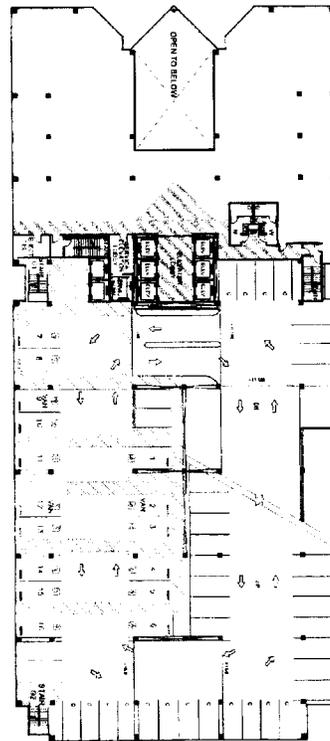


Exhibit G



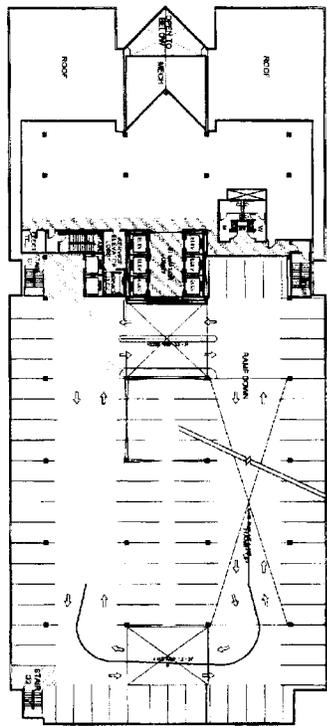
THIRD FLOOR
 500 CAPITOL MALL
 2ND FLOOR PLAN



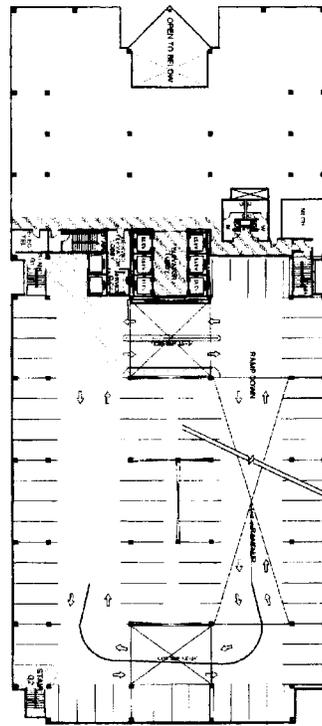
SECOND FLOOR
 500 CAPITOL MALL
 2ND FLOOR PLAN

							<p>500 CAPITOL MALL</p>		<p>THANK YOU TO ALL THE ARCHITECTS AND ENGINEERS WHO PARTICIPATED IN THE DESIGN OF THIS PROJECT</p>	<p>PLANNING ARCHITECTURE INTERIOR DESIGN ENGINEERING</p>		<p>ARCHITECT LAI GROUP</p>
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Exhibit H



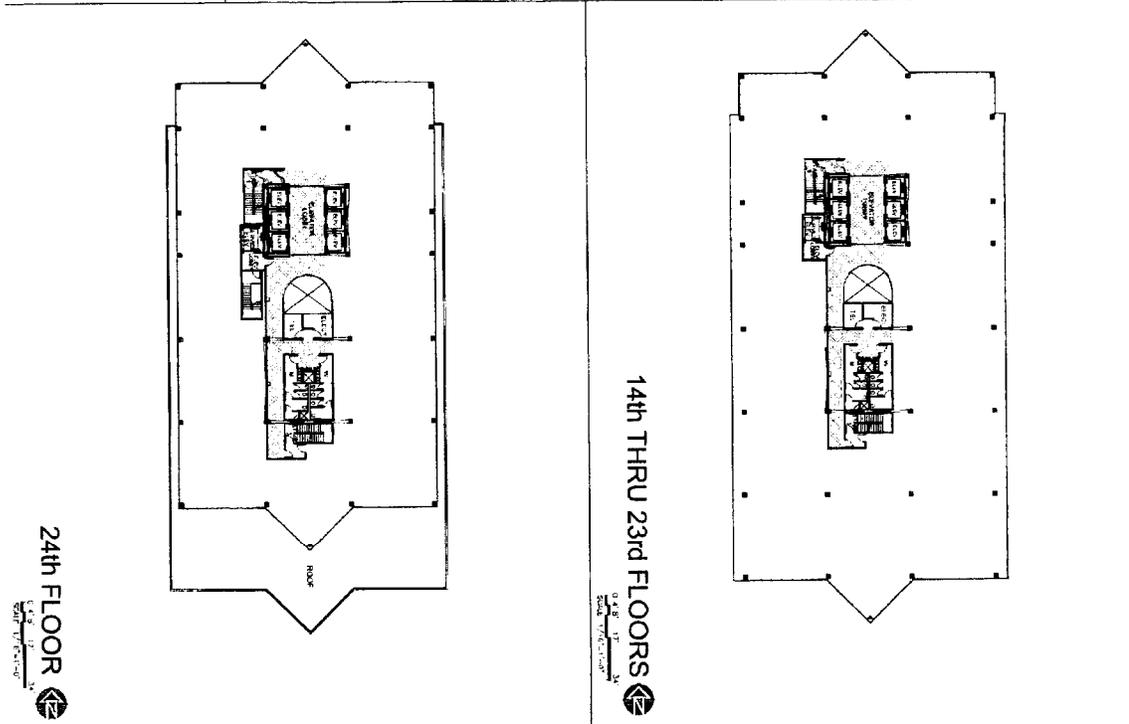
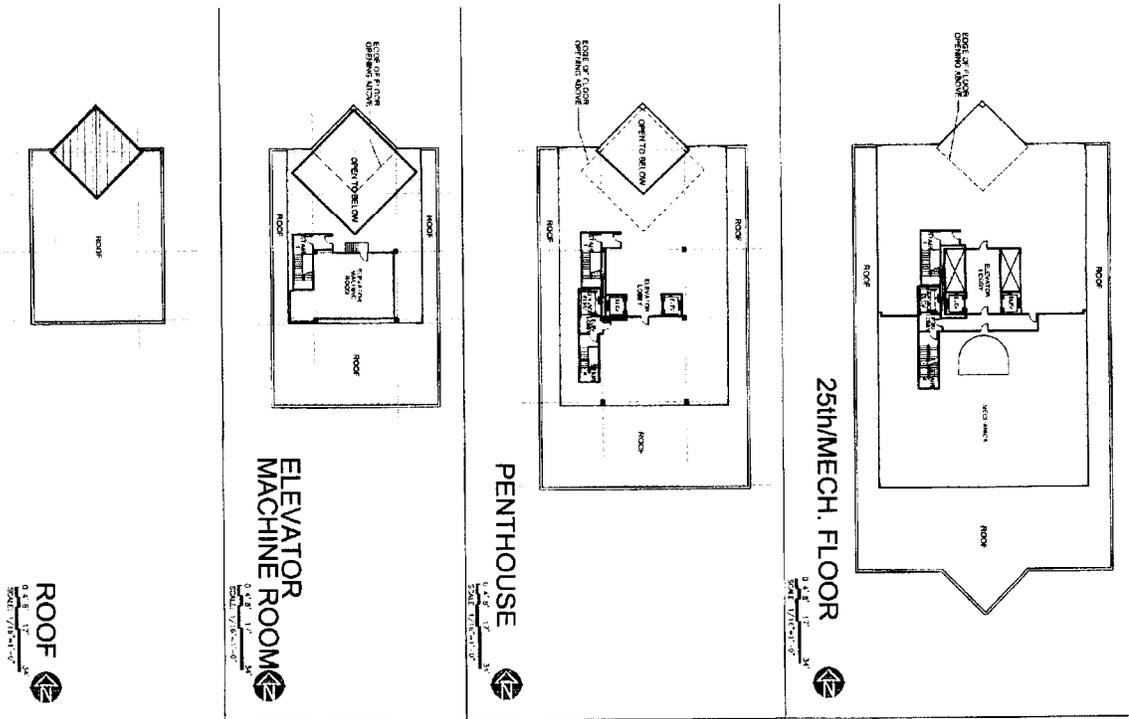
FIFTH FLOOR



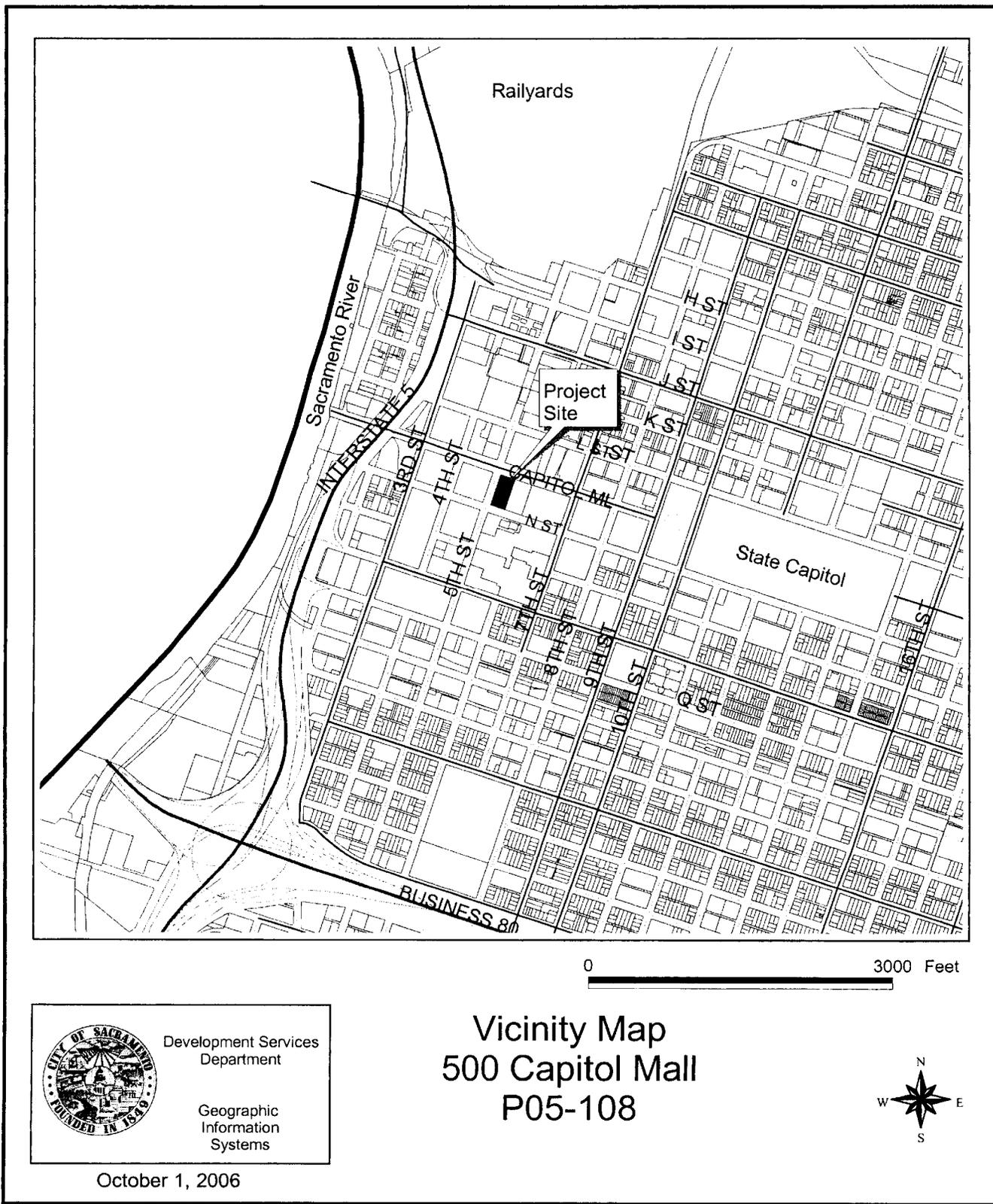
FOURTH FLOOR

	<p>DATE: 02/27/07</p>	<p>PROJECT: 500 CAPITOL MALL</p>	<p>SCALE: 1/8" = 1'-0"</p>	<p>500 CAPITOL MALL</p>	<p>FIFTH FLOOR FOURTH FLOOR</p>	<p>DATE: 02/27/07</p>
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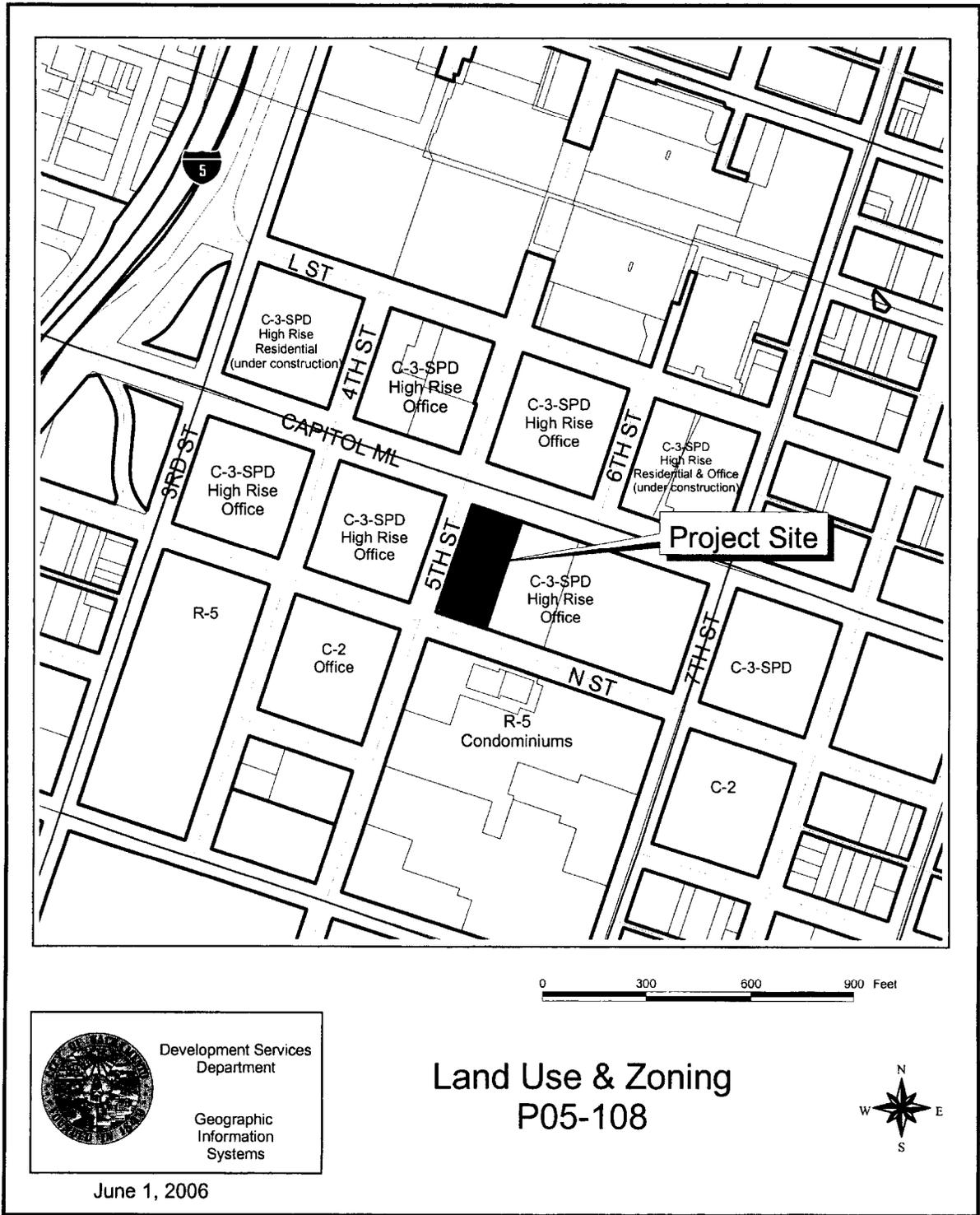
Exhibit J



	500 CAPITOL MALL	14th THRU 23rd FLOORS ELEVATOR MACHINE ROOM 24th FLOOR ELEVATOR MACHINE ROOM	25th/MECH. FLOOR PENTHOUSE ELEVATOR MACHINE ROOM	24th FLOOR ELEVATOR MACHINE ROOM	14th THRU 23rd FLOORS ELEVATOR MACHINE ROOM	25th/MECH. FLOOR PENTHOUSE ELEVATOR MACHINE ROOM	24th FLOOR ELEVATOR MACHINE ROOM
	500 CAPITOL MALL	14th THRU 23rd FLOORS ELEVATOR MACHINE ROOM 24th FLOOR ELEVATOR MACHINE ROOM	25th/MECH. FLOOR PENTHOUSE ELEVATOR MACHINE ROOM	24th FLOOR ELEVATOR MACHINE ROOM	14th THRU 23rd FLOORS ELEVATOR MACHINE ROOM	25th/MECH. FLOOR PENTHOUSE ELEVATOR MACHINE ROOM	24th FLOOR ELEVATOR MACHINE ROOM



Attachment 5



Development Services
Department

Geographic
Information
Systems

June 1, 2006

Land Use & Zoning
P05-108





**REPORT TO
PLANNING COMMISSION
City of Sacramento**

Attachment 6

915 I Street, Sacramento, CA 95814-2671

**PUBLIC HEARING
January 18, 2007**

To: Members of the Planning Commission

Subject: 500 Capitol Mall (P05-108, DR05-241)

A request to construct a 24-story, 396-foot tall high-rise building, consisting of 406,384 square feet of office space, 27,124 square feet of retail/restaurant space, 264,533 square feet of parking garage area, and a total of 794 parking spaces for a total building area of 732, 295 square feet on 1.13+ acres in the Central Business District (C-3-SPD) zone.

- A. Environmental Determination: Environmental Impact Report;**
- B. Mitigation Monitoring Plan;**
- C. Appeal of the Design Review and Preservation Board's Decision** to approve the design of a 396-foot tall high-rise building in the Central Business Design Review District.
- D. Special Permit** for a major project over 75,000 gross square feet in the Central Business District (C-3-SPD) zone.

Location: 500 Capitol Mall, Sacramento, CA

Council District: District 1

Assessor's Parcel Number: 006-0146-030

Recommendation: Staff recommends that the Planning Commission deny the appeal and approve the project based on the findings of fact and subject to the conditions of approval listed in Attachment 1. The Commission has final approval authority over items A-D listed above. All items are appealable to the City Council.

Staff Planner: Lindsey Alagozian, Associate Planner, (916) 808-2659
Scott Johnson, Associate Environmental Planner, (916) 808-5842

Applicant: E. M. Kado Associate AIA, Inc., 1661 Garden Highway, Ste 200
Sacramento, CA 95833; (916) 921-1661

Owner: Tsakopoulos Investments, 7423 Fair Oaks Boulevard, Ste 10
Sacramento, CA 95608

Summary

The applicant is requesting the necessary entitlements to construct a 24-story; (plans indicate 25 floors because the 13th floor is omitted), 396-foot tall, high-rise building. The applicant proposes to demolish the existing bank building and construct a 732,295 gross square foot high-rise building consisting of 406,384 square feet of office space,

Subject: 500 Capitol Mall (P05-108)

January 18, 2007

Table 1: Project Information
General Plan Land Use designation: Regional Commercial & Offices
Community Plan Land Use designation: Multi Use
Existing zoning of site: (C-3-SPD) Central Business District, Special Planning District
Existing use of site: 5-story Unoccupied Bank Building
Property area: 1.13± net acres (49,495 square feet)

Background Information

The project was originally submitted on July 5, 2005 as a 29-story office high rise building. During the review period for the project, community concerns surfaced regarding the design of the building. In response to the concerns, the applicant subsequently placed the project on hold and redesigned the building. On March 29, 2006 new plans depicting a completely different building were submitted to the city for review.

Public/Neighborhood Outreach and Comments

As part of the application review process, the proposal was routed to the following community groups and neighborhood associations: Governor's Square, CCAN, Bridgeway Tower Homeowners, and the Capitol Area R Street Association. Since the project was redesigned, staff received one letter of support for the overall design of the building and a request that the environmental document analyze traffic impacts, circulation and impacts to residential areas. Staff has not received any letters of opposition to the proposal.

Environmental Considerations

In accordance with CEQA Guidelines, Section 15081, Environmental Planning Services (EPS) determined that an EIR should be prepared for the proposed project. The Draft EIR identified significant impacts for Noise, Cultural Resources, Public Utilities, Traffic and Circulation and Air Quality. Mitigation measures were identified to reduce many project impacts to a less than significant impact. However, significant and unavoidable impacts remain for Air Quality, Noise, and Traffic and Circulation. A Mitigation Monitoring Plan (MMP) that lists all of the mitigation measures and required implementing actions was prepared and is attached (Exhibit A).

The Draft EIR was prepared and released for a forty-five (45) day public review period, established by the State Clearinghouse, beginning on October 11, 2006 and ending on November 27, 2006. A public notice was placed in the Daily Recorder on October 11, 2006, which stated that 500 Capitol Mall Project Draft EIR was available for public review and comment. A public notice was posted with the Sacramento County Clerks Office on October 11, 2006. A Notice of Availability (NOA) dated October 5, 2006 was distributed to all interested groups, organizations, and individuals on October 11, 2006,

Subject: 500 Capitol Mall (P05-108)

January 18, 2007

for the Draft EIR. The NOA stated that the City of Sacramento had completed the Draft EIR and that copies were available at the City of Sacramento, Development Services Department, Environmental Planning Services, 2101 Arena Blvd., Suite 200, Sacramento, CA 95834. The NOA also indicated that the official forty-five day public review period for the Draft EIR would end on November 27, 2006.

Comment letters on the Draft EIR were received from Sacramento Regional County Sanitation District (SRCSD), California Department of Water Resources (DWR), Sacramento Regional Transit (RT), Larry Micheli, California Department of Transportation (Caltrans), and the Sacramento Metropolitan Air Quality Management District (SMAQMD). The comment letters and responses to comments are included in the Final EIR. The FEIR responds to all comments received on the Draft EIR and revises text and/or analysis where needed.

On page 2-9 of the Draft EIR and on page 1-1 of Final EIR, the Design Review entitlement is listed as Compliance with the Capitol View Protection Guidelines. The subject property does not fall within the boundaries of the Capitol View Protection area and is therefore not subject to compliance with the Capitol View Protection Guidelines. Staff has identified the error after the EIR was completed. A detailed discussion is contained within the Aesthetics section of the EIR which clearly indicates that the project is not subject to the requirements of the Capitol View Protection area but is subject to the Sacramento Urban Design Plan.

Policy Considerations

The project is consistent with the General Plan Update Vision and Guiding Principles as it provides a high density office project with retail uses at the ground floor level. The project is also consistent with the policies and goals contained in both the General Plan and the Central City Community Plan.

General Plan Update Vision and Guiding Principles: While the City's General Plan is being updated, the City Council has adopted a vision for the future of the City as well as several guiding principles to help achieve this vision. This was done to ensure that new developments submitted during the ongoing update comply with the goals and policies that are being incorporated into the General Plan through the update. The applicable guiding principles that this proposal complies with include:

- Create a vibrant downtown that serves as a regional destination for the arts, culture, and entertainment while accommodating residents that live, work, and gather in the city center.
- Use the existing assets of infrastructure and public facilities to increase infill and re-use, while maintaining important qualities of community character.
- Protect and replicate the pattern and character of Sacramento's unique and traditional neighborhoods.

Subject: 500 Capitol Mall (P05-108)

January 18, 2007

The proposed project complies with the above guiding principles and is not contrary to any of the proposed policies.

General Plan: The General Plan designates the site as Regional Commercial & Offices. This category is generally defines as including larger (regional) shopping centers, the Central Business District, and suburban office parks. The Central Business District is included in this category because of its regional function as an employment, retail trade, service, and office center. (SGPU, Sec. 4-10)

The project is consistent with the following General Plan goals and policies:

- Maintain and strengthen Downtown's role as a major regional office, retail, commercial, governmental, and cultural/entertainment center (sec 4-12).
- Implement the provisions of the Central Business District Urban Design Plan (sec 4-13).
- Ensure that the City of Sacramento captures a Regional Central City's share of the regional office market (sec 4-15).

Central City Community Plan: The Central City Community Plan designates the subject site as Mixed Use. The project is consistent with the land-use designations and policies contained in the Community Plan by providing quality office developments and further revitalizing the Central Business District as a major commercial center in the region. The project provides a mix of uses including high density office use which will serve to increase the economic viability and livability of the area. The proposed project is consistent with the following Central City Community Plan goals and policies:

- Continue the revitalization of the Central Business District as a major commercial center in the region (p. 8).
- Encourage public and private office development, where compatible with the adjacent land uses and circulation system, in the Central Business District (p. 8).
- Continue to provide cultural and entertainment activities in the Central City so as to increase usage of the Central Business District (p. 8).
- Encourage full utilization of existing office areas in the Central City (p. 9).

Smart Growth Principles: The proposed project is consistent with Smart Growth Principles which aims to support development that revitalizes central cities and existing communities, supports public transportation and preserves open space. Approval of the project would contribute to the creation of a vibrant city center, concentrating new development within the urban core of the region, and promoting infill development.

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Zoning Code: The project site is located in the Central Business District, Special Planning District (C-3-SPD) zone and is consistent with the zone's requirements. The Central Business District (CBD or C-3 zone) applies to an approximately seventy (70) block portion of the central city. The C-3 zone, with the exception of the area covered by the Capitol View Protection Ordinance, is the only classification which has no height limit and is intended for the most intense retail, commercial and office developments in the city. The goals of the CBD-SPD are as follows:

- Accelerate the economic revitalization process by creating a marketplace attractive to private investment;
- Achieve a plan for long-term economic growth through private sector incentive measures;
- Enhance the character of Sacramento's downtown and ensure the development of well-designed new projects by adopting the architectural design guidelines;
- Provide for a pleasant, rich and diverse pedestrian experience by implementing the streetscape design guidelines;
- Provide for the humanization of the downtown through promotion of the arts, program of special events and activities, and overall excellence of design.

Sacramento Urban Design Plan: The Sacramento Urban Design Plan designates Capitol Mall as a protected view corridor in which landscaping and building massing should enhance views of landmarks. Furthermore, it labels Capitol Mall as *"the front yard for the State Capital. It represents the primary role of the community as the seat of State Government. This role should be amplified."*(p. 15) The plan further outlines two concepts that support this goal including compliance with the building massing setbacks in order to accentuate its broad open character and streetscape improvements which add to the symbolic importance of the street as one approaches the Capital. The City Zoning Ordinance does not require specific building setbacks in the C-3-SPD zone; however, the Sacramento Urban Design Plan contains Capitol Mall Massing Guidelines. The guidelines recommend a 90' setback from the centerline of Capitol Mall to the street wall and a 140' setback from the centerline of Capitol Mall to the tower. Additionally, the guidelines recommend a 15' building street wall setback on the side street (5th Street). There is no recommendation for N Street within the Sacramento Urban Design Plan. Furthermore, the Maximum Tower Diagonal is shown as "not applicable" in the design guidelines. The proposed project is in general compliance with the Sacramento Urban Design Plan as illustrated in the project design section of this staff report.

Capitol View Protection Ordinance: The Capitol View Protection Ordinance is located in Section 17.96.100 of the City Zoning Code. The Ordinance designates an area surrounding the State Capitol building and Capitol Park in which height and setback restrictions are established in order to maintain view corridors. At its proposed location between 5th and 6th Streets on Capitol Mall, the 500 Capitol Mall project is outside of the boundaries of the Capitol View Protection Ordinance, the boundaries of which end at 7th Street. Therefore, there is no maximum height requirement at this site.

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Project Design**Land Use**

Currently, an unoccupied, 5-story bank building with attached parking is located on the western portion of the block between 5th and 6th Streets, and Capitol Mall and N Street. The applicant proposes to demolish the existing structure and construct a 396-foot tall office high-rise building with ground floor retail uses and a restaurant on two penthouse floors. Offices and retail uses are allowed by right in the Central Business District subject to approval of a Special Permit for projects larger than 75,000 gross square feet. The Special Permit allows the city to identify any environmental impacts as well as review for design and site layout.

Site Design

The building is oriented to face directly onto Capitol Mall. The ground floor of the building contains two individual retail tenant spaces separated by a 1,953 square foot recessed lobby entrance fronting Capitol Mall. The retail space labeled number one (northeast corner of the property) is approximately 4,612 square feet in size. The retail space labeled number two (northwest corner of the property) is 3,618 square feet in size. A third retail space (southwest corner of the property) totals 7,620 square feet in size is located at the corner of 5th and N Street with pedestrian access off 5th and N Streets. The loading dock and trash area are located in the center of the building and is accessed off 5th Street. Vehicular entry and exit into the parking garage is located off N Street. The basement floor contains parking and mechanical equipment. Floors 2 through 8 include parking and office space. Floors 9 through 24 will be comprised of office space exclusively. Floor 13 is omitted in the project. The penthouse and associated mezzanine is located at the 24th floor (the attached plans indicate this as the 25th floor because Floor 13 is omitted from the project). The lower penthouse floor contains a mechanical equipment area and a restaurant. The upper penthouse floor is a mezzanine area containing the restaurant. An elevator machine room is proposed above the upper penthouse floor.

The project proposal includes an approximately 49 foot long passenger drop-off area along Capitol Mall. The proposed drop-off area measures approximately 10 feet wide by 49 feet long and is located directly in front of the proposed building within the right-of-way of Capitol Mall. The proposed drop-off area is designed to serve valet services and facilitate passenger drop-off while still maintaining consistency with the established tree planting pattern for Capitol Mall. The design of the drop-off area provides an interrupted path of travel and allows for the placement of trees just south of the sidewalk area. Staff has reviewed the proposal and finds no objection to the design.

Circulation & Access

The proposed project is located on a block bounded by Capitol Mall to the north, N Street to the south, 7th Street to the east, and 5th Street to the west. Capitol Mall is an east-west four-lane roadway continuing from Business Route 80 in West Sacramento to 10th Street. N Street is a three-lane one-way (eastbound) roadway that extends from 2nd Street to 32nd Street. Seventh Street is a two to three-lane, one-way (southbound)

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roadway that extends from just north of Richards Boulevard to T Street. Fifth Street is two to three-lane, north-south roadway that connects H Street to 4th Avenue.

There are two signalized intersections within the immediate vicinity of the project site: at the corner of 5th Street and Capitol Mall and at the corner of 5th Street and N Street. Both of the existing signalized intersections would remain intact after the implementation of the proposed project. Primary access to the parking garages (both above and below grade) would be from N Street. Access to the loading dock would be from 5th Street. Pedestrian and visitor access to the building would be located along Capitol Mall, with additional access to the ground floor retail areas along 5th Street and N Street.

Parking

The project is located in the Central Business District (C-3-SPD) in downtown Sacramento. Within this zone, parking is not required to be provided for retail and restaurant uses. The project is required to provide parking for the office use at a minimum of 1 space / 600 square feet and a maximum of 1 space / 500 square feet. The project proposes a total of 794 parking spaces which is within the range of required parking (1:511).

Table 2: Parking			
Use	Required Parking	Proposed Parking	Difference
Retail	0	0	0
Office	936 Maximum 780 Minimum	794	0

Table 2a: Bicycle Parking			
Total required parking	Required bicycle parking	Provided bicycle parking	Difference
780 spaces	1 space per every 10 required parking spaces = 78	78	0

As indicated above, the project meets the required vehicle and bike parking standards for the proposed use as indicated in the Zoning Code.

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Height and Area

As mentioned above, within the Central Business District Special Planning District (C-3 SPD) zone, for this location, there are no height or setback requirements. However, the Sacramento Urban Design Plan recommends setback and stepback guidelines for Capitol Mall, street side yards, and interior side yards setbacks and stepbacks. The following table shows how the proposed high-rise structure complies with the recommended guidelines for building massing contained in the Sacramento Urban Design Plan:

Standard	Recommended	Proposed
Height	Unlimited	396 feet
Front setback (Capitol Mall)	90 feet from centerline 140 feet from centerline tower	93 feet -9 ½ inches 140
Rear setback (N Street)	No recommendation provided	1 foot
Interior Setback (Private Drive)	0	10 feet
Street Side setback (5 th Street)	15 feet	8 feet, 6 inches

The proposed building is setback 93' 9 ½" from the centerline of Capitol Mall which is the dimension to the street wall of the proposed new structure. The tower is setback and additional 51' from N Street. Along 5th Street, the building is setback 8' 6" to the wall and the Sacramento Urban Design Plan suggests a 15' setback along the street side. The project is under the recommended setback, however, pedestrian and streetscape amenities are ensured as a result. The project provides a 10' setback to the wall along the side yard. Along N Street at the street level, a 1' ¾" setback to the face of the wall is provided. The Sacramento Urban Design Plan does not provide a recommendation for setbacks along N Street; however, the N Street setback is consistent with surrounding development and is appropriate for the overall design of the building. Staff has analyzed the project in relation to the recommendations set forth in the Sacramento Urban Design Plan, and finds that the project is generally compliant with the recommended setbacks.

After the project was approved by the Design Review and Preservation Board, the applicant submitted plans showing modified setbacks and changes to the right-of-way in order to meet the city's fire code regulations along the east side of the property (interior side yard). The Fire Department required a 10 foot setback along the east property line, in order to accommodate this request the building shifted five feet closer to 5th Street

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resulting in a ten foot interior side yard setback adjacent to an existing private drive. By shifting the building five feet to the west, the applicant also proposes to modify the existing 17' wide lane in 5th Street to the City standard minimum of 14'. Reducing the lane width, will permit an eight foot planter and eight foot sidewalk. The reduction of the lane width does not affect the public right-of way, nor does the reduced lane width effect lane alignments on any portion of 5th Street, either along the frontage or north and south of the project. Aside from the necessary curb return reconstruction at the intersections, there are no changes on Capitol Mall or N Street. All city departments have reviewed the building shift and the requested modifications to the roadway and fully support the requested modifications. Furthermore, staff has reviewed the modifications to the site plan and finds that the adjustment does not impact the completed EIR for the project.

Design Review

On May 3, 2006, the Design Review and Preservation Board provided review and comment on this proposed project. The Board requested that the applicant provide the following information:

1. Additional information on landscaping and hardscape treatments, with more specific information on tree species and tree locations.
2. Look at offset glazing to provide more shadow casting and variety in the tower facades at fenestration.
3. Look at the main entry and add more detail and look at bringing glazing to the ground, overall it is understated and could use additional detailing and attention to provide more focus on the entry area.
4. Need more study at the base of the building to ensure good detailing, provide the Board with finer grain details at final review of the project?
5. Look at a more vertical transition between the building base and mid tower design to assist the overall massing of the project.

On December 20, 2006, the project was reviewed and approved by the Design Review and Preservation Board. During the hearing, the applicant provided responses to the Board's early review comments and discussed minimal changes to the original building design. The Board was supportive of the project and unanimously approved the design subject to findings of fact and based upon conditions of approval (Attachment 3).

Appeal of the Design Review Approval

On January 2, 2007, the project was appealed by William D. Kopper, Attorney at Law for IBEW340 (Attachment 4). Staff has reviewed the appellant's claims contained in the appeal and has provided the following response.

Item 1 – With the appeal of the DRPB approval the Planning Commission will be hearing and taking action on all project entitlements (the design and the special permit) "de novo," including certification of the EIR for the whole project, so the issue related to "bifurcation" is moot.

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Item 2 – There may have been an oversight of providing the DRPB Hearing notice to the appellant; however, telephone calls and memos provided with distribution of the FEIR to Mr. Kopper's office indicated the DRPB would be hearing the project on December 20, 2006. Accordingly, Mr. Kopper and his client did have effective notice of the hearing. Moreover, Mr. Kopper appeared at the hearing and provided substantive testimony, demonstrating that he suffered no prejudice as a result of any oversight in the notice provided. In the absence of prejudice, no violation of CEQA has occurred and, pursuant to Public Resources Code Section 21005, CEQA contains "no presumption that error is prejudicial." Additionally, as stated in the response to Item 1 above, the action of the DRPB is vacated and the Planning Commission will be hearing and taking action on all project entitlements, for which appropriate notices have been sent out, including the requested notice to Mr. Kopper, as conceded in his appeal.

Item 3 – Reasonable fees charged to cover the cost of an appeal do not violate CEQA and due process.

Item 4 – The project does not "violate CEQA" because Appendix F does not "require" any specific or particular energy conservation features. The intent of Appendix F is to discourage "wasteful, inefficient, and unnecessary consumption of energy." Appendix F does not require specific analytical measures or set standards for what is efficient, nor does the City. Absent a standard in CEQA or the City, it is reasonable to assume that compliance with applicable State of California Energy Efficiency Standards (Title 24) that reaches, at a minimum the Title 24 requirements, is a level that would not be considered wasteful or inefficient. As discussed in the Initial Study for the Project, the project would include lighting and other energy conservation measures including, but not limited to, the use of occupancy sensors to automatically turn off lights when not in use, lighting reflectors, electronic ballasts, and energy efficient lamps. The project's HVAC system is expected to include microprocessor-controlled energy management systems. SMUD has indicated that it has sufficient electrical capacity to supply the project's needs without any new energy generation being required. PG&E has also indicated that it has sufficient natural gas capacity in its system to adequately supply the project. As noted in the Initial Study, the project is a high density mixed use project in an urban area, situated in close proximity to transit, activity centers, and other existing and planned infrastructure. This type of project also would result in energy savings for vehicle fuel, due to reductions in vehicle miles traveled. While such energy savings due to reduced vehicle trips are not easily quantified, there would be a reduction compared to an equally intense development of this type in a less dense urban area.

Regarding the issue of light effects on the night sky, like energy efficiency, neither CEQA nor the City of Sacramento has adopted standards for what constitutes a significant effect related to the up-lighting discussed by the Board and referenced in the comment. CEQA states that "[a]n ironclad definition of significant effect is not always possible because the significance of an activity may vary with the setting. For example, an activity which may not be significant in an urban area may be significant in a rural area." (CEQA Guidelines section 15064(b)). While lighting associated with a high-rise office project may not be appropriate in a rural area, considering the project's location within Sacramento's Central Business District, exterior lighting would be appropriate.

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The Draft EIR states that it is the "City's intent to encourage high-density, high-rise buildings in the CBD to create a prominent skyline of taller buildings in Downtown Sacramento and to increase the population of the Central City to stimulate cultural activities to create a more vibrant Central City." (DEIR page 5.1-20) The inclusion of night lighting would contribute to the prominence of the building in the night sky and has been considered by the City in its desire for developing the urban core with higher density projects. The Draft EIR found that the lighting of the project would be mostly on the north elevation of the building facing Capitol Mall and would not significantly affect the ambient nighttime light in the downtown area due to the large amount of night lighting that already exists.

Item 5 – CEQA requires that a project opponent provide both the law and the facts to support their claimed violations of CEQA. Public Resources Code Section 21177(a). General objections to project approval or general references to environmental issues are not sufficient. The appeal claims that ingress and egress from the project garage create traffic impacts that were not considered in the EIR. The EIR included an exhaustive traffic study and the appeal does not identify any specific traffic impacts that were not analyzed. The EIR and the traffic study contain detailed analyses of traffic impacts from the project, and related projects, on all streets and intersections in the downtown area impacted by the project, taking into account the proposed access locations associated with the project. Additionally, the traffic study on page 5.6-25 under Project Local circulation impacts, all ingress and egress traffic from the parking garage are analyzed and several recommendations were given to enhance the projects traffic operation on this location. The EIR provides for specific mitigation measures at impacted intersections to reduce delays to less than significant levels.

Item 6 - CEQA requires that a project opponent provide both the law and the facts to support their claimed violations of CEQA. Public Resources Code Section 21177(a). General objections to project approval or general references to environmental issues are not sufficient. The appeal claims the position of the building loading docks create significant traffic impacts, but does not identify what those impacts are or where they might occur. Moreover, the loading docks are designed to an engineering standards to allow for loading and unloading of trucks wholly within the project site, thereby having no impact on through traffic in the project area. Additionally, the DEIR on page 5.6-26 recommends that the use of the loading dock be restricted during the p.m peak commuter period

Item 7 – Appellant complains that the models and elevations for the project are not sufficiently detailed to permit understanding of the visual impacts of the project. Contrary to this claim, however, the EIR includes a simulation of the project that fully demonstrates its visual impacts in the area. Moreover, the project will be subject to the Urban Design Plan, which protects views and vistas from the state capitol. The EIR demonstrates that the project will not interfere with these views and vistas, nor would it interfere with existing view corridors on Capitol Mall. The visual impact of the project is exceedingly clear from a review of the simulations of the project design.

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Respectfully submitted by:


Lindsey Alagozian
Associate Planner

Recommendation Approved:


Jeanne Corcoran
Senior Planner

Attachments

Attachment 1	Recommended Findings of Fact and Conditions of Approval
Exhibit A	Recommended Findings of Fact and Statement of Overriding Conditions
Exhibit B	Mitigation Monitoring Plan
Exhibit C	Cover Sheet - Square Footage Calculation
Exhibit D	Setback Compliance to Capitol Mall
Exhibit E	North and West Elevations
Exhibit F	South and East Elevations
Exhibit G	Site Plan
Exhibit H	Ground Floor Plan
Exhibit I	Basement Floor Plan
Exhibit J	Second and Third Floor Plan
Exhibit K	Fourth and Fifth Floor Plan
Exhibit L	6 th through 12 th Floor Plan
Exhibit M	14 th through Penthouse (25 th Floor)
Exhibit N	Landscape Plan
Attachment 2	Land Use & Zoning Map
Attachment 3	Design Review & Preservation Board Staff Report DR05-241
Attachment 4	Record of Decision (DR05-241)
Attachment 5	Appeal of DR05-241 filed by William D. Kopper
Attachment 6	Applicant's Letter Regarding Caltrans Comment Letter (DEIR)

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Attachment 1

**Recommended Findings of Fact and Conditions of Approval
500 Capitol Mall
(P05-108)**

RECOMMENDED FINDINGS OF FACT:

Staff recommends that the Planning Commission make the following findings of fact:

A&B. Environmental Impact Report and Mitigation Monitoring Program:

1. The Planning Commission finds that the Environmental Impact Report for the 500 Capitol Mall Project (herein EIR) which consists of the Draft EIR and the Final EIR (Response to Comments (collectively the "EIR") has been completed in accordance with the requirements of the California Environmental Quality Act (CEQA), the State CEQA Guidelines and the Sacramento Local Environmental Procedures.
2. The Planning Commission certifies that the EIR was prepared, published, circulated and reviewed in accordance with the requirements of CEQA, the State CEQA Guidelines and the Sacramento Local Environmental Procedures, and constitutes an adequate, accurate, objective and complete Final Environmental Impact Report in accordance with the requirements of CEQA, the State CEQA Guidelines and the Sacramento Local Environmental Procedures.
3. The Planning Commission certifies that the EIR has been presented to it, that the Planning Commission has reviewed it and considered the information contained therein prior to acting on the proposed project, and that the EIR reflects the Planning Commission's independent judgment and analysis.
4. Pursuant to CEQA Guidelines Sections 15091 and 15093, and in support of its approval of the Project, the Planning Commission hereby adopts the attached Findings of Fact and Statement of Overriding Considerations in support of approval of the 500 Capitol Mall Project as set forth in Exhibit A of this Record of Decision.
5. Pursuant to CEQA section 21081.6 and CEQA Guidelines section 15091, and in support of its approval of the Project, the Planning Commission adopts the Mitigation Monitoring Program to require all reasonably feasible mitigation measures be implemented by means of Project conditions, agreements, or other measures, as set forth in the Mitigation Monitoring Program as set forth in Exhibit B of this Record of Decision.

C. Appeal of the Decision of the Design Review and Preservation Board approving the construction of a 24-story office structure, 396 feet in height.

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1. The project is based upon sound principles of land use, in that the proposed use is allowed in this zone, and contributes to the vitality of the Central City, promoting employment opportunities and supporting transit.
2. The proposed use is consistent with the objectives of the City of Sacramento General Plan and the Central City Community Plan to reinforce the Central Business District as a major employment center, ensure development of well-designed projects by compliance with the Sacramento Urban Design Plan and provide pleasant and diverse pedestrian experiences.
3. The proposed use would not be detrimental to the public health, safety and welfare, and would not result in a public nuisance as the building and landscaping have been designed so as to be compatible with the existing character of the general vicinity, and shall not change the essential character of the project area.
4. The project, as proposed, is consistent with the Sacramento Urban Design Plan guidelines to enhance and accentuate the symbolic importance of Capitol Mall and compliments certain aspects of the structures in the vicinity.

Special Permit for a major project over 75,000 gross square feet in size is approved subject to the following Findings of Fact and Conditions of Approval:

1. Granting the Special Permit is based upon sound principles of land use in that the proposed uses will not adversely affect the peace and general welfare of the surrounding neighborhood since the building is designed to comply with setback and stepback recommendations and provides appropriate land uses for the zone;
2. Granting the Special Permit would not be detrimental to the public welfare nor result in the creation of a public nuisance in that the project will provide amenities to support the office development such as retail, restaurant uses, on-site parking, and
3. The proposed project is consistent with the proposed City of Sacramento General Plan and the Central City Community Plan designations, and meets the requirements of the Central Business District zone.

RECOMMENDED CONDITIONS OF APPROVAL:

- C. Staff recommends that the Planning Commission deny the appeal, thereby approving the design of a 24-story office high rise building subject to the following conditions of approval:

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- C1. The building shall be sited as indicated in the staff report (P05-108) and exhibits C-N. Final site and landscaping plans shall be reviewed by Design Review staff and the Board's landscape architect or the appropriate representative of the Design Review Commission.
- C2. The project shall have setbacks as indicated in the staff report (P05-108) and exhibits C-N.
- C3. The project shall include pedestrian access and entries as indicated in the staff report (P05-108) and exhibits C-N.
- C4. Auto access, general and specific site layout shall be as indicated in the report and exhibits.
- C5. Final details relating to lighting shall be reviewed and approved by staff per the Board's direction at the hearing.
- C6. Mechanical equipment proposed shall be screened as necessary to fit in with the design of the new building. Backflow prevention devices, SMUD boxes, etc. shall be placed where not visible from the street views, and screened from any pedestrian view. The applicant shall submit final mechanical locations and screening to staff for review and approval.
- C7. Final service and trash area plans shall be reviewed and approved by staff.
- C8. Final bicycle parking and storage shall be shown on the final plans and reviewed for approval by staff.
- C9. Final massing and rhythm and building heights shall be as indicated in the report and exhibits.
- C10. The buildings, material and colors for the new project shall be as indicated in the report and exhibits.
- C11. Final details of awnings, pilasters, base details, fenestration details, garage door details, and any other building and site design details not directly reviewed or approved by the Board at the hearing shall be reviewed and approved by staff per the Board's direction.
- C12. All required new and revised plans shall be submitted for review and approval of staff prior to issuance of building permits. A set of the appropriate plans shall be submitted directly to Design Review staff. Any necessary planning entitlements shall have been approved by the Planning Commission or the Zoning Administrator prior to final Design Review sign-off of plans.

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- C13. Final occupancy shall be subject to approval by Design Review staff and shall involve an on-site inspection.
- D. Staff recommends that the Planning Commission approve the **Special Permit** for a major project over 75,000 gross square feet in the Central Business District (C-3-SPD) zone subject to the following conditions of approval:

GENERAL

- D1. The applicant shall obtain all necessary building and/or encroachment permits prior to commencing construction.
- D2. The project shall substantially conform to the site plan and elevations as shown in **exhibits C-N**. Any modification to the project shall be subject to review and approval by Planning and Design Review staff prior to the issuance of building permits.
- D3. Comply with requirements included in the Mitigation Monitoring Plan developed by, and kept on file in, the Planning Division Office (P05-108);
- D4. An approved transportation management plan (TMP) is required to be provided to Planning staff prior to the occupancy permit issuance based on the anticipated number of employees generated by the amount of total office space proposed. See Title 17.184 of the Zoning Code. Showers and lockers shall be incorporated into the TMP.
- D5. A comprehensive signage program for the entire project shall be submitted to Design Review staff for review and approval prior to applying for any sign permits. High quality signage with a design that complements the architecture is required.
- D6. A sign permit shall be obtained prior to construction or installation of any attached or detached signs.
- D7. An 8-foot wide sidewalk and 8-foot wide planter strip shall be provided along 5th Street.

BUILDING

- D8. For the ramps, either provide a shaft enclosure or submit an Alternate Means per CBC Section 104.2.8 with drawings for approval.
- D9. On the upper floors, the distance between the exit enclosures shall be equal or greater than one-half the length of the maximum overall diagonal dimension of the area served.

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D10. The exit enclosures shall be continuous and fully enclosed and shall exit directly to the exterior of the building.

SOLID WASTE

D11. The applicant shall comply with the City's Recycling Ordinance (Sacramento City Code, Chapter 17.72) related to providing trash and recycling enclosures.

- a) Recycling capacity be met or exceeded.
- b) A recycling program shall be established. The developer should send the name of the service provider, the frequency of service, and the processing facility to the Solid Waste Division to verify that service has been established.
- c) This project shall be conditioned to divert construction waste. The project proponent should plan to target cardboard, wood waste, scrap metal, brick, concrete, asphalt, and dry wall for recovery. The developer should submit the following information to the Solid Waste Division:

- Method of recovery
- Hauler information
- Disposal facility
- Diversion percentage
- Weigh tickets documenting disposal and diversion

PARKING / TRANSIT

D12. A minimum of 780 and a maximum of 936 parking spaces are required.

D13. The project is required to meet all requirements of the Sacramento City Code regulations, regarding bicycle parking (Section 17.64.040). A total of 78 bike parking spaces are required in which 50% shall be Class 1 facilities.

D14. Transit information shall be displayed in a prominent location in the building and provided to tenants.

D15. Prior to the issuance of building permits, the applicant shall contact Robert Hendrix, Regional Transit Facilities (916) 649-2759 to determine if a bus shelter pad shall be provided. If determined appropriate by RT, the applicant shall provide a bus shelter pad as directed.

D16. Prior to certificate of occupancy, the applicant shall join the Sacramento TMA. Employers should offer employees subsidized transit passes at 50% or greater discount.

D17. Project construction shall not impact transit service or pedestrian access to transit stops.

DEVELOPMENT ENGINEERING

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- D18. Construct standard improvements as noted in these conditions pursuant to section 16.48.110 of the City Code. Improvements shall be designed and constructed to City standards in place at the time that the Building Permit is issued. All improvements shall be designed and constructed to the satisfaction of the Development Engineering Division. Any public improvement not specifically noted in these conditions shall be designed and constructed to City Standards. This condition shall include any needed street lights along the project's frontage per City standards;
- D19. Repair or replace/reconstruct any existing deteriorated curb, gutter and sidewalk per City standards and to the satisfaction of the Development Engineering Division. Any proposed textured paving within the right of way shall be maintained by the applicant. The applicant shall also provide for pedestrian easements along Capitol Mall (if needed) if the proposed drop-off area encroaches into the existing sidewalk area;
- D20. All right-of-way and street improvement transitions that result from changing the right-of-way of any street shall be located, designed and constructed to the satisfaction of the Development Engineering Division. The center lines of such streets shall be aligned;
- D21. The applicant shall provide an 8-foot pedestrian easement along 5th Street to the satisfaction of the Development Engineering Division;
- D22. The site plan shall conform to A.D.A. requirements in all respects. This shall include the replacement of any curb ramp that does not meet current A.D.A. standards along the project's frontage at the round corners;
- D23. The design of walls fences and signage near intersections and driveways shall allow stopping sight distance per Caltrans standards and comply with City Code Section 12.28.010 (25' sight triangle). Walls shall be set back 3' behind the sight line needed for stopping sight distance to allow sufficient room for pilasters. Landscaping in the area required for adequate stopping sight distance shall be limited 3.5' in height at maturity. The area of exclusion shall be determined by the Development Engineering Division;
- D24. All new driveways shall be designed and constructed to City Standards to the satisfaction of the Development Engineering Division;
- D25. The project applicant has agreed to pay an amount not to exceed \$75,000 as a fair share contribution to fund the "I" Street Southbound on-ramp metering project to the satisfaction of the Development Engineering Division;
- D26. Comply with requirements included in the Mitigation Monitoring Plan developed by, and kept on file in, the Planning Division Office (P05-108);

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- D27. The project applicant shall pay a fair share to recover the costs of the City's Traffic Operation Center monitoring and retiming of impacted intersections as defined in the EIR;
- D28. The applicant shall pay a fair share toward City Improvement and Re-striping of the intersection of 3rd Street/L street;
- D29. Queuing space for at least two vehicles shall be provided for the two gates providing access to above ground parking. Pedestrian warning devices shall be installed where cars are exiting the garage adjacent to sidewalks. The warning devices shall have both visual and audio components to the satisfaction of the Development Engineering Division;
- D30. Loading dock services should be restricted during the Am and PM peak commuter period. The applicant shall sign and stripe the loading area along N street to comply with this condition to the satisfaction of the Development Engineering Division. The area from the garage driveway to the curb return at the intersection of 5th street and N street shall be striped red except for the loading and unloading area to improve sight distance;
- D31. If unusual amounts of bone, stone, or artifacts are uncovered, work within 50 meters of the area will cease immediately and a qualified archaeologist shall be consulted to develop, if necessary, further mitigation measures to reduce any archaeological impact to a less than significant effect before construction resumes. A note shall be placed on the final improvement plans referencing this condition;
- D32. Prior to submittal of improvement plans for any phase of this project, the developer's design consultant(s) shall participate in a pre-design conference with City staff. The purpose of this conference is to allow City staff and the design consultants to exchange information on project design requirements and to coordinate the improvement plan review process. Contact the Development Engineering Division, Plan Check Engineer at 808-7493 to schedule the conference. It is strongly recommended that the conference be held as early in the design process as possible;

FIRE

- D33. Compliance with the City of Sacramento Highrise Ordinance, Title 15, Chapter 15.100, Articles I-XIV.
- D34. Any booster pump required for pressure must have redundancy and be connected to an emergency back-up power system.
- D35. Provide the required fire hydrants in accordance with CFC 903.4.2 and Appendix III-B, Section 5.

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- D36. Fire service mains shall not cross property lines unless a reciprocal easement agreement is provided.
- D37. Provide a water flow test. (Make arrangements at the North Permit Center's walk-in counter: 2101 Arena Boulevard, Suite 200, Sacramento, CA 95834)
- D38. Provide appropriate Knox access for site. Because of secured openings or where the building is served by a fire alarm system monitored by a central station, approved key switches, key boxes or padlocks are to be installed in approved accessible locations or areas in order to permit immediate fire department access.
- D39. Locate and identify Fire Department Connections (FDCs) on address side of building within 40 feet and of a fire hydrant.

UTILITIES

- D40. This project is served by the Combined Sewer System (CSS). Therefore, the developer/property owner will be required to pay the Combined Sewer System Development Fee prior to the issuance of any building permit. The impact to the CSS due to office and retail uses is estimated to be 68 ESD. The Combined Sewer System fee at time of building permit is estimated to be \$115,844 plus any increases to the fee due to inflation. The fee will be used for improvements to the CSS.
- D41. All new groundwater discharges to the Combined or Separated Sewers must be regulated and monitored by the Department of Utilities (City Council Resolution #92-439). Groundwater discharges to the City's sewer system are defined as follows:
 - a. Construction dewatering discharges
 - b. Treated or untreated contaminated groundwater cleanup discharges
 - c. Uncontaminated groundwater discharges

Foundation or basement dewatering discharges to the CSS will not be allowed. The CSS does not have adequate capacity to allow for dewatering discharges for foundations or basements. Foundations and basements shall be designed without the need for dewatering.

Groundwater discharges may contain toxic and/or explosive chemicals that could be harmful to the environment and to service workers working in the City's sewer system. Groundwater discharges to the sewer system go beyond the original design of the City's system, thus removing existing sewer capacity from other system users and potentially causing overflows or restricting development. The additional water from groundwater discharges must be conveyed and pumped by the City's existing facilities. The additional volume of water increases the City's operations and maintenance costs through increased capacity, power, and maintenance costs.

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Currently, two types of groundwater discharges are recognized by the Department of Utilities; limited discharges and long-term discharges. These types of discharges are described as follows:

- a. "limited discharges" are short groundwater discharges of 7-days duration or less. Limited discharges must be approved through the Department of Utilities by acceptance letter.
- b. "long-term discharges" are groundwater discharges of greater duration than 7-days. Long-term discharge must be approved through the Department of Utilities and the City Manager through a Memorandum of Understanding (MOU) process.

The Groundwater MOU has a term of one year and requires the discharger to:

- a. Provide a description of the groundwater discharge,
- b. Obtain a Regional Sanitation District permit,
- c. Obtain approval from the Regional Water Quality Board if discharge is part of groundwater cleanup or contains contaminants above MCLs,
- d. Pay fees based on flow amounts when a fee schedule is established by ordinance,
- e. Comply with any new pertinent laws,
- f. Assess and repair sewer lines if the discharge exceeds MCLs,
- g. Suspend discharges during storm events or at City request,
- h. Provide shut-off switches accessible to the City, and
- i. Indemnify the City against all claims related to the MOU.

D42. If this project disturbs greater than 1 acre of property, the project is required to comply with the State "NPDES General Permit for Stormwater Discharges Associated with Construction Activity" (State Permit). To comply with the State Permit, the applicant will need to file a Notice of Intent (NOI) with the State Water Resources Control Board (SWRCB) and prepare a Stormwater Pollution Prevention Plan (SWPPP) prior to construction. A copy of the State Permit and NOI may be obtained at www.swrcb.ca.gov/stormwtr/construction.html. The SWPPP will be reviewed by the Department of Utilities prior to issuing a grading permit or approval of improvement plans to assure that the following items are included: 1) vicinity map, 2) site map, 3) list of potential pollutant sources, 4) type and location of erosion and sediment BMPs, 5) name and phone number of person responsible for SWPPP, 6) signed certification page by property owner or authorized representative.

D43. The applicant must comply with the City of Sacramento's Grading, Erosion and Sediment Control Ordinance. This ordinance will require the applicant to prepare erosion and sediment control plans for both during and after construction of the proposed project, prepare preliminary and final grading plans, and prepare plans to control urban runoff pollution from the project site during construction.

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- D44. This project is adjacent to a separated drainage system and if it is greater than 1 acre therefore post construction, stormwater quality control measures shall be incorporated into the development to minimize the increase of urban runoff pollution caused by development of the area. Since the project is not served by a regional water quality control facility and if it is greater than 1 acre, both source controls and on-site treatment control measures will be required. On-site treatment control measures may affect site design and site configuration and therefore, should be considered during the early planning stages. Improvement plans must include on-site treatment control measures. Refer to the "Guidance Manual for On-site Stormwater Quality Control Measures" dated January 2000 for appropriate source control measures and on-site treatment control measures.
- D45. Per City Code 13.04.070, except for separate irrigation service connections and fire service connections, each lot or parcel shall only have one (1) metered domestic water service. Requests for multiple domestic water service connections to a single commercial lot or parcel, consistent with the Department of Utilities "Commercial Tap Policy", may be approved on a case-by-case basis by the Department of Utilities. Contact the Department of Utilities at (916) 808-1400 for a copy of the tap policy. Excess services shall be abandoned to the satisfaction of the Department of Utilities.
- D46. Per City Code, the point of service for water, sewer and storm drain service is located at the back of curb for separated sidewalks and at the back of sidewalk for attached sidewalks. The onsite water, sewer and storm drain systems shall be private systems maintained by the ownership association.
- D47. All water connections shall comply with the City of Sacramento's Cross Connection Control Policy.

The following **Advisory Notes** are informational in nature and are not a requirement of the **Special Permit**:

Building

1. A fire pump and a fire pump room shall be installed on one of the upper floors for the fire sprinklers.
2. Handicap parking stalls shall comply with CBC Section 1129B.

Utilities

3. The project is located in the Flood zone designated as a Shaded X zone on the Federal Emergency Management Agency (FEMA) Federal Insurance Rate Maps (FIRMs) that have been revised by a Letter of Map Revision effective February 18, 2005. Within the Shaded X zone, there are no requirements to elevate or flood proof.

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4. Prior to the design of the subject project, the Department of Utilities suggests that the applicant request a water supply test to determine what pressure and flows the surrounding public water distribution system can provide to this site. This information can then be used to assist the engineers in the design of the fire suppression systems.

Parks and Recreation

5. As per City Code, the applicant will be responsible to meet his/her obligation regarding Title 18, 18.44 Park Development Impact Fee, due at the time of issuance of building permit. The Park Development Impact Fee due for this project is estimated at \$97,657. This is based on 467,942 square feet of office space at the infill fee of \$0.20 per square foot and 27,124 square feet of retail space at the infill fee of \$0.15 per square foot. Any change in these factors will change the amount of the PIF due. The fee is calculated using factors at the time that the project is submitted for building permit.

Regional Transit

6. Regional Transit (RT) staff is interested in engaging the developer in a discussion pertaining to its efforts in developing a streetcar starter line in the downtown Sacramento area. Local developer fees are anticipated to be an important part of the financing strategy for the construction and operation of the streetcar system. RT would like this development to provide a fair share of the local contribution to the streetcar program.

Transportation – Electrical System

7. This project does not require street lighting. There is an existing street lighting system in this project area. Improvements of right-of-way may require modification to the existing system. Electrical equipment shall be protected and remain functional during construction.

PoliceAlarms

8. All alarm plans shall be approved by The Sacramento Police Department's Alarm Unit.

Misc. Security Measures

9. Any safe on site will have minimum rating of TL-15 or Class "C" and should be equipped with a duress alarm capability.
10. One or more closed circuit television cameras shall be employed to monitor the lobby areas in case of robbery or other serious felony. Additional cameras should be considered to monitor other areas of the complex, such as other

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ground-floor entry doors, if access is not limited to the front entry after dark, ground floor restroom doors and any vending area.

11. The complex shall employ at least one uniformed security person 24 hours daily to patrol the parking areas, hallways, and other public areas on site. The Police Department reserves the right to increase the minimum number of guards without further public hearings, should negative activity warrant it.
12. Access into miscellaneous storage, electrical rooms, should be strictly controlled.
13. As much care as possible shall be taken not to impair the view of the main floor lobby area by passing patrol units outside the business. Use of such restrictors, as potted plants, draperies, reflective window treatments, etc. should be closely monitored.
14. The elevators in the complex shall be equipped with mirrors to allow persons to view the interior of the car before entering.
15. Any vending machines installed on site should be positioned in such a location that they are visible to passersby and shall be emptied of money daily and sign posted to indicate this provision.
16. The applicant shall have the responsibility of assuring that the perimeter of the construction site is fenced during construction with security lighting and guard patrols employed as necessary. If the general contractor is assigned this responsibility, it shall be the applicant's responsibility to assure compliance.
17. The applicant shall install a system which allow the individual offices to be easily rekeyed on a frequent basis as renters change. A computer based card access system or a hard key computer based system is encouraged.

Building Security Requirements

Doors

18. Employee / pedestrian, unit entry, storage, linen, laundry, mechanical, electrical, maintenance, and roof access doors shall be of solid core wood or hollow sheet metal with a minimum thickness of 1 ¾ inches and shall be secured by a deadbolt lock with a minimum throw of one inch.
19. Entrance doors into individual units shall be secured with a single cylinder deadbolt lock with a minimum throw of one inch, in addition to door latches with a one-half inch minimum throw. The locks should be so constructed that both deadbolt and dead latch can be retracted by a single action of the inside door knob.
20. A viewing device (peephole) shall be installed in each individual unit entrance door and shall allow for 180 degree vision.
21. A 180 degree viewing device (or peephole) shall be installed in delivery (loading dock) area entry doors to screen persons before allowing entry.
22. Outside hinges on all exterior doors shall be provided with non-removable pins when pintype hinges are used or shall be provided with hinge studs, to prevent removal of the door.
23. Exterior doors into hallways and doors leading into stairwells shall have self locking (dead latch) devices allowing egress to the exterior of the building or stairwell but requiring a key to be used to gain access to the interior of the building from the outside or into the hallway from the stairwell.

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24. Exterior doors into the building and doors leading into stairwells shall be equipped with self-closing devices.
25. The jamb on all aluminum frame swinging doors shall be so constructed or protected to withstand 1600 pounds of pressure in both a vertical distance of three inches and a horizontal distance of one inch each side of the strike.
26. Glass doors shall be secured with a deadbolt lock with a minimum throw of one inch. The outside ring should be free-moving and case hardened.
27. Doors with glass panels and doors with glass panels adjacent to the door frame shall be secured with burglary-resistant glazing or the equivalent, if double-cylinder deadbolt locks are not installed.
28. On pairs of doors, the active leaf shall be secured with the type of lock required for single doors in this section. The inactive leaf shall be equipped with automatic flush extension bolts protected by hardened material with a minimum throw of three-fourths inch at head and foot and shall have no door knob or surface-mounted hardware. Multiple point locks, cylinder activated from the active leaf and satisfying the requirements, may be used in lieu of flushbolts.
29. Any single or pair of doors requiring locking at the bottom or top rail shall have locks with a minimum of one throw bolt at both the top and bottom rails.
30. Doors with panic bars will have vertical rod panic hardware with top and bottom latch bolts.
31. Any rear door used to admit employees or deliveries shall be equipped with a 180 degree viewing device to screen persons before allowing entry.
32. Any office which contains a safe or will be used to count receipts shall be equipped with a 180 degree viewing device.

Windows

33. Windows shall be constructed so that when the window is locked it cannot be lifted from the frame (sliding).
34. The sliding portion of a sliding glass window shall be on the inside track.
35. Window locking devices shall be capable of withstanding a force of 300 pounds in any direction.
36. Secondary locking devices are required on ground floor windows and any windows accessible from outside connecting balconies.

Numbering

37. The address number of every commercial building shall be illuminated during the hours of darkness so that it shall be easily visible from the street. The numerals in these numbers shall be no less than 10 inches in height and of a color contrasting with the background.
38. Each individual office within the building shall display a prominent identification number not less than three to four inches in height, which is easily visible to pedestrian traffic on site and throughout the building.

Interior Lighting

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39. Stairwell, hall, and elevator lighting shall be equipped with vandal-resistant lenses and shall remain on at all times.

Parking Structure

40. Parking in the structure should be limited to patrons and employees only.
 41. Entry into the structure should be controlled.
 42. The parking structure should be illuminated at a level of 5 foot-candles minimum at all hours, with ramps, corners, and entrances 10-50 foot-candles during evening hours.
 43. The structure should be routinely patrolled by security anytime there are vehicles inside.
 44. The structure should be equipped with an emergency panic alarm system that reports to a central security office. Alarm buttons should be placed no more than 40-50 feet apart.
 45. In conjunction with the alarm system, a two way audio system should be installed.
 46. An extensive closed circuit television system should be incorporated throughout the structure with recorder capability.
 47. The perimeter design of the structure should restrict access to only persons with a legal right to enter, especially at ground level.
 48. The structure should be equipped with emergency telephones (not pay phones).
 49. The design of the structure should be simple, from a circulation aspect, with ample directional arrows, exit signs, and location maps provided.
 50. Stairwells, elevator towers, and connecting bridges should be glass enclosed to provide added visibility and a sense of security.
 51. The vertical clearance into the parking structure shall be sufficient to allow entry and exit by a tow truck with a vehicle in tow.
 52. The entrance to the parking areas and other highly visible locations on-site shall be posted with appropriate signs per 22658 (a) CVC to assist in removing vehicles at the property owner/manager's request.

Commercial Retail

53. An effort should be made to separate Retail and Office Business activities, and to cluster businesses according to operating hours.
 54. Landscaped areas should be planned for maximum growth while at the same time provide unobstructed observation of parking lots, buildings, and pathways; day and night.
 55. Parking areas should be laid out to allow a high degree of observation. Close in employee parking for people working late should be provided adjacent to the employee entrances.
 56. A Central Security Office with restricted access should be included to monitor:
 Intrusion detection annunciators in all project phases
 Closed circuit TV monitors
 Key card access control and mini-processor with hard copy print out and annunciators

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- Base station radio equipment
- Telephones
- Fire protective devices
- Emergency-power supply equipment
- Public safety communications systems and inter-com system
- Documented procedures manuals for emergency operations
- 57. Entrances to the building should be clearly visible to patrol and the public and held to a minimum number.
- 58. Security personnel should be provided to monitor activity 24 hours, 7 days per week, **including time of construction.**
- 59. Security lighting must be provided for courtyards and entryways.
- 60. Intrusion detection for stairwell doors in the building, as well as a capability to electronically open stairwell doors in case of emergency.
- 61. Key card access for entrances and elevators in each building. Key cards used in elevators would be programmed for a specific floor within various buildings.
- 62. Access restrictions for restrooms above the ground floor.
- 63. External lighting requirements should consider general lighting level of one foot-candle minimum maintained at ground level for medium use facilities, utilizing High Intensity Discharge fixtures with vandal-resistant covers.
- 64. Intercom and public address systems for stairwells and internal corridors.
- 65. All exterior doors shall be provided with their own light source and shall be adequately illuminated at all hours to make clearly visible the presence of any person on or about the premises and provide adequate illumination for persons exiting the building.
- 66. The premises, while closed for business after dark, must be sufficiently lighted by use of interior night lights.
- 67. Exterior door, perimeter, parking area, and canopy lights shall be controlled by photocell and shall be left on during hours of darkness or diminished lighting.
- 68. All glass skylights on the roof of any building shall be provided with:
 - Rated burglary resistant glass or glass like acrylic material
 - Or
 - Iron bars of at least ½" round or one by one-fourth inch flat steel material spaced no more than five inches apart under the skylight and securely fastened.
 - Or
 - A steel grill of at least 1/8" material or two inch mesh under skylight and securely fastened.
- 69. All hatchway openings on the roof of any building shall be secured as follows:
 - If the hatchway is of wooden material, it shall be covered on the outside with at least 16 gauge sheet steel or its equivalent attached with screws.
 - The hatchway shall be secured from the inside with a slide bar or slide bolts. The use of crossbar or padlock must be approved by the fire department.
 - Outside hinges on all hatchway openings shall be provided with nonremovable pins when using pin-type hinges.

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70. All air duct or air vent openings exceeding 8" x 12" on the roof or exterior walls of any building shall be secured by covering the same with either of the following:
- Iron bars of at least ½" round or one by one-fourth inch flat steel material, spaced no more than five inches apart and securely fastened.
 - Or
 - A steel grill of at least 1/8" material or two inch mesh and securely fastened.
71. If the barrier is on the outside, it shall be secured with galvanized rounded head flush bolts of at least 3/8" diameter on the outside.

General Site Issues:

72. The developer/applicant shall enclose the entire perimeter of the project with a chain link fence with necessary construction gates to be locked after normal construction hours. A security person shall be provided to patrol the project after normal working hours during all phases of construction, and adequate security lighting shall be provided to illuminate vulnerable equipment and materials.

SOLID WASTE

73. The Solid Waste Division provides free waste audits to interested businesses. City staff will then recommend a method of waste management to the businesses to increase waste diversion at the greatest cost avoidance.
74. Businesses that choose private sector service should ask about the recycling opportunities that company offers. Recycling should still be cheaper than disposal.
75. Businesses that subscribe to City solid waste collection and disposal services are also provided recycling services as a package. The Solid Waste Division provides a variety of commercial services. They include commercial solid waste collection and disposal, commercial recycling, in-office recycling, and debris box services.

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Exhibit A**CEQA Findings of Fact and Statement of Overriding Considerations for the 500 Capitol Mall Project****Description of the Project**

The project consists of the development of a 25-story, 396-foot-tall high-rise building in Downtown Sacramento with office, retail and restaurant uses, as well as a parking garage. The project would include retail uses on the ground floor, office uses on subsequent floors, with a restaurant on the two penthouse floors. Parking would be provided on one sub-grade floor, with additional parking on portions of floors one through eight in the office portion of the building, for a total of 794 parking stalls.

The project site encompasses 1.13 acres on the western portion of the block between 5th and 6th Streets and Capitol Mall and N Street in the Central Business District of downtown Sacramento. The site is located four blocks west of the State Capitol Building along Capitol Mall, an east-west four lane roadway. The project site is not within the City's Capitol View Protection Corridor.

Gross area of the building would be 732,295 gross square feet (sf) composed of 467,942 square feet (sf) of office and retail uses, with 264,353 sf for the parking garage. Net area within the building would be 406,384 sf of rentable office space, and 27,124 sf of rentable retail and restaurant space, yielding a net building square footage of 433,508 sf.

The City of Sacramento has been requested to approve the following land use entitlements in connection with its approval of the project and based on the information contained in the EIR:

- o Special Permit: Major Project over 75,000 square feet.
- o Design Review: Compliance with Sacramento Urban Design Plan.

Findings Required Under CEQA**1. Procedural Findings**

The Planning Commission of the City of Sacramento finds as follows:

Based on the initial study conducted for 500 Capitol Mall Project, SCH # 2005112038, (herein after the Project), the City of Sacramento's Environmental Planning Services determined, on substantial evidence, that the Project may have a significant effect on the environment and prepared an environmental impact report ("EIR") on the Project. The EIR was prepared, noticed, published, circulated, reviewed, and completed in full compliance with the California Environmental Quality Act (Public Resources Code

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§21000 *et seq.* ("CEQA"), the CEQA Guidelines (14 California Code of Regulations §15000 *et seq.*), and the City of Sacramento environmental guidelines, as follows:

- a. A Notice of Preparation of the Draft EIR was filed with the Office of Planning and Research and each responsible and trustee agency April 13, 2006 and was circulated for public comments from April 13, 2006 through May 12, 2006.
- b. A Notice of Completion (NOC) and copies of the Draft EIR were distributed to the Office of Planning and Research on October 11, 2006 to those public agencies that have jurisdiction by law with respect to the Project, or which exercise authority over resources that may be affected by the Project, and to other interested parties and agencies as required by law. The comments of such persons and agencies were sought.
- c. An official 45-day public comment period for the Draft EIR was established by the Office of Planning and Research. The public comment period began on October 11, 2006 and ended on November 27, 2006.
- d. A Notice of Availability (NOA) of the Draft EIR was mailed to all interested groups, organizations, and individuals who had previously requested notice in writing on October 11, 2006. The NOA stated that the City of Sacramento had completed the Draft EIR and that copies were available at the City of Sacramento, Development Services Department, New City Hall, 915 I Street, Third Floor, Sacramento, California 95814. The letter also indicated that the official 45-day public review period for the Draft EIR would end on November 27, 2006.
- e. A public notice was placed in the Daily Recorder on October 11, 2006, which stated that the Draft EIR was available for public review and comment.
- f. A public notice was posted in the office of the Sacramento County Clerk on October 11, 2006.
- g. Following closure of the public comment period, all comments received on the Draft EIR during the comment period, the City's written responses to the significant environmental points raised in those comments, and additional information added by the City were added to the Draft EIR to produce the Final EIR.

2. Record of Proceedings

The following information is incorporated by reference and made part of the record supporting these findings:

- a. The Draft and Final EIR and all documents relied upon or incorporated by reference;

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- b. The City of Sacramento General Plan, City of Sacramento, January, 1988 and all updates.
- c. Environmental Impact Report City of Sacramento General Plan Update, City of Sacramento, March, 1987 and all updates.
- d. Findings of Fact and Statement of Overriding Considerations for the Adoption of the Sacramento General Plan Update, City of Sacramento, 1988 and all updates.
- e. Zoning Ordinance of the City of Sacramento
- f. Blueprint Preferred Scenario for 2050, Sacramento Area Council of Governments, December, 2004
- g. Sacramento Housing and Redevelopment Agency, Sacramento Department of City Planning, Urban Design Plan 3.0, Architectural Design Policies
- h. City of Sacramento, 2005-2010, Capitol Improvement Program, Utilities Program Overview
- i. The Mitigation Monitoring Plan for the Project.
- j. All records of decision, staff reports, memoranda, maps, exhibits, letters, synopses of meetings, and other documents approved, reviewed, relied upon, or prepared by any City commissions, boards, officials, consultants, or staff relating to the Project.

3. Approvals

The Planning Commission has final approval authority over the following Project entitlements:

- Appeal of the Design Review and Preservation Board approval of high rise building
- Special Permit: Major Project over 75,000 square feet

4. Certification

Pursuant to CEQA Guidelines section 15090, the Planning Commission certifies that:

- a. The Final EIR constitutes an adequate, accurate, objective, and complete final environmental impact report in full compliance with the requirements of CEQA, the State CEQA Guidelines, and the City of Sacramento environmental guidelines;

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b. The Final EIR has been presented to the Planning Commission, and the Commission has reviewed and considered the information contained in the Final EIR prior to taking action on the Project;

c. The Final EIR reflects the Planning Commission's independent judgment and analysis.

5. Findings

CEQA requires that the lead agency adopt mitigation measures or alternatives, where feasible, to substantially lessen or avoid significant environment impacts that would otherwise occur. Mitigation measures or alternatives are not required, however, where such changes are infeasible or where the responsibility for the project lies with some other agency. (CEQA Guidelines, § 15091, sub. (a), (b).)

With respect to a project for which significant impacts are not avoided or substantially lessened, a public agency, after adopting proper findings, may nevertheless approve the project if the agency first adopts a statement of overriding considerations setting forth the specific reasons why the agency found that the project's "benefits" rendered "acceptable" its "unavoidable adverse environmental effects." (CEQA Guidelines, §§ 15093, 15043, sub. (bb); see also Pub. Resources Code, § 21081, subd. (b).)

In seeking to effectuate the substantive policy of CEQA to substantially lessen or avoid significant environmental effects to the extent feasible, an agency, in adopting findings, need not necessarily address the feasibility of *both* mitigation measures and environmentally superior alternatives when contemplating approval of a proposed project with significant impacts. Where a significant impact can be mitigated to an "acceptable" level solely by the adoption of feasible mitigation measures, the agency, in drafting its findings, has no obligation to consider the feasibility of any environmentally superior alternative that could also substantially lessen or avoid that same impact — even if the alternative would render the impact less severe than would the proposed project as mitigated. (*Laurel Hills Homeowners Association v. City Council* (1978) 83 Cal.App.3d 515, 521; see also *Kings County Farm Bureau v. City of Hanford* (1990) 221 Cal.App.3d 692, 730-731; and *Laurel Heights Improvement Association v. Regents of the University of California ("Laurel Heights I")* (1988) 47 Cal.3d 376, 400-403.)

In these Findings, the City first addresses the extent to which each significant environmental effect can be substantially lessened or avoided through the adoption of feasible mitigation measures. Only after determining that, even with the adoption of all feasible mitigation measures, an effect is significant and unavoidable does the City address the extent to which alternatives described in the EIR are (i) environmentally superior with respect to that effect and (ii) "feasible" within the meaning of CEQA.

In cases in which a project's significant effects cannot be mitigated or avoided, an agency, after adopting proper findings, may nevertheless approve the project if it first adopts a statement of overriding considerations setting forth the specific reasons why the agency found that the "benefits of the project outweigh the significant effects on the

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environment.” (Public Resources Code, Section 21081, sub. (b); see also, CEQA Guidelines, Sections 15093, 15043, subd.(b).) In the Statement of Overriding Considerations found at the end of these Findings, the City identifies the specific economic, social, and other considerations that, in its judgment, outweigh the significant environmental effects that the Project will cause.

The California Supreme Court has stated that “[t]he wisdom of approving ... any development project, a delicate task which requires a balancing of interests, is necessarily left to the sound discretion of the local officials and their constituents who are responsible for such decisions. The law as we interpret and apply it simply requires that those decisions be informed, and therefore balanced.” (*Goleta II* (1990) 52 Cal.3d 553 at 576.)

With respect to the entitlements over which the Planning Commission has final approval authority and in support of its approval of the Project, the Planning Commission makes the following findings for each of the significant environmental effects and alternatives of the Project identified in the EIR pursuant to Section 15091 of the CEQA Guidelines:

a. Significant or Potentially Significant Impacts Mitigated to a Less Than Significant Level.

The following significant and potentially significant environmental impacts of the Project, including cumulative impacts, are being mitigated to a less than significant level and are set out below. Pursuant to section 21081(a)(1) of CEQA and section 15091(a)(1) of the CEQA Guidelines, as to each such impact, the Planning Commission, based on the evidence in the record before it, finds that changes or alterations incorporated into the Project by means of conditions or otherwise, mitigate, avoid or substantially lessen to a level of insignificance these significant or potentially significant environmental impacts of the Project. The basis for the finding for each identified impact is set forth below.

Air Quality

5.2-1 Construction of the proposed project would generate emissions of ozone precursors. This is a significant impact (Less than Significant after Mitigation).

Facts in Support of Finding

This impact can be reduced to a less-than-significant level through implementation of Mitigation Measure 5.2-1, a-e. Changes or alternatives have been required in, or incorporated into, the project which mitigate or avoid the significant environmental effect as identified in the DEIR.

Since ozone has significant adverse health effects, it is important to consider ozone precursors ROG and NO_x when addressing project development impacts. The

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SMAQMD has not developed a threshold of significance for ROG associated with construction activities because the main source of ROG during construction, architectural coatings, can be effectively regulated by SMAQMD Rule 442, Architectural Coatings. Although some measures address NO_x emissions from heavy-duty diesel construction equipment, the SMAQMD has found it necessary to develop a construction threshold for NO_x of 85 pounds per day.

Following SMAQMD's recommended methodology and assumptions, construction emissions were modeled for the proposed project with the results illustrated in Table 5.2-6 of the DEIR. Modeling indicated that NO_x emissions during construction could reach a maximum of 239.07 pounds per day. This would be above the 85 pounds-per-day threshold of significance for construction NO_x, and would be a *significant impact*.

While the proposed project's impact would be substantially reduced through implementation of mitigation measures 5.2-1, the impact during construction would remain significant. In order to reduce the impact to a less-than-significant level, the SMAQMD requires implementation of a one-time NO_x off-site mitigation fee of \$14,300 per ton. Compliance with these measures would reduce the impact to a *less-than-significant* level.

Implementation of Mitigation Measure 5.2-1 a-e would ensure that mitigations required in the SMAQMD Rule 442 are implemented and that the project proponent would pay the one-time NO_x off-site mitigation fee.

This impact is less than significant after mitigation.

Cultural Resources

5.3-2 The proposed project could cause a substantial adverse change in the significance of an archaeological resource pursuant to section 15064.5 of the State CEQA Guidelines. This is a *potentially significant impact*. (Less than Significant after Mitigation).

Facts in Support of Finding

This impact can be reduced to a less-than-significant level through implementation of Mitigation Measure 5.3-2. Changes or alterations have been required in, or incorporated into, the project which mitigate or avoid the significant environmental effect as identified in the DEIR.

The NCIC search revealed five records of archaeological studies conducted within or adjacent to the project site, none of which resulted in the discovery of prehistoric archaeological sites within the project area. However, given the well-documented and intensive use of the project area by prehistoric and ethnographic-period peoples, there is a moderate to high potential for the presence of prehistoric or ethnographic-period sites in the project area. In addition, known patterns of local historic land use create

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high potential for historic-period cultural resources in the project area. Consequently, ground-disturbing project construction activities could cause significant adverse impacts on previously unknown subsurface prehistoric, ethnographic, and/or historic-period archaeological resources. This would be considered a *potentially significant impact*.

Prior to the issuance of grading or construction permits, the project applicant shall retain an archaeologist with knowledge of prehistoric and historic-period archaeology to prepare an Archaeological Testing, Monitoring, and Data Recovery Plan (ATMDRP). The ATMDRP shall require that a qualified archaeologist conduct test trenching on site prior to the commencement of demolition and construction activities. The project applicant shall be responsible for clearing the existing surface parking lot per the ATMDRP to allow test trenching. The ATMDRP shall require that a qualified archaeologist be present for all ground-disturbing activities (i.e., excavation, compaction, heavy-equipment operation) that occur on the project site. The ATMDRP shall define how archaeological monitoring will be conducted, the protocol to be followed in the event that significant resources are discovered during monitoring, and where and how data recovery will be conducted for any important archaeological resources discovered. The ATMDRP shall specify that all construction personnel will be alerted to the possibility of buried cultural resources prior to the initiation of ground-disturbing activities. The ATMDRP shall specify that if any cultural resources, such as structural features, unusual amounts of bone or shell, artifacts, human remains, or architectural remains are encountered during any development activities, work shall be suspended within 50 meters (165 feet) of the find. The City of Sacramento Development Services Department shall be immediately notified, and a qualified archaeologist shall develop, as necessary, mitigation measures to reduce archaeological impacts to less-than-significant levels before construction resumes. The final improvement plans shall document any discoveries of cultural resources and the resultant mitigation measures. Any additional mitigation measures that are developed shall be approved by the City prior to implementation.

Implementation of Mitigation Measure 5.3-2 would ensure that mitigations required in the Archaeological Testing, Monitoring, and Data Recovery Plan (ATMDRP) are implemented. However, because there is no mitigation available to reduce this impact, it will remain significant and unavoidable.

This impact is less than significant after mitigation.

5.3-3 The proposed project could disturb human remains, including those interred outside of formal cemeteries. This is a *potentially significant impact*. (Less than Significant after Mitigation).

Facts in Support of Finding

This impact can be reduced to a less-than-significant level through implementation of Mitigation Measure 5.3-3. Changes or alterations in, or incorporated into, the project which mitigate or avoid the significant environmental effect as identified in the DEIR.

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The NCIC records search identified no recorded prehistoric archaeological sites within the ¼-mile radius of the project site. The NAHC search of the sacred lands database failed to indicate the presence of Native American resources in the immediate project area, and, as of the printing of this document, there have been no responses from tribal representatives indicating the presence of Native American cultural resources in the project area. However, there is a possibility that human remains, including those interred outside of formal cemeteries, exist on the project site that could be disturbed during grading, excavation, and other earth-moving activities during construction. This would be considered a *potentially significant impact*.

If human remains are discovered during any phase of archaeological testing or construction, work shall be suspended immediately within 50 meters (165 feet) of the remains and the City of Sacramento Development Services Department and the Sacramento County Coroner shall be notified immediately. If the remains are determined by the county coroner to be Native American, the Native American Heritage Commission (NAHC) shall be notified within 24 hours, and the guidelines of the NAHC shall be adhered to in the treatment and disposition of the remains. The project applicant shall also retain a professional archaeologist with Native American burial experience to conduct a field investigation of the specific site and consult with the Most Likely Descendant, if any, identified by the NAHC. As necessary, the archaeologist may provide professional assistance to the Most Likely Descendant, including the excavation and removal of the human remains. The City of Sacramento Development Services Department will be responsible for approval of recommended mitigation as it deems appropriate, taking account of the provisions of state law, as set forth in CEQA Guidelines section 15064.5(e) and Public Resources Code section 5097.98. The project applicant shall implement approved mitigation, to be verified by the City of Sacramento Development Services Department, before the resumption of activities at the site where the remains were discovered. This method of approving additional mitigation and adherence to protocol of the mitigation measure shall reduce the impact to a less-than-significant level.

Implementation of Mitigation Measures 5.3-3 would ensure that mitigations required by the NAHC are implemented.

This impact is less than significant after mitigation.

5.3-4 The proposed project, in combination with other development in the Sacramento region, could adversely affect unique archaeological resources or historical resources as defined in section 21083.2 of the Public Resources Code and section 15064.5 of the State CEQA Guidelines. This is a cumulative *potentially significant impact*. (Less than Significant after Mitigation).

Facts in Support of Finding

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This impact can be reduced to a less-than-significant level through implementation of Mitigation Measure 5.3-2 and 5.3-3. Changes or alterations have been required in, or incorporated into, the project which mitigate or avoid the significant environmental effect as identified in the DEIR.

Based upon previous cultural resource surveys and research, the Sacramento region has been inhabited by prehistoric and historic-period peoples for thousands of years. The proposed project, in combination with other development in the Sacramento region, could contribute to the loss of significant cultural resources, unidentified prehistoric- and historic-period resources and historic-period structures. Because all significant cultural resources are unique and non-renewable members of finite classes, all adverse effects or negative impacts erode a dwindling resource base. For example, the loss of any one archaeological site affects all others in a region because these resources are best understood in the context of the entirety of the cultural system of which they are a part. The boundaries of an archaeologically important site often extend beyond the boundaries of a project site. As a result, a meaningful approach to preserving and managing cultural resources must focus on the likely distribution of cultural resources, rather than on project or parcel boundaries. The cultural system is represented historically and archaeologically by the total inventory of all sites, features, structures, and other cultural remains in the region. Proper planning and appropriate mitigation can help to capture and preserve knowledge of such resources and can provide opportunities for increasing our understanding of the past environmental conditions and cultures by recording data about sites discovered and preserving artifacts found. Federal, state, and local laws are also in place, as discussed above, that protect these resources. Nevertheless, development projects in the Sacramento region have the potential to adversely affect significant cultural resources that are unique and non-renewable members of finite classes. Therefore, the cumulative impact is potentially significant. Because the proposed project has the potential to adversely affect cultural resources, the project's contribution would be cumulatively considerable, resulting in a potentially significant cumulative impact.

Implementation of Mitigation Measures 5.3-2 and 5.3-3 would ensure that the project's cumulative contribution could be reduced to a less-than-considerable level, rendering the cumulative impact less than significant.

This cumulative impact is less than significant after mitigation.

Transportation

5.6-1 Intersections – The project would increase traffic volumes at study area intersections. This is considered a *significant impact*. (Less than Significant after Mitigation).

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This impact can be reduced to less-than-significant levels through implementation of Mitigation Measure 5.6-1 a-d. Changes or alterations have therefore been required in, or incorporated into, the project which mitigate or avoid the significant environmental effect as identified in the DEIR.

The project would increase traffic volumes in the study area. The changes in intersection operating conditions with the addition of project-generated traffic exceed the standards of significance for impacts to intersections at:

- 3rd Street / J Street – In the a.m. peak hour, the intersection operates at LOS “E” with an increase in average delay of 6.4 seconds.
- 3rd Street / L Street – In the p.m. peak hour, the intersection operates at LOS “D” with an increase in average delay of 11.1 seconds.
- 3rd Street / P Street – In the p.m. peak hour, traffic generated by the project degrades the intersection operating condition from LOS “C” to LOS “D.”
- 15th Street / J Street – In the p.m. peak hour, the intersection operates at LOS “E” with an increase in average delay of 10.4 seconds.

Therefore, the impacts are considered significant. However, with implementation of the following mitigation measures, they can be reduced to less than significant.

(a) Intersection of 3rd Street / J Street – Modify the traffic signal phase splits during the a.m. peak period by increasing the phase time for the southbound I-5 off-ramp approach (eastbound) to 40 seconds, maintaining the 50 second phase time for the northbound I-5 off-ramp, and decreasing the north and southbound 3rd Street phase time to 10 seconds. The applicant for the proposed project shall pay a fair share to recover the costs for the City’s Traffic Operation Center monitoring and retiming of this intersection.

This mitigation measure would reduce average vehicle delay by 14.7 seconds during the a.m. peak hour and would reduce the baseline plus project impact to less than significant.

(b) Intersection of 3rd Street/ L Street - Modify the westbound approach to provide one left-turn lane, two through lanes, (to the northbound I-5 on-ramp), and one right-turn lane. The applicant shall pay fair share toward the City project to improve and re-stripe the intersection.

This mitigation measure would reduce average vehicle delay by 25.2 seconds during the p.m. peak hour and would reduce the baseline plus project impact to less than significant.

(c) Intersection of 3rd Street / P Street – Modify the traffic signal phase splits during the p.m. peak period by increasing the signal phase time to 32 seconds for the westbound P Street approach and decreasing the southbound 3rd Street approach to 18 seconds. The applicant for the proposed project shall pay a fair share to recover the costs for the City’s Traffic Operation Center monitoring and retiming of this intersection.

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This mitigation measure would reduce average vehicle delay by 7.7 seconds during the p.m. peak hour and would reduce the baseline plus project impact to less than significant.

(d) Intersection of 15th Street / J Street – Modify the traffic signal phase splits during the p.m. peak period by increasing the phase time for the eastbound J Street approach to 30 seconds, and decreasing the southbound 15th Street signal phase time to 20 seconds. The applicant for the proposed project shall pay a fair share to recover the costs for the City's Traffic Operation Center monitoring and retiming of this intersection. This mitigation measure would reduce average vehicle delay by 18.5 seconds during the p.m. peak hour and would reduce the baseline plus project impact to less than significant.

Once implemented, Mitigation Measures 5.6-1 would ensure that intersections would operate at acceptable levels.

This impact is less than significant after mitigation. -

5.6-4 Freeway Ramp Queuing – The project would increase the length of freeway ramp queues. This is considered a significant impact. (Less than Significant after Mitigation).

Facts in Support of Finding

This impact can be reduced to a less-than-significant level through implementation of Mitigation Measure 5.6-1(a). Changes or alterations have been required in, or incorporate into, the project which mitigate or avoid the significant environmental effect as identified in the DEIR.

The project would increase freeway ramp queues. The changes in freeway system operating conditions with the addition of project-generated traffic exceed the standards of significance for impacts to the freeway system, since the project traffic increases the length of queuing at a location where queues are anticipated to exceed available storage without the project. An impact occurs on the Southbound I-5 exit ramp to J Street during the a.m. peak hour. The impact is considered significant.

This change in traffic signal timing required in Mitigation Measure 5.6-1(a) would reduce the queue length to 3,400 feet, which is less than the available storage of 3,600 feet, and would reduce the baseline plus project impact to less than significant.

Implementation of Mitigation Measure 5.6-1 (a) would reduce the queue length at the exit ramp to within the available storage.

This impact is less than significant after mitigation.

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5.6-9 Construction – The construction of the project may include the temporary closure of numerous transportation facilities, including portions of City streets, sidewalks, bikeways, on-street parking, off-street parking, and transit facilities. This is considered a *significant impact*. (Less than Significant after Mitigation).

Facts in Support of Finding

This impact can be reduced to less than significant through implementation of Mitigation Measure 5.6-9. Changes or alterations have therefore been required in, or incorporated into, the project which mitigate or avoid the significant environmental effect as identified in the DEIR.

Construction will include disruptions to the transportation network near the site, including the possibility of temporary lane closures, street closures, sidewalk closures, and bikeway closures. Existing on-street parking will be disrupted during construction, and replacement spaces may not be available. Pedestrian and transit access may be disrupted. Heavy vehicles will access the site and will need to be staged for construction. These activities will result in degraded roadway operations. The addition of construction personnel will result in the temporary need for additional parking. Therefore, the impacts are considered significant.

Implementation of Mitigation Measure 5.9-1 requires a construction traffic management plan to be prepared by the applicant to the satisfaction of the City traffic engineer, Regional Transit, and any other affected agency to ensure these facilities are not substantially affected during construction.

The impact will be less than significant after mitigation.

5.6-10 Impacts to study intersections under Near Term Plus Project Conditions. These are considered significant impacts. (Less than Significant after mitigation).

Facts in Support of Finding

These impacts can be reduced to less-than-significant levels through implementation of Mitigation Measures 5.6-10 (a-m). Changes or alterations have therefore been required in, or incorporated into, the project which mitigate or avoid the short-term significant environmental effects as identified in the DEIR.

The proposed project, in combination with other proposed downtown projects, would add traffic to study intersections and cause significant impacts for near-term cumulative conditions where the traffic generated by the project would degrade the level of service from LOS C to LOS E during the p.m. peak hour or cause the area to be LOS F during the a.m. peak hour. In addition, the traffic generated by the project would degrade the level of service from LOS B to LOS D during the p.m. peak hour in other intersections.

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Project generated traffic would increase the average vehicle delay at the following intersections:

3rd Street / J Street, L Street, N Street, P Street, 5th Street / L Street, 7th Street / L Street, 8th Street / L Street, 9th Street / J Street, 10th Street / J Street, 12th Street / J Street, 15th Street / J Street, X Street, 16th Street / H Street. Modification of the traffic signal phase splits throughout the affected project area will additionally mitigate these impacts to a less than significant level.

Once implemented, Mitigation Measures 5.6-10 (a-m) would include changes to the roadway network, such as changes to signal timing and changes to lane configurations, which would ensure traffic operates at acceptable levels.

The impacts would be reduced to a less than significant level after mitigation.

5.6-17 Impacts to study intersections under Long Term Plus Project Conditions. These are considered significant impacts. (Less than Significant after Mitigation).

Facts in Support of Finding

This impact can be reduced to less-than-significant levels through implementation of Mitigation Measure 5.6-17 (a-n). Changes or alterations have therefore been required in, or incorporated into, the project which mitigate or avoid the significant environmental effect as identified in the DEIR.

The proposed project, in combination with other downtown projects, would add traffic to study intersections and cause significant impacts for long-term cumulative conditions. In addition, project would impact the level of service without the proposed project in combination with other downtown projects would be LOS F during the a.m. peak hour and project generated traffic would increase the average vehicle delay and where the level of service without the proposed project in combination with other downtown projects would be LOS D during the p.m. peak hour and project generated traffic would increase the average vehicle delay where the traffic generated by the proposed project in combination with other downtown projects would degrade the level of service from LOS C to LOS E during the p.m. peak hour.

Mitigation Measures 5.6-17 (a-n) would reduce average vehicle delay during the a.m. peak hour and would improve traffic operations during the p.m. peak hour to LOS C under Long Term Plus Project Conditions.

The impacts would be less than significant after mitigation.

b. Significant or Potentially Significant Impacts for which Mitigation is Outside the City's Responsibility and/or Jurisdiction.

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Mitigation measures to mitigate, avoid, or substantially lessen the following significant and potentially significant environmental impact of the Project, are within the responsibility and jurisdiction of another public agency and not the City. Pursuant to section 21081(a)(2) of CEQA and section 15091(a)(2) of the Guidelines, the Planning Commission, based on the evidence in the record before it, specifically finds that implementation of these mitigation measures can and should be undertaken by the other public agency. The Planning Commission will request, but cannot compel implementation of the identified mitigation measures described. The impact and mitigation measures and the facts supporting the determination that mitigation is within the responsibility and jurisdiction of another public agency and not the City, are set forth below. Notwithstanding the disclosure of these impacts, the Planning Commission elects to approve the Project due to the overriding considerations set forth below in Section (g), the statement of overriding considerations.

5.6-2 Freeway Mainline – The project would increase traffic volumes on the freeway mainline. This is considered a significant impact. (Significant and Unavoidable).

Facts in Support of Finding

Changes or alterations that could substantially lessen or avoid the project's significant effects associated with increased traffic volumes at freeway mainlines are outside the City's responsibility and/or jurisdiction. The effects, therefore, remain significant and unavoidable

The project would increase traffic volumes on the freeway mainline. The changes in freeway system operating conditions with the addition of project-generated traffic exceed the standards of significance for impacts to the freeway system, since traffic is added to freeway segments already operating at LOS "F." These sections include portions of Southbound I-5 during the a.m. peak hour and portions of Northbound I-5 during the p.m. peak hour. This would be a significant impact.

The City does require as part of Title 17, Division VI, Chapter 17.184 of the Sacramento Municipal Code that the project comply with the elements of the Transportation System Management (TSM) program. The purpose of the TSM program is to establish TSM requirements for employers and developers within the City in order to meet the thirty-five (35) percent trip reduction goal. These requirements will promote alternative commute modes and encourage transit use in order to reduce traffic congestion, optimize use of the transportation system, and improve air quality.

The Traffic Study found that the impacted freeway mainline segments currently operate at LOS "F" in the Baseline Condition during the PM Peak Hour without the Project, and would continue to operate at LOS "F" in both the "Near Term Cumulative Condition (2013)" and "Long Term Cumulative Condition (2030)" both without and with the Project. Freeway mainline improvements are within the exclusive jurisdiction of Caltrans, which can and should propose and adopt appropriate improvement plans that would reduce

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freeway mainline impacts, pursuant to Public Resources Code Section 21081 and CEQA Guideline Section 15091.

Caltrans indicated that they have developed general cost estimates for the following projects. Though these projects are designed to address regional transportation needs that extend far beyond the downtown area, Caltrans believes they would serve to mitigate impacts from pending downtown developments and are viable:

- I-5 American River Bridge widening - two structures. Add one standard lane and re-establish standard shoulders to each structure: \$134 million.
- I-5 HOV lanes - Garden Highway to I-80 HOV lanes with direct connectors: \$300 million.
- I-5 HOV lanes - U.S. 50 Interchange to Elk Grove Blvd: \$200 million.

No preliminary improvement plans have been prepared for these freeway improvements, and it is unclear what the cost estimates are based on or include.

These proposed freeway improvement projects are included in Sacramento Area Council of Governments (SACOG) existing Metropolitan Transportation Plan (MTP) for preliminary engineering and environmental only. The MTP is a long-range plan which is based on growth and travel demand projections coupled with financial projections. The MTP lists hundreds of locally and regionally important projects. It is updated every three years, at which time projects can be added or deleted. SACOG uses the plan to help prioritize projects and guide regional transportation project funding decisions. The projects included in the MTP have not gone through the environmental review process and are not guaranteed for funding or construction.

Given the status of the improvement projects identified by Caltrans and the information available at this time, the City has concluded that there is currently insufficient information and certainty on which to base a feasible and viable mitigation measure to address the proposed project's impacts on the identified freeway mainline segments. The proposed freeway improvement projects are not currently approved and funded. There is no fee or other funding mechanism currently in place for future funding. Furthermore, 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. Finally, the prospects of the proposed freeway improvements ever being constructed remains uncertain due to funding priorities and on-going policy developments that may favor other approaches to addressing freeway congestion. Collection of a mitigation fee under these circumstances at this time may well be an idle act.

Widening the freeway mainline right of way would create adverse impacts by requiring the removal of historic buildings in the Old Sacramento District, and potentially the

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Crocker Art Museum, which are already situated adjacent to the existing freeway right of way; would potentially require modifications to the flood wall/levee that protects Downtown Sacramento; and would create further physical barriers between people living and working in Downtown Sacramento and the Sacramento River and the Old Sacramento District. Such new impacts from widening the freeway would not be capable of mitigation to a less than significant level and would violate City policies concerning: the preservation of the Old Sacramento District; promoting ease of pedestrian access between Downtown Sacramento and the Sacramento River; promoting ease of pedestrian access between Downtown Sacramento and the Old Sacramento District; and protecting the integrity of Sacramento's flood control system.

Consequently, the City has been unable to identify any feasible mitigation measures that could reduce or avoid the impact of the proposed project on the three I-5 freeway mainline segments to a less than significant level. The California Environmental Quality Act (Pub. Resources Code, §21000 et seq.) defines "feasible" for these purposes as capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technological factors (Pub. Resources Code, §21061.1). Therefore, the impacts of the proposed project on the three I-5 freeway segments would remain significant and unavoidable.

Because mitigation to reduce project impacts to increased traffic volumes at freeway mainlines is outside the City's responsibility and/or jurisdiction, this impact would be significant and unavoidable.

c. Significant or Potentially Significant Impacts for which Mitigation Measures Found To Be Infeasible.

Mitigation measures to mitigate, avoid, or substantially lessen the following significant and potentially significant environmental impact of the Project have been identified. However, pursuant to section 21081(a)(3) of CEQA and section 15091(a)(3) of the Guidelines, as to each such impact and mitigation measure, the Planning Commission, based on the evidence in the record before it, specifically finds that the mitigation measures are infeasible. The impact and mitigation measures and the facts supporting the finding of infeasibility of each mitigation measure are set forth below. Notwithstanding the disclosure of these impacts and the finding of infeasibility, the Planning Commission elects to approve the Project due to the overriding considerations set forth below in Section (g), the statement of overriding considerations.

5.6-2 Freeway Mainline – The project would increase traffic volumes on the freeway mainline. This is considered a significant impact. (Significant and Unavoidable).

Facts in Support of Finding

The EIR determined that the project would have significant and unavoidable traffic impacts to the I-5 freeway mainline which is already operating at LOS "F" during peak hours without the additional traffic that would be generated by the project. The EIR

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determined that there were no feasible mitigation measures available to mitigate for those impacts. In its comments on the EIR, Caltrans stated its opinion that there were feasible mitigation measures and that the City should impose a mitigation fee on the project to fund the project's fair share of the following conceptual improvements to I-5:

- * Widen the two existing I-5 American River Bridges in order to add one standard lane to the freeway in each direction of travel and re-establish standard shoulders on each bridge.
- * I-5 HOV lanes - Add HOV lanes from the Garden Highway to I-80 HOV lanes with direct connectors.
- * I-5 HOV lanes - Add HOV lanes from the U.S. 50 Interchange south to Elk Grove Blvd.

As noted in the above discussion of the project's impacts to Traffic and Circulation, no preliminary capital improvement plans have been prepared for those conceptual freeway improvements and it is unclear what the cost estimates Caltrans has made were based upon or include. Given the conceptual status of the improvements identified by Caltrans and the information available at this time, the City has concluded that there is currently insufficient information and certainty on which to base a feasible and viable mitigation measure to address the proposed project's impacts on the identified I-5 freeway segments. The proposed freeway improvements are not currently approved and funded.

Moreover, the City also finds the mitigation measures proposed by Caltrans infeasible because; (a) they are of such nature that they, by themselves, would constitute a project nearly as complex, costly and ambitious as the current project itself; (b) they are concepts for capital improvement projects that Caltrans, not the City, needs to design, engineer and adopt, so the City has no certainty that any fee it imposed would be spent on them within a reasonable timeframe; (c) they are not part of an existing plan of actual mitigation that Caltrans definitely has committed itself to implement; (d) as a result of (a), (b) and (c), the City has no basis upon which to make the necessary legal findings concerning nexus and a fair share determination which any mitigation fee on the project would require; and, (e) the HOV lanes are contrary to City policy as expressed by the City on two previous occasions when it refused to support the extension of HOV lanes on other major highways within the City because doing so would facilitate urban sprawl, fail to promote infill development, and would discourage the use of light rail and bus public transit systems by making long commutes preferable. In addition, the HOV lanes raise public health and safety concerns in light of a recent study by the Texas Transportation Institute's "Crash Analysis of Selected High Occupancy Vehicle Facilities in Texas" (2005) which found that HOV lanes increase the rate of automobile accidents. As a result of the foregoing, the City has determined that the rejected mitigation measures are infeasible and should be rejected for the economic, environmental, public health and safety, and social reasons outlined above.

d. Significant and Unavoidable Impacts.

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The following significant and potentially significant environmental impacts of the Project, including cumulative impacts, are unavoidable and cannot be mitigated in a manner that would substantially lessen the significant impact. Notwithstanding disclosure of these impacts, the Planning Commission elects to approve the Project due to overriding considerations as set forth below in Section g, the statement of overriding considerations.

Air Quality

5.2-4 Operation of the proposed project would contribute to emissions of ozone precursors. This is a *significant impact*. (Significant and Unavoidable after Mitigation).

Facts in Support of Finding

Changes or alterations have been required in, or incorporated into, the project which aid to mitigate or avoid the significant environmental effect as identified in the DEIR. No mitigation is available to render the effects less than significant. The effects therefore remain significant and unavoidable.

Once the proposed project is built and occupied, activities associated with various uses in the proposed project would generate ozone precursors ROG and NO_x. These precursors are of chief concern due to their role in the formation of smog, acid rain, particulate matter, toxic chemicals, and their contribution to water quality deterioration. The majority of precursor emissions would be generated by vehicle trips associated with people visiting and working at the proposed project. Smaller sources of precursors would be generated by fuel-burning equipment (such as that used for the heating and cooling of the building) and by various consumer products (such as paints).

As identified in Table 5.2-6 of the DEIR, emissions of ROG would not be above the SMAQMD threshold of significance for operational emissions. While the location of the proposed project would provide a number of elements that would help to reduce operational emissions, such as numerous commercial and retail uses in the vicinity of the project site, an extensive sidewalk network, and the availability of mass transit options, NO_x emissions would still exceed the SMAQMD threshold. Since NO_x emissions would exceed the threshold, the impact of operational emissions of ozone precursors would be considered *significant impact*.

Preparation and implementation of an Air Quality Mitigation Plan, as required by the SMAQMD, would reduce operational emissions by 15 percent, to approximately 71 pounds per day. Even through the implementation of this plan, operational emissions would remain above the threshold. Consequently, the impact would be considered significant and unavoidable.

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Therefore, prior to issuance of Certificate of Occupancy, the project applicant shall prepare and receive written endorsement from the SMAQMD of an operational Air Quality Mitigation Plan detailing the measures that shall be employed to reduce the proposed project's operational emissions by at least 15 percent. The project applicant shall obtain the endorsement from the SMAQMD and provide it to the City's Environmental Services Department

Implementation of Mitigation Measure 5.2-4 would reduce the project's operational emissions by 15 percent, but the emissions would still exceed the SMAQMD thresholds.

This impact is significant and unavoidable after mitigation.

Noise

5.4-1 Construction of the proposed project would temporarily produce noise. This is a significant impact. (Significant and Unavoidable After Mitigation).

Facts in Support of Finding

Changes or alterations have been required in, or incorporated into, the project that substantially lessen, but do not avoid the project's significant effects associated with temporary noise. No mitigation is available to render the effects less than significant. The effects therefore remain significant and unavoidable.

During construction of the proposed project, noise levels would be produced by the operation of heavy-duty equipment and various other construction activities. According to the project applicant, pile driving would be used in conjunction with drilling for establishing the building foundation or "founding" the building. The current program for founding the building would employ drilling to a certain depth, followed by pile driving.

Construction noise would affect surrounding uses to varying degrees throughout the construction schedule, approximately 26 months. There are sensitive uses surrounding the project site, specifically residential uses to the south and southwest, although the majority of uses in the project vicinity are office and commercial. Construction noise would be noticeable at residential, office, and commercial uses in the area, but construction would occur during the daytime when most residents would be at work. It should be noted that Pioneer Towers is a senior facility and, as such, residential units would likely be occupied during construction activities, thereby increasing the possibility of an adverse community reaction. However, it is unlikely that residents would be subject to significant levels of construction noise due to distance and the presence of intervening structures. The Sacramento Municipal Code, Title 8 - Health and Safety, Chapter 8.68 – Noise Control, requires that construction activity take place between the hours of 7 a.m. and 6 p.m. Monday through Saturday. Construction is also limited to the hours between 9 a.m. and 6 p.m. on Sunday. The City director of building inspections may also permit work to be done outside of these hours in the case of urgent necessity and in the interest of public health and welfare for a period not to exceed three days.

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Since typical sleeping hours fall outside of the time during which construction must occur, construction noise would not be expected to disturb the sleep of nearby residents. Office and commercial uses in the vicinity of the project site would be open during the day when construction would occur. The noise from construction could disturb people working in these buildings, making it difficult to concentrate. Older California building standards (pre-1970) generally provide a reduction of exterior-to-interior noise levels up to about 20 dB with closed windows; newer buildings generally provide a reduction up to about 30 dB. Therefore, the noise levels produced by the equipment (shown in Table 5.4-4) are higher than what would actually be experienced within residential units in the vicinity of the project.

The Sacramento Municipal Code includes an exemption for noise produced by construction activities between the hours of 7 a.m. and 6 p.m. on weekdays; however, a 1990 Notice of Decision and Finding of Fact for the Wells Fargo Center includes the condition that high noise activities be restricted to the hours between 8 a.m. and 6 p.m. on weekdays (or other such hours satisfactory to the Planning Director), with no high-noise construction activities allowed on Saturday or Sunday. Because of the proximity of the proposed project site to the Wells Fargo Center, that mitigation is included here. Although Mitigation Measure 5.4-1 would reduce construction noise impacts, surrounding residents and businesses would be affected by development of the proposed project.

Mitigation Measure 5.4-1 requires that the project developer implement measures that would reduce the exposure of nearby residents to construction noise. However, implementation of this plan will not guarantee that sensitive receptors would not be exposed to increased noise levels.

This impact would be significant and unavoidable after mitigation.

5.4-2 Construction activity would temporarily produce ground-borne vibration. This is considered a significant impact. (Significant and Unavoidable after Mitigation).

Facts in Support of Finding

Changes or alterations have therefore been required in, or incorporated into, the project that substantially lessen, but do not avoid the project's significant effects associated with temporary ground-borne vibration impacts. No mitigation is available to render the effects less than significant. The effects therefore, remain significant and unavoidable.

In addition to noise, construction activity can also produce vibration. Construction-related vibration is normally associated with impact equipment, such as jackhammers and pile drivers, and the operation of some heavy-duty construction equipment, such as trucks and bulldozers. Construction-related vibration has two potential impacts. First, vibration at high enough levels can disturb people trying to sleep. Thresholds for this

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land use have been developed by the Federal Transit Administration, which has determined that infrequent events producing vibration levels in excess of 80 VdB can result in a significant impact at places where people sleep. Second, ground-borne vibration over 102 VdB can potentially damage the foundations and exteriors of existing, fragile structures. For extremely fragile buildings, the vibration damage threshold is approximately 90 VdB. Ground-borne vibration that can cause this kind of damage is typically limited to impact equipment, especially pile-drivers. No fragile or extremely fragile buildings have been identified near the proposed project site.

There are residential and office uses directly adjacent to the proposed project site. The closest residential and office uses to the project site are approximately 75 feet away. As shown in Table 5.4-6, this distance could potentially expose people to levels in excess of 80 VdB during pile driving activity. Since construction would occur during daylight hours, sleep disturbance would likely not occur. Pile driving would produce the highest vibration levels, but would only occur for a brief amount of time (relative to the overall construction length), approximately 50 days. Equipment used after the pile driving phase would expose receptors to levels less than 80 VdB, and these levels would be intermittent. Residents and office employees may be able to feel ground-borne vibration produced during construction, but most likely only during pile driving. The extent to which these receptors would be affected depends largely on soil conditions, building design and materials, and the particular floor the receptors are on. While construction related vibration would be limited to the duration of the construction schedule, due to the close proximity of existing receptors during pile driving, vibration impacts would be considered significant.

Mitigation Measure 5.4-2 would require the drilling of pilot holes prior to pile driving, which would reduce the amount of pile driving necessary. Because some pile driving would still be required, the effects of the pile driving would still be experienced by the surrounding area.

This impact would be significant and unavoidable after mitigation.

Transportation

5.6-3 Freeway Interchanges – The project would increase traffic volumes at the freeway interchanges. This is considered a significant impact. (Significant and Unavoidable).

Facts in Support of Finding

No mitigation measures or alterations that could substantially lessen, or avoid the project's significant effects associated with increased traffic volumes at freeway interchanges were identified. The effects, therefore, remain significant and unavoidable.

The project would increase traffic volumes at freeway interchanges. The changes in freeway system operating conditions with the addition of project-generated traffic

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exceed the standards of significance for impacts to the freeway system, since traffic is added to freeway interchanges already operating at LOS "F." Impacts occur at the interchange of I-5 and U.S. 50 during the a.m. and p.m. peak hours. This would be a significant impact.

Given the status of the improvement projects identified by Caltrans and the information available at this time (discussed above), the City has concluded that there is currently insufficient information and certainty on which to base a feasible and viable mitigation measure to address the proposed project's impacts on the identified freeway interchanges. The proposed freeway improvement projects are not currently approved and funded. There is no fee or other funding mechanism currently in place for future funding. Furthermore, 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.

Consequently, the City has been unable to identify any feasible mitigation measures that could reduce or avoid the impact of the proposed project on the freeway interchanges to a less than significant level. The California Environmental Quality Act (Pub. Resources Code, §21000 et seq.) defines "feasible" for these purposes as capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technological factors (Pub. Resources Code, §21061.1). Therefore, the impacts of the proposed project on the freeway interchanges would remain significant and unavoidable.

Because there is no feasible mitigation available to reduce project impacts to increased traffic volumes at freeway interchanges, this impact would be significant and unavoidable.

5.6-11 Impacts to freeway mainline under Near Term Plus Project Condition. This is considered a significant impact. (Significant and Unavoidable).

Facts in Support of Finding

No mitigation measures or alterations that could substantially lessen, or avoid the project's significant effects associated with impacts to freeway mainline under Near Term Plus Project Conditions were identified. The effects therefore remain significant and unavoidable.

The proposed project, in combination with other proposed downtown projects, would add traffic to freeway mainline segments but would not cause freeway levels of service

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to deteriorate beyond LOS E. Other downtown projects would add traffic to I-5 freeway segments that would cause it to operate at LOS F even without the proposed project. This is considered a significant impact.

Given the status of the improvement projects identified by Caltrans and the information available at this time (discussed above), the City has concluded that there is currently insufficient information and certainty on which to base a feasible and viable mitigation measure to address the proposed project's impacts on the identified I-5 freeway segments. The proposed freeway improvement projects are not currently approved and funded. There is no fee or other funding mechanism currently in place for future funding. Furthermore, 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.

Consequently, the City has been unable to identify any feasible mitigation measures that could reduce or avoid the impact of the proposed project on the I-5 freeway segments to a less than significant level. The California Environmental Quality Act (Pub. Resources Code, §21000 et seq.) defines "feasible" for these purposes as capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technological factors (Pub. Resources Code, §21061.1). Therefore, the impacts of the proposed project on the I-5 freeway segments would remain significant and unavoidable.

Because there is no feasible mitigation available to reduce project impacts to freeway mainlines, this impact would be significant and unavoidable.

5.6-12 Impacts to freeway merge / diverge / weave areas under Near Term Plus Project Condition. This is a significant impact. (Significant and Unavoidable).

Facts in Support of Finding

No mitigation measures or alterations that could substantially lessen, or avoid the project's significant effects associated with impacts to freeway merges diverge, weave area under Near Term Project Plus Condition were identified. The effects therefore remain significant and unavoidable.

The proposed project, in combination with other proposed downtown projects, would add traffic to freeway ramps and weaving areas on I-5 and U.S. 50 freeway ramps that would operate at LOS F without the projects. Because these facilities currently operate at LOS F, this is considered a significant impact.

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Given the status of the improvement projects identified by Caltrans and the information available at this time (discussed above), the City has concluded that there is currently insufficient information and certainty on which to base a feasible and viable mitigation measure to address the proposed project's impacts on the identified I-5 and U.S. 50 freeway ramps. The proposed freeway improvement projects are not currently approved and funded. There is no fee or other funding mechanism currently in place for future funding. Furthermore, 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.

Consequently, the City has been unable to identify any feasible mitigation measures that could reduce or avoid the impact of the proposed project on the I-5 and U.S. 50 freeway ramps to a less than significant level. The California Environmental Quality Act (Pub. Resources Code, §21000 et seq.) defines "feasible" for these purposes as capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technological factors (Pub. Resources Code, §21061.1). Therefore, the impacts of the proposed project on the I-5 and U.S. 50 freeway ramps would remain significant and unavoidable.

Because there is no mitigation available to reduce project impacts to freeway merges diverge, weave area under Near Term Project Plus Condition, this impact would be significant and unavoidable.

5.6-13 Impacts to freeway ramp queues under Near Term Plus Project Conditions. This is considered a significant impact. (Significant and Unavoidable after Mitigation).

Facts in Support of Finding

Mitigation measure 5.6-1 (a) would reduce the queue for the southbound I-5 off ramp at J Street to 6,125 feet during the a.m. peak hour, but this would not be enough to eliminate the near-term cumulative impact. Changes or alterations have been required in, or incorporated into, the project that substantially lessen, but do not avoid the project's significant effects associated with impacts to freeway ramp queues under Near Term Project Plus Condition. No feasible mitigation is available to render the effects less than significant. The effects therefore remain significant and unavoidable.

The proposed project, in combination with other downtown projects, would add traffic to the northbound I-5 off ramp to J Street, which currently experiences queues during the a.m. peak hour that extend onto the freeway mainline. In addition, the proposed project, in combination with the other downtown projects would cause queues for the

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southbound I-5 off ramp to J Street to extend onto the freeway mainline during the a.m. peak hour. This is considered a significant impact.

Mitigation measure 5.6-1 (a) would reduce the queue for the southbound I-5 off ramp at J Street to 6,125 feet during the a.m. peak hour, but this would not be enough to eliminate the near-term cumulative impact. This mitigation measure would not affect the northbound I-5 off ramp queue at J Street, and no other feasible mitigation measures were identified that would reduce the impact of the projects at that location. Widening the freeway would reduce the impact but was not considered feasible. The impacts of the proposed projects on freeway ramp queues would remain significant and unavoidable.

Mitigation measure 5.6-1 (a) would reduce the queue for the southbound I-5 off ramp at J Street to 6,125 feet during the a.m. peak hour, but this would not be enough to eliminate the near-term cumulative impact. However, there is no feasible mitigation available to reduce project impacts to freeway ramp queues under Near Term Project Plus Condition, so this impact would be significant and unavoidable.

5.6-18 Impacts to freeway mainline under Long Term Plus Project Conditions. This is considered a significant impact. (Significant and Unavoidable).

Facts in Support of Finding

No mitigation measures or alterations that could substantially lessen, or avoid the project's significant effects associated with impacts to freeway mainline under Long Term Plus Project Conditions were identified. The effects therefore remain significant and unavoidable.

The proposed project, in combination with other downtown projects, would add traffic to freeway mainline segments but would not cause freeway levels of service to deteriorate beyond LOS E. The proposed project in combination with the other downtown projects would add traffic to I-5 freeway segments that would operate at LOS F even without the projects. This is considered a significant impact.

Given the status of the improvement projects identified by Caltrans and the information available at this time (discussed above), the City has concluded that there is currently insufficient information and certainty on which to base a feasible and viable mitigation measure to address the proposed project's impacts on the identified I-5 freeway mainline segments. The proposed freeway improvement projects are not currently approved and funded. There is no fee or other funding mechanism currently in place for future funding. Furthermore, 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

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constitutional principles that call for a nexus and rough proportionality between a project's impacts and the fee-based mitigation measure.

Consequently, the City has been unable to identify any feasible mitigation measures that could reduce or avoid the impact of the proposed project on the I-5 freeway mainline segments to a less than significant level. The California Environmental Quality Act (Pub. Resources Code, §21000 et seq.) defines "feasible" for these purposes as capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technological factors (Pub. Resources Code, §21061.1). Therefore, the impacts of the proposed project on the I-5 freeway mainline segments would remain significant and unavoidable.

Widening the freeway would reduce the impact but was not considered feasible. No other feasible mitigation measures were identified that would reduce the impact of the project on I-5 freeway mainline segments. The impacts of proposed projects on I-5 freeway segments would remain significant and unavoidable.

Because there is no feasible mitigation available to reduce the project impacts to freeway mainlines, the impact is significant and unavoidable.

5.6-19 Impacts to freeway merge / diverge / weave areas under Long Term Plus Project Conditions. This is considered a significant impact. (Significant and Unavoidable).

Facts in Support of Finding

No mitigation measures or alterations that could substantially lessen, or avoid the project's significant effects associated with impacts to freeway merge/diverge/weave areas under Long Term Plus Project Conditions were identified. The effects therefore remain significant and unavoidable.

The proposed project, in combination with other downtown projects, would add traffic to freeway ramps and weaving areas but would not cause levels of service to deteriorate beyond LOS E on these facilities. The proposed project in combination with other downtown projects would add traffic to I-5 and U.S. 50 freeway ramps that would operate at LOS F without the projects. This is considered a significant impact.

Given the status of the improvement projects identified by Caltrans and the information available at this time (discussed above), the City has concluded that there is currently insufficient information and certainty on which to base a feasible and viable mitigation measure to address the proposed project's impacts on the identified I 5 and U.S. 50 freeway ramps. The proposed freeway improvement projects are not currently approved and funded. There is no fee or other funding mechanism currently in place for future funding. Furthermore, the City cannot determine either the cost of the proposed freeway improvement projects or the proposed project's fair share proportional

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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.

Consequently, the City has been unable to identify any feasible mitigation measures that could reduce or avoid the impact of the proposed project on the I-5 and U.S. 50 freeway ramps to a less than significant level. The California Environmental Quality Act (Pub. Resources Code, §21000 et seq.) defines "feasible" for these purposes as capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technological factors (Pub. Resources Code, §21061.1). Therefore, the impacts of the proposed project on the I-5 and U.S. 50 freeway ramps would remain significant and unavoidable.

Widening the freeway would reduce the impact but was not considered feasible. No other feasible mitigation measures were identified that would reduce the impact of the project on I-5 and U.S. 50 freeway ramps. The impacts of proposed projects on freeway ramps would remain significant and unavoidable.

Because there is no mitigation available to reduce the project impacts to freeway merge/diverge/weave areas under the Long Term Plus Project Conditions, the impact is significant and unavoidable.

5.6-20 Impacts to freeway ramp queues under Long Term Plus Project Conditions. This is considered a significant impact. (Significant and Unavoidable after Mitigation).

Facts in Support of Finding

Changes or alterations have therefore been required in, or incorporated into, the project that substantially lessen, but do not avoid the project's significant effects associated with impacts to freeway ramp queues under Long Term Plus Project Conditions. No feasible mitigation is available to render the effects less than significant. The effects therefore remain significant and unavoidable.

The proposed project, in combination with other downtown projects, would add traffic to the northbound I-5 off ramp to J Street during both the a.m. and p.m. peak hours, when the queue would exceed the ramp's storage capacity without the proposed projects. Similarly, the proposed Downtown projects would add traffic to the southbound I-5 off ramp to J Street during the a.m. peak hour, when the queue would exceed the ramp's storage capacity without the proposed projects. This is considered a significant impact.

Mitigation Measure 5.6-17 (a) (for the 3rd Street/J Street intersection) would reduce the queue for the northbound I-5 off ramp queue at J Street during the p.m. peak hour to

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1,725 lane feet and would reduce the long-term cumulative impact during this time period to a less-than-significant level. This mitigation measure would not significantly affect this northbound I-5 off ramp queue at J Street during the a.m. peak hour. The mitigation measure would reduce the queue for the southbound I-5 off ramp at J Street to 6,100 feet during the a.m. peak hour, but this would not be enough reduction to eliminate the long-range cumulative impact. Widening the freeway would reduce the impact but was not considered feasible. Therefore, the project's cumulative contribution is considerable and the impact would remain significant and unavoidable.

Given the status of the improvement projects identified by Caltrans and the information available at this time (discussed above), the City has concluded that there is currently insufficient information and certainty on which to base a feasible and viable mitigation measure to address the proposed project's impacts on the identified I 5 freeway ramps. The proposed freeway improvement projects are not currently approved and funded. There is no fee or other funding mechanism currently in place for future funding. Furthermore, 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.

Consequently, the City has been unable to identify any feasible mitigation measures that could reduce or avoid the impact of the proposed project on the I-5 freeway ramps to a less than significant level. The California Environmental Quality Act (Pub. Resources Code, §21000 et seq.) defines "feasible" for these purposes as capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technological factors (Pub. Resources Code, §21061.1). Therefore, the impacts of the proposed project on the I-5 freeway ramps would remain significant and unavoidable.

Because there is no feasible mitigation available to reduce the project impacts to freeway ramp queues under the Long Term Plus Project Conditions to a less-than-significant level, the impact is significant and unavoidable.

e. Findings Related to the Relationship Between Local Short-term Uses of the Environment and Maintenance and Enhancement of Long-term Productivity

Based on the EIR and the entire record before the Planning Commission, the Commission makes the following findings with respect to the project's balancing of local short term uses of the environment and the maintenance of long term productivity:

i. As the project is implemented, certain impacts would occur on a short term level. Such short term impacts are discussed fully above. Such short term impacts include, without limitation, impacts relating to noise, air quality, and traffic

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increases due to the project, although measures have been and will be incorporated in the project to mitigate these potential impacts.

ii. The long term implementation of the project would serve to balance the need for jobs and office space and reduction of blight in the project and surrounding areas with maintenance of long-term economic development at the City's Central Business District, and reutilization of infill areas. Notwithstanding the foregoing, some long term impacts would result. These impacts include adverse impacts on air quality and increased traffic congestion. However, implementation of the project would provide many long term benefits, including, without limitation, greater economic productivity, more efficient use of land for office and retail uses, the reduction of blight, revitalization of the City's Central Business District in line with City policies for Smart Growth, reuse of an infill site and reduction of pressure for the development of outlying areas.

iii. Although there are short term adverse impacts from the project, the short and long term benefits of the project justify its immediate implementation.

f. Project Alternatives.

The Planning Commission has considered the Project alternatives presented and analyzed in the final EIR and presented during the comment period and public hearing process. Some of these alternatives have the potential to avoid or reduce certain significant or potentially significant environmental impacts, as set forth below. The Planning Commission finds, based on specific economic, legal, social, technological, or other considerations, that these alternatives are infeasible. Each alternative and the facts supporting the finding of infeasibility of each alternative are set forth below.

The selection of alternatives takes into account the project objectives provided in Chapter 2 (Project Description). The project objectives include:

- Develop an architecturally significant, premier highrise office building adjacent to Capitol Mall in the City of Sacramento.
- Provide for office, retail, and potential restaurant uses consistent with existing land use designations on the project site.
- Promote the development of high quality office opportunities within the Capitol Mall corridor of the City of Sacramento.
- Foster economic and employment opportunities within the City of Sacramento's Central Business District through the utilization of a currently underutilized property.
- Provide necessary circulation and infrastructure improvements associated with development of the site.
- Promote site design and building orientation that is compatible with adjacent uses and the Capitol Mall Corridor.

Equally important to attaining the project objectives is the reduction of some or all significant impacts, particularly those that could not be mitigated to a level below the

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threshold of significance. The project-specific and cumulative significant and unavoidable impacts of the proposed project, after mitigation, are:

Project-Specific Significant and Unavoidable Impacts

5.2-4 Operation of the proposed project would contribute to emissions of ozone precursors.

5.4-1 Construction of the proposed project would temporarily produce noise.

5.4-2 Construction activity would temporarily produce ground-borne vibration.

5.6-2 The project would increase traffic volumes on the freeway mainline.

5.6-3 The project would increase traffic volumes at the freeway interchanges.

Cumulative Significant and Unavoidable Impacts

5.6-11 Impacts to freeway mainline under Near Term Plus Project Condition.

5.6-12 Impacts to freeway merge / diverge / weave areas under Near Term Plus Project Condition.

5.6-13 Impacts to freeway ramp queues under Near Term Plus Project Conditions.

5.6-18 Impacts to freeway mainline under Long Term Plus Project Conditions.

5.6-19 Impacts to freeway merge / diverge / weave areas under Long Term Plus Project Conditions.

5.6-20 Impacts to freeway ramp queues under Long Term Plus Project Conditions.

Alternatives Considered and Dismissed from Further Consideration

Consistent with CEQA, primary consideration was given to alternatives that would reduce significant impacts while still meeting most of the project objectives. Those alternatives that would have impacts identical to or more severe than the proposed project, or that would not meet most of the project objectives, were rejected from further consideration. The alternatives included in this chapter were derived after the establishment of significance thresholds for those issue areas with significant and unavoidable post-construction impacts, which are construction and operational air emissions, construction and operational noise, and traffic impacts. Alternatives that would exceed the significance thresholds for the aforementioned issue areas would not substantially lessen any significant environmental impacts identified in Chapter 5 of the EIR and were rejected from further analysis. Although any number of alternatives could be designed that could result in the reduction or elimination of project impacts, a total of three representative alternatives, each intended to reduce or eliminate one or more of the significant impacts identified for the proposed project, are evaluated in the EIR.

Summary of Alternatives Considered

- No Project/ No Development Alternative, which assumes that the proposed project would not occur and there would be no new development of the site. This alternative assumes the existing building on the site would remain.

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- Reduced Intensity Development Alternative, which would include the construction of a smaller building on the project site with approximately 310,000 sf of office use and 27,000 sf of retail.
- Off-Site Alternative, in which the proposed land uses are developed at another location in the Central Business District.

Each of the alternatives is described in more detail in the DEIR, followed by an assessment of the alternative's impacts relative to the proposed project. The focus of the analysis is the difference between the alternative and the proposed project, with an emphasis on addressing the significant impacts identified under the proposed project. For each issue area, the analysis indicates which mitigation measures would be required of the alternative and which significant and unavoidable impacts would be avoided. In some cases, the analysis could indicate additional mitigation measures, if any, that may be required for the alternative being discussed, and what significant and unavoidable impacts would be more or less severe. Unless otherwise indicated, the level of significance and required mitigation would be the same for the alternative as for the proposed project and no further statement of the level of significance is made. Table 6-1 in the DEIR provides a summary comparison of the severity of impacts for each alternative by topic.

No Project/No Development Alternative

Facts in Support of Finding of Infeasibility

Under CEQA, the No Project Alternative must consider the effects of forgoing the project. The purpose of analyzing the No Project Alternative is to allow decision-makers to compare the impacts of the proposed project versus no project. The No Project Alternative describes the environmental conditions that exist at the time that the environmental analysis is commenced (CEQA Guidelines, section 15126.6(e)(2)).

Under the No Project Alternative, the existing structure on the site would remain and the site would not be redeveloped. Although the No Project Alternative would not result in any of the significant effects identified for the proposed project, the No Project/No Development Alternative would not achieve any of the project objectives. The No Project/No Development Alternative would not promote the development of high quality office opportunities within the Capitol Mall corridor of the City of Sacramento. The existing building is not a mixed-use development and lacks the size and scale to provide the office, retail, and restaurant amenities provided under the proposed project. The No Project/No Development Alternative would provide some office space in the Central Business District, but would not foster economic and employment opportunities within the City of Sacramento's Central Business District through utilization of a currently underutilized property.

Reduced Intensity Alternative

Facts in Support of Finding of Infeasibility

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The Reduced Intensity Alternative would include development of a high-rise building with approximately 310,000 sf of office use and 27,000 sf of retail, resulting in the construction of a building approximately 75 percent of the square footage of the proposed project. All of the mitigation measures applied to the proposed project would be required as a part of the Reduced Intensity Alternative, although the 15 percent reduction called for in Mitigation Measure 5.2-4 would not be required for this alternative. The operational air impact of the Reduced Intensity Alternative would be reduced to a less-than-significant level with any reduction in emissions, since it is at the threshold without mitigation. With implementation of Mitigation Measure 5.2-4 (or with any reduction in emissions), the Reduced Intensity Alternative would result in a less-than-significant impact from operational air emissions.

The Reduced Intensity Alternative would achieve the proposed project objectives of an architecturally significant high-rise office building adjacent to Capitol Mall and would include office, retail, and potential restaurant uses within the Capitol Mall corridor; however, the Reduced Intensity Alternative would be a shorter building than the proposed project, which is approximately the same height as the existing Wells Fargo Center. This alternative, therefore, would be less prominent than the project as proposed. The Reduced Intensity Alternative would foster economic and employment opportunities within the City of Sacramento's Central Business District, although to a lesser extent than the proposed project. It is assumed that the Reduced Intensity Alternative would also provide necessary circulation and infrastructure improvements associated with development of the site. However, the extent to which the Reduced Intensity Alternative would foster economic and employment opportunities within the City of Sacramento's Central Business District would be approximately 25 percent less than the proposed project.

Off-Site Alternative

Facts in Support of Finding of Infeasibility

For the Off-Site Alternative, it is assumed that the proposed project could be developed at another location in order to best meet the goals and objectives of the proposed project and to minimize or reduce any of the significant impacts identified as part of the project. One of the project objectives is to provide a premier high-rise office building adjacent to Capitol Mall. There are no viable sites along Capitol Mall with the exception of the block bounded by L Street to the north, 6th Street to the west, Capitol Mall (621 Capitol Mall) to the south, and 7th Street to the east. However, this site has been approved for an office high-rise and is currently being developed. Due to the high-intensity nature of the proposed project, it is assumed that the Off-Site Alternative would need to occur within the Central Business District (CBD), since a project of this size and intensity would not be appropriate in lower-scale areas of the City. There are several sites within the CBD that could be considered "under-utilized", or at least are currently developed less intensively than is proposed under the proposed project. However, the determination as to whether a particular site is under-utilized is dependent upon market conditions of the existing use and the proposed use, the analysis of which is beyond the scope of this EIR. For this reason, a single off-site location was not analyzed.

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Development of the project at any site within the CBD would include the same uses as the proposed project and many of same impacts related to aesthetics, construction and operational air emissions, construction and operational noise, public utilities, and transportation would still occur. An alternative location within the CBD would generally displace, but not necessarily eliminate, the impacts identified for the proposed project because the CBD is already developed. Different sites, due to particular characteristics of the site, proximity to sensitive uses, or other factors, could result in more or less intense impacts than the proposed project, which could include impacts that were not identified for the proposed project. However, these impacts would generally be localized (such as affecting an intersection immediately adjacent to an alternative site), since all project effects would contribute to those already existing and those that would occur in the future within the CBD (such as adding traffic to the CBD, which already experiences some traffic effects).

Air emissions from construction of the project on an alternative site would be identical to that of the proposed project. However, depending on whether there is an existing building on the alternative site and the size of the existing building if present, effects of demolition could differ or may not be required. Overall emissions associated with building demolition could be less than the proposed project if there is no existing building on the alternative site or if the existing building is small than on the project site. Assuming some demolition, noise impacts would be similar during the demolition phase, although operational impacts would be the same as the proposed project. If the alternative site includes nearby residential uses, residents would likely be affected by construction noise, as would residents of the buildings to the south of the proposed project.

While the Off-Site Alternative would generate the same peak hour trips as the proposed project, their distribution on City streets would be different. Therefore, it is likely that some road segments and intersections could be affected by project traffic, although the affected intersections would differ from those identified for the proposed project. Impacts at affected intersections may be reduced to a less-than-significant level with mitigation similar to that identified for the proposed project (i.e., changing the timing on signal lights or re-striping). It is also likely that a similar number of trips would occur at the impacted I-5 on- and off-ramps, so the impact would remain significant and unavoidable. Therefore, it is anticipated that traffic impacts associated with this alternative would be similar to the proposed project.

Additional drainage and runoff impacts associated with the proposed project would be similar under the Off-Site Alternative. It is assumed the alternative site would likely include some sort of development, so development of the alternative site would not substantially increase runoff when compared to existing conditions, similar to the proposed project. If the site is served by Basin 52, it is not anticipated this alternative would contribute to capacity problems in the Basin 52 system, the same as the project. The alternate location could contribute the same flows to the City's Combined Sewer System as the proposed project. Therefore, payment of the City's Combined Sewer Development fee would still be required to ensure that the system would be upgraded to

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accommodate development. Similarly, with water demand, because the Off-Site Alternative would include the same amount of development as the proposed project, the water demand would be the same. Therefore, the difference in the level of mitigation required under the proposed project and the Off-Site Alternative is negligible.

It is likely that all of the mitigation measures applied to the proposed project or measures of similar intensity would be required as a part of the Off-Site Alternative, although traffic measures could differ somewhat because different intersections would be affected at another site.

g. Statement of Overriding Considerations.

Pursuant to Guidelines section 15092, the Planning Commission finds that in approving the Project it has eliminated or substantially lessened all significant and potentially significant effects of the Project on the environment where feasible, as shown in Sections 5.0 through 5.6. The Planning Commission further finds that it has balanced the economic, legal, social, technological, and other benefits of the Project against the remaining unavoidable environmental risks in determining whether to approve the Project and has determined that those benefits outweigh the unavoidable environmental risks and that those risks are acceptable. The Planning Commission makes this statement of overriding considerations in accordance with section 15093 of the Guidelines in support of approval of the Project.

Statement of Overriding Considerations:

- i. The Project would provide new jobs. Development of the 500 Capitol Mall Project would increase economic and employment activity in Central Business District of Sacramento. (DEIR, p. 2-5.) The Project would include 406,384 square feet of rentable office area and 27,124 square feet of rentable retail and/or restaurant area, which would directly increase employment through the addition of office and retail space. The Project would also provide services in the Central Business District that would promote further development in the Central Business District.
- ii. The Project is expected to create a number of secondary jobs, as implementation of the Project will require construction jobs for the development of the building and associated site improvements. Such jobs will provide income and work experience for City residents and other workers and their families.
- iii. The Project would provide fiscal benefits from taxes generated by the commercial portions related to the project. The creation of temporary construction jobs and permanent jobs will create a financial benefit to the City, along with the increase in property taxes and local sales tax from the purchase of goods and services within the community.

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- iv. The Project will also generate other revenues to the City through the payment of development impact fees. These monies will benefit the City and other governmental agencies, and their residents and constituencies, by providing needed revenue for the provision of required services and amenities. Further, the 500 Capitol Mall Project will include redevelopment of an underutilized property on Capitol Mall, and will thus contribute to the ongoing economic development of the area.
- v. The Project would be consistent with the City's General Plan Policies and the Sacramento Central City Community Plan ("CCCP"). The project site is designated as RCO in the General Plan. The proposed project would not change the land use designation and would not require any General Plan Amendments in order to be approved by the City. (DEIR, p. 4-6.) The Project would also be consistent with the CCCP. The CCCP land use designation for the Project site is Multi-Use. Because the Multi-Use designation is not defined in the CCCP, the City relies upon policies and goals of the residential and commercial sections of the CCCP for Multi-Use designations. (DEIR, p. 4-4.) The project is consistent with the land-use designations and policies contained in the Community Plan by providing quality office developments and further revitalizing the Central Business District as a major commercial center in the region. The project provides a mix of uses including high density office use which will serve to increase the economic viability and livability of the area. Because the Project would meet many of the goals set forth in the CCCP, it would be considered consistent with the intent of the CCCP. (DEIR, p. 4-6.)
- vi. The Project would provide traffic improvements. The Project would complement the existing neighborhood and environment by providing road and intersection improvements to reduce traffic in the surrounding neighborhood and enhance pedestrian safety to the extent feasible. (DEIR, p. 2-5.)
- vii. The Project area is proximate to a light rail station, and thus promotes the use of public transit. The Project includes parking to accommodate the Project uses during regular business hours and would also be available after hours to provide parking to other uses in the Central Business District.
- viii. The Project is consistent with Smart Growth Principles. The City Council adopted Smart Growth Principles into the General Plan that are aimed to support development that revitalizes central cities and existing communities, supports public transportation and preserves open space. The Project would contribute to the creation of a vibrant city center (Smart Growth Principle 1), concentrating new development within the urban core of the region (Smart Growth Principle 7), and promoting infill development (Smart Growth Principle 15). Development of the Project is consistent with Smart Growth Principles.

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- ix. The Project is consistent with the General Plan Update Vision and Guiding Principles. While the City's General Plan is being updated, the City Council has adopted a vision for the future of the City, as well as several guiding principles to help achieve this vision. This was done to ensure that new developments submitted during the ongoing update comply with the goals and policies that are being incorporated into the General Plan through the update. The Project complies with the following guiding principles:
- Create a vibrant downtown that serves as a regional destination for the arts, culture, and entertainment while accommodating residents that live, work, and gather in the city center.
 - Use the existing assets of infrastructure and public facilities to increase infill and re-use, while maintaining important qualities of community character.
 - Protect and replicate the pattern and character of Sacramento's unique and traditional neighborhoods.

The Project complies with the above guiding principles and is not contrary to any of the proposed policies.

The Planning Commission has determined that any remaining significant effects on the environment attributable to the Project which are found to be unavoidable, irreversible or not substantially mitigated are acceptable due to the overriding considerations set forth in this Statement of Overriding Considerations. The Planning Commission has concluded that with all the environmental trade-offs of the Project taken into account, its implementation will represent a net positive impact on the City, and based upon such considerations after a comprehensive analysis of all the underlying planning and environmental documentation, the Planning Commission has approved the Project. Any of the mitigation measures or mitigation proposals which were recommended in the Final EIR or in comments on the Draft EIR, but not incorporated into the Project due to their infeasibility, are infeasible in part because such measures or proposals would impose limitations and restrictions on the Project so as to prohibit the attainment of specific economic, social and other benefits of the Project which this Planning Commission finds outweigh the unmitigated impacts of the Project. The Planning Commission has determined that the three freeway traffic mitigation measures proposed by Caltrans are infeasible for the reasons stated in subsection 5.c. above and that the economic, social and other benefits of the project outweigh its significant and unavoidable impacts to the freeway mainline in the absence of such mitigation measures. In reaching its decision to approve the Project and all related documentation, the Planning Commission has carefully considered each of the unavoidable impacts, each of the impacts that have not been substantially mitigated to the point of insignificance, as well as each of the residual impacts over which there is a dispute concerning the impact's significance and the feasibility of mitigation.

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6. Upon approval of the Project, the City's Environmental Planning Services shall file a notice of determination with the County Clerk of Sacramento County and, if the Project requires a discretionary approval from any state agency, with the State Office of Planning and Research, pursuant to the provisions of CEQA section 21152.

7. Pursuant to Guidelines section 15091(e), the administrative record of these proceedings is located, and may be obtained from, the City of Sacramento Development Services Department, Environmental Planning Services, 2101 Arena Boulevard, Suite 200, Sacramento, CA 95834. The custodian of these documents and other materials is the Development Services Department, Environmental Planning Services.

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Exhibit B

5.0 MITIGATION MONITORING PLAN
 UFGA/EC 1-4-06

500 CAPITOL MALL PROJECT MITIGATION MONITORING PLAN			
Mitigation Measure	Action	Implementing Party	Timing
<p>5.2.1 The following measures shall be incorporated into construction bid documents as recommended by the SMAQMD.</p> <p>(a) The project applicant shall provide a plan for approval by SMAQMD demonstrating that the heavy duty (>50 horsepower) off-road vehicles to be used in the construction project, including owned, leased, and subcontractor vehicles, shall achieve a project wide fleet average 20 percent NO_x reduction and 45 percent particulate reduction compared to the most recent CARB fleet average at time of construction.</p> <p>(b) The following measures shall be incorporated into construction bid documents at least one piece of diesel equipment used on the site during the demolition, earthmoving and clearing stages of construction shall be fitted with a level 3 California Air Resources Board verified diesel emission control system.</p> <p>(c) The project applicant and/or contractor shall submit to SMAQMD a comprehensive inventory of all off-road construction equipment, equal to or greater than 50 horsepower, that shall be used an aggregate of 40 or more hours during any portion of the construction project. The inventory shall include the horsepower rating, engine production year, and projected hours of use or fuel throughput for each piece of equipment. The inventory shall be updated and submitted monthly throughout the duration of the project, except that an inventory shall not be required for any 30-day period in which no construction activity occurs. At least 48 hours prior to the use of subject heavy-duty off-road equipment, the project applicant and/or contractor shall provide SMAQMD with the anticipated construction timeline, including start date and name and phone number of the project manager and on-site foreman.</p> <p>(d) The project applicant and/or contractor shall ensure that emissions from all off-road diesel powered equipment used on the project site do not exceed 40 percent opacity for more than three minutes in any one hour. Any equipment found to exceed 40 percent opacity (or Ringelmann 2.0) shall be repaired immediately and SMAQMD shall be notified within 48 hours of identification of non-compliant equipment. A visual survey of all in-operation equipment shall be made at least weekly, and a monthly summary of the visual survey results shall be submitted to the SMAQMD throughout the duration of the project, except that the monthly summary shall not be required for any 30-day period in which no construction activity occurs. The monthly summary shall include the quantity and type of vehicles surveyed as well as the dates of each survey.</p>	<p>DEIR Section 5.2 Air Quality Ensure that the project applicant has included required measures in construction bid documents.</p> <p>Ensure that the project applicant has included required measures in construction bid documents.</p> <p>Ensure that the project applicant has submitted equipment inventory to the SMAQMD.</p> <p>Perform a visual survey for equipment emission opacity, prepare monthly report.</p>	<p>Project Applicant</p> <p>Project Applicant</p> <p>Project Applicant/ Project Contractor</p> <p>Project Applicant</p>	<p>Prior to construction activities.</p> <p>Prior to construction activities.</p> <p>Prior to construction activities monthly updates thereafter.</p> <p>Perform weekly surveys and monthly reports.</p>
			<p>Monitoring Party</p> <p>City of Sacramento Development Services Department</p>

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5.0 MITIGATION MONITORING PLAN
UPDATED 1-4-06

500 CAPITOL MALL PROJECT MITIGATION MONITORING PLAN				
Mitigation Measure	Action	Implementing Party	Timing	Monitoring Party
<p>The City of Sacramento Development Services Department shall be immediately notified, and a qualified archaeologist shall develop, as necessary, mitigation measures to reduce archaeological impacts to less-than-significant levels before construction resumes assistance to the Most Likely Descendant, including the excavation and removal of the human remains. The City of Sacramento Development Services Department will be responsible for approval of recommended mitigation as it deems appropriate, taking account of the provisions of state law, as set forth in CEQA Guidelines section 15064.5(e) and Public Resources Code section 5097.98. The project applicant shall implement approved mitigation, to be verified by the City of Sacramento Development Services Department, before the resumption of activities at the site where the remains were discovered. The final improvement plans shall document any discoveries of cultural resources that are developed shall be approved by the City prior to implementation</p> <p>5.3-3</p> <p>If human remains are discovered during any phase of archaeological testing or construction, work shall be suspended immediately within 50 meters (165 feet) of the remains and the City of Sacramento Development Services Department and the Sacramento County Coroner shall be notified immediately. If the remains are determined by the county coroner to be Native American, the Native American Heritage Commission (NAHC) shall be notified within 24 hours, and the guidelines of the NAHC shall be adhered to in the treatment and disposition of the remains. The project applicant shall also retain a professional archaeologist with Native American burial experience to conduct a field investigation of the specific site and consult with the Most Likely Descendant, if any, identified by the Most Likely Descendant, including the excavation and removal of the human remains. The City of Sacramento Development Services Department will be responsible for approval of recommended mitigation as it deems appropriate, taking account of the provisions of state law, as set forth in CEQA Guidelines section 15064.5(e) and Public Resources Code section 5097.98. The project applicant shall implement approved mitigation, to be verified by the City of Sacramento Development Services Department, before the resumption of activities at the site where the remains were discovered.</p> <p>5.3-4</p> <p>Implement Mitigation Measures 5.3-2 and 5.3-3.</p>	<p>Suspend work if any remains are discovered during site work. Comply with notification, investigation and mitigation requirements set forth in MM 5.3-3.</p>	<p>Project Applicant/ Project Contractor</p>	<p>During any phase of archaeological testing, excavation, or construction.</p>	<p>City of Sacramento Development Services Department and the Sacramento County Coroner</p>

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5.0 MITIGATION MONITORING PLAN
UPR# TED 1-4-06

500 CAPITOL MALL PROJECT MITIGATION MONITORING PLAN			
Mitigation Measure	Action	Implementing Party	Monitoring Party
<p>5.5-1 The project applicant shall submit to the City of Sacramento Solid Waste Division a construction and demolition diversion plan that targets cardboard, wood waste, scrap metal, brick, concrete, asphalt, and dry wall for recovery. As part of this diversion plan, the applicant shall submit to the Solid Waste Division the following information: method of recovery, hauler information, disposal facility, diversion percentage, and weigh tickets documenting disposal and diversion.</p>	<p>DEIR Section 5.5 Public Utilities and Services Prepare and submit a construction and demolition diversion plan</p>	Project Applicant	City of Sacramento Solid Waste Division
<p>5.6-1 (a) Intersection of 3rd Street / J Street – Modify the traffic signal phase splits during the a.m. peak period by increasing the phase time for the southbound I-5 off-ramp approach (eastbound) to 40 seconds, maintaining the 50 second phase time for the northbound I-5 off-ramp, and decreasing the north and southbound 3rd Street phase time to 10 seconds. The applicant for the proposed project shall pay a fair share to recover the costs for the City's Traffic Operation Center monitoring and retiming of this intersection.</p> <p>(b) Intersection of 3rd Street / L Street – Modify the westbound approach to provide one left-turn lane, two through lanes (to the northbound I-5 on-ramp), and one right-turn lane. The applicant shall pay fair share toward the City project to improve and re-stripe the intersection.</p> <p>(c) Intersection of 3rd Street / P Street – Modify the traffic signal phase splits during the p.m. peak period by increasing the signal phase time to 32 seconds for the westbound P Street approach and decreasing the southbound 3rd Street approach to 18 seconds. The applicant for the proposed project shall pay a fair share to recover the costs for the City's Traffic Operation Center monitoring and retiming of this intersection.</p> <p>(d) Intersection of 15th Street / J Street – Modify the traffic signal phase splits during the p.m. peak period by increasing the phase time for the eastbound J Street approach to 30 seconds, and decreasing the southbound 15th Street signal phase time to 20 seconds. The applicant for the proposed project shall pay a fair share to recover the costs for the City's Traffic Operation Center monitoring and retiming of this intersection.</p>	<p>DEIR Section 5.6 Transportation and Circulation City of Sacramento modify signal phases at intersection of 3rd Street/J Street as described in MM 5.6-1(a) and Project Applicant pay fair share.</p> <p>Modify westbound approach to provide one left-turn lane, two through, and one right-turn lane at intersection of 3rd Street/J Street as described in MM 5.6-1(b) and pay fair share.</p> <p>Modify signal phases at intersection of 3rd Street/P Street as described in MM 5.6-1(c) and Project Applicant pay fair share.</p> <p>Modify signal phases at intersection of 15th Street/J Street as described in MM 5.6-1(d) and Project Applicant pay fair share.</p>	<p>Project Applicant/City of Sacramento Department of Transportation</p>	<p>City Development Services Department and City Department of Transportation</p> <p>City Development Services Department and City Department of Transportation</p> <p>City Development Services Department and City Department of Transportation</p> <p>City Development Services Department and City Department of Transportation</p>
<p>5.6-4 Implement Mitigation Measure 5.6-1(a).</p>	See MM 5.6-1(a).	See MM 5.6-1(a).	See MM 5.6-1(a).

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5.0 MITIGATION MONITORING PLAN
UPDATED 1.4.06

Mitigation Measure	Action	Implementing Party	Timing	Monitoring Party
<p>5.6-9 Prior to beginning of construction, a construction traffic management plan shall be prepared by the applicant to the satisfaction of the City traffic engineer, Regional Transit, and any other affected agency</p> <p>5.10-9 (a) At the 3rd Street / J Street intersection, modify the traffic signal phase splits during the a.m. peak period by increasing the phase time for the southbound I-5 off-ramp approach (eastbound) to 40 seconds, maintaining the 50 second phase time for the northbound I-5 off-ramp, and decreasing the north and southbound 3rd Street phase time to 10 seconds. The project applicant shall pay a fair share to recover the costs of the City's Traffic Operation Center monitoring and reliming of this intersection</p> <p>(b) At the 3rd Street / L Street intersection, modify the westbound approach to provide one left-turn lane, two through lanes, (to the northbound I-5 off-ramp), and one right-turn lane. The project applicant shall pay a fair share to recover the costs of the City's Traffic Operation Center monitoring and reliming of this intersection</p> <p>(c) At the 3rd Street / N Street intersection, modify the traffic signal phase splits during the a.m. peak period by increasing the southbound 3rd Street signal phase time to 34 seconds, decreasing the eastbound N Street approach to 15 seconds, and maintaining the phase time for the eastbound Tower Bridge approach at 21 seconds. The project applicant shall pay a fair share to recover the costs of the City's Traffic Operation Center monitoring and reliming of this intersection</p> <p>(d) At the 3rd Street / P Street intersection, modify the traffic signal phase splits during the peak period by increasing the signal phase time to 30 seconds for the westbound P Street approach and decreasing the southbound 3rd Street approach to 18 seconds. The project applicant shall pay a fair share to recover the costs of the City's Traffic Operation Center monitoring and reliming of this intersection</p>	<p>Prepare and submit construction traffic management plan as described in MM 5.6-9.</p> <p>Modify signal phases at intersection of 3rd Street / J Street as described in MM 5.10-9(a).</p> <p>Modify westbound approach to provide one left-turn lane, two through lanes, and one right-turn lane at intersection of 3rd Street / L Street as described in MM 5.6-1(b).</p> <p>Modify signal phases at intersection of 3rd Street / N Street as described in MM 5.6-1(c).</p> <p>Modify signal phases at intersection of 3rd Street / P Street as described in MM 5.6-1(d).</p> <p>Applicant pay fair share.</p>	<p>Project Applicant/City of Sacramento Department of Transportation</p>	<p>Prior to beginning of construction</p> <p>Prior to construction and prior to project occupancy</p>	<p>City Development Services Department and City Department of Transportation</p> <p>City Development Services Department and City Department of Transportation</p> <p>City Development Services Department and City Department of Transportation</p> <p>City Development Services Department and City Department of Transportation</p>

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ENCLOSURE LOCALS TO PROJECT MAP - REV 09/04/06

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5.0 MITIGATION MONITORING PLAN
UPDATED 1-4-06

500 CAPITOL MALL PROJECT MITIGATION MONITORING PLAN		Monitoring Party	Timing	Implementing Party	Action
(e)	<p>Mitigation Measure</p> <p>At the 5th Street / I Street intersection, modify the traffic signal phase splits during the p.m. peak period by increasing the signal phase time to 28 seconds for the westbound I Street approach and decreasing the northbound and southbound 5th Street approaches to 42 seconds. The project applicant shall pay a fair share to recover the costs of the City's Traffic Operation Center monitoring and retiming of this intersection.</p>	City Development Services Department and City Department of Transportation	Prior to construction and prior to project occupancy.	Project Applicant/City Department of Sacramento Department of Transportation	Modify signal phases at intersection of 5 th Street / I Street as described in MM 5.6-10(a) and Project Applicant pay fair share.
(f)	<p>At the 7th Street / I Street intersection, modify the traffic signal phase splits during the peak period by increasing the signal phase time to 22 seconds for the eastbound I Street approach and decreasing the northbound and southbound 7th Street approaches to 28 seconds. This mitigation measure would improve traffic operations to LOS C during the p.m. peak hour and would reduce the near-term cumulative impact to a less-than-significant level. The project applicant shall pay a fair share to recover the costs of the City's Traffic Operation Center monitoring and retiming of this intersection.</p>	City Development Services Department and City Department of Transportation	Prior to construction and prior to project occupancy.	Project Applicant/City Department of Sacramento Department of Transportation	Modify signal phases at intersection of 7 th Street / I Street as described in MM 5.6-10(f) and Project Applicant pay fair share.
(g)	<p>At the 8th Street / I Street intersection, modify the traffic signal phase splits during the p.m. peak period by increasing the signal phase time to 25 seconds for the westbound I Street approach and decreasing the northbound 8th Street phase time to 25 seconds. The project applicant shall pay a fair share to recover the costs of the City's Traffic Operation Center monitoring and retiming of this intersection.</p>	City Development Services Department and City Department of Transportation	Prior to construction and prior to project occupancy.	Project Applicant/City Department of Sacramento Department of Transportation	Modify signal phases at intersection of 8 th Street / I Street as described in MM 5.6-10(g) and Project Applicant pay fair share.
(h)	<p>At the 9th Street / J Street intersection, modify the traffic signal phase splits during the p.m. peak period by increasing the signal phase time to 28 seconds for the eastbound J Street approach and decreasing the southbound 9th Street signal phase time to 22 seconds. The project applicant shall pay a fair share to recover the costs of the City's Traffic Operation Center monitoring and retiming of this intersection.</p>	City Development Services Department and City Department of Transportation	Prior to construction and prior to project occupancy.	Project Applicant/City Department of Sacramento Department of Transportation	Modify signal phases at intersection of 9 th Street / J Street as described in MM 5.6-10(h) and Project Applicant pay fair share.
(i)	<p>At the 10th Street / J Street intersection, modify the traffic signal phase splits during the p.m. peak period by increasing the signal phase time to 28 seconds for the eastbound J Street approach and decreasing the northbound 10th Street signal phase time to 22 seconds. The project applicant shall pay a fair share to recover the costs of the City's Traffic Operation Center monitoring and retiming of this intersection.</p>	City Development Services Department and City Department of Transportation	Prior to construction and prior to project occupancy.	Project Applicant/City Department of Sacramento Department of Transportation	Modify signal phases at intersection of 10 th Street / J Street as described in MM 5.6-10(i) and Project Applicant pay fair share.
(j)	<p>At the 12th Street / J Street intersection, modify the traffic signal phase splits during the p.m. peak period by increasing the signal phase time to 22 seconds for the eastbound J Street approach and decreasing the 12th Street signal phase time to 28 seconds. The project applicant shall pay a fair share to recover the costs of the City's Traffic Operation Center monitoring and retiming of this intersection.</p>	City Development Services Department and City Department of Transportation	Prior to construction and prior to project occupancy.	Project Applicant/City Department of Sacramento Department of Transportation	Modify signal phases at intersection of 12 th Street / J Street as described in MM 5.6-10(j) and Project Applicant pay fair share.

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5.0 MITIGATION MONITORING PLAN
UNDATED 1-4-06

500 CAPITOL MALL PROJECT MITIGATION MONITORING PLAN		Implementing Party	Timing	Monitoring Party
Mitigation Measure	Action			
and retiming of this intersection (e) 3 rd Street / P Street intersection, implement the near-term Mitigation Measure 5.6-10(d) (modification of signal phase splits). The project applicant shall pay a fair share to recover the costs of the City's Traffic Operation Center monitoring and retiming of this intersection.	See MM 5.6-10(d)	See MM 5.6-10(d)	See MM 5.6-10(d)	See MM 5.6-10(d)
(e) 5 th Street / L Street intersection, modify the traffic signal phase splits during the p.m. peak period by increasing the signal phase time to 30 seconds for the northbound and southbound 5 th Street approaches and decreasing the westbound L Street approach to 70 seconds. The project applicant shall pay a fair share to recover the costs of the City's Traffic Operation Center monitoring and retiming of this intersection.	Modify signal phase splits at intersection of 5 th Street / L Street as described in MM 5.6-10(e) and Project Applicant pay fair share.	Project Applicant/City of Sacramento Department of Transportation	Prior to construction and prior to project occupancy	City Development Services Department and City Department of Transportation
(f) 5 th Street / L Street intersection, implement the near-term Mitigation Measure 5.6-10(e) (modification of signal phase splits). The project applicant shall pay a fair share to recover the costs of the City's Traffic Operation Center monitoring and retiming of this intersection.	See MM 5.6-10(e)	See MM 5.6-10(e)	See MM 5.6-10(e)	See MM 5.6-10(e)
(g) 7 th Street / L Street intersection, implement the near-term Mitigation Measure 5.6-10(f) (modification of signal phase splits). The project applicant shall pay a fair share to recover the costs of the City's Traffic Operation Center monitoring and retiming of this intersection.	See MM 5.6-10(f)	See MM 5.6-10(f)	See MM 5.6-10(f)	See MM 5.6-10(f)
(h) 8 th Street / L Street intersection, implement the near-term Mitigation Measure 5.6-10(g) (modification of signal phase splits). The project applicant shall pay a fair share to recover the costs of the City's Traffic Operation Center monitoring and retiming of this intersection.	See MM 5.6-10(g)	See MM 5.6-10(g)	See MM 5.6-10(g)	See MM 5.6-10(g)
(i) 9 th Street / J Street intersection, implement the near-term Mitigation Measure 5.6-10(h) (modification of signal phase splits). The project applicant shall pay a fair share to recover the costs of the City's Traffic Operation Center monitoring and retiming of this intersection.	See MM 5.6-10(h)	See MM 5.6-10(h)	See MM 5.6-10(h)	See MM 5.6-10(h)
(j) 10 th Street / J Street intersection, implement the near-term Mitigation Measure 5.6-10(i) (modification of signal phase splits). The project applicant shall pay a fair share to recover the costs of the City's Traffic Operation Center monitoring and retiming of this intersection.	See MM 5.6-10(i)	See MM 5.6-10(i)	See MM 5.6-10(i)	See MM 5.6-10(i)
(k) 12 th Street / J Street intersection, modify the traffic signal phase splits during the p.m. peak period by increasing the eastbound J Street approach time to 23 seconds and the southbound 12 th Street and northbound right turn approach signal phase time to 27 seconds. The project applicant shall pay a fair share to recover the costs of the City's Traffic Operation Center monitoring and retiming of this intersection.	Modify signal phase splits at intersection of 12 th Street / J Street as described in MM 5.6-10(k) and Project Applicant pay fair share.	Project Applicant/City of Sacramento Department of Transportation	Prior to construction and prior to project occupancy	City Development Services Department and City Department of Transportation

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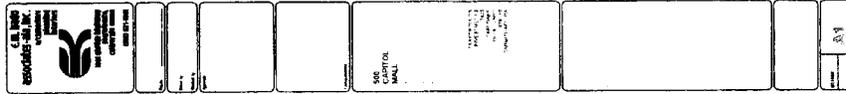
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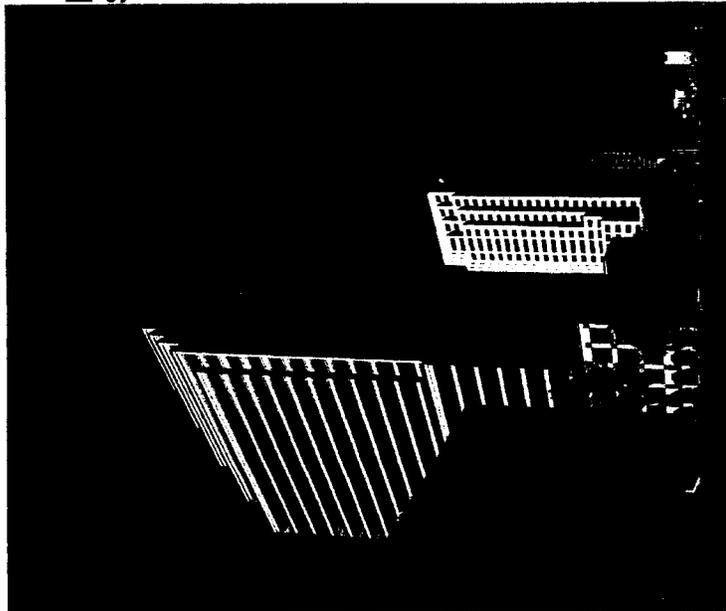
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Exhibit C



**500
CAPITOL
OFFICE BUILDING
SACRAMENTO, CALIFORNIA**



AREA CALCULATION

NO.	DESCRIPTION	AREA (SQ. FT.)	TOTAL AREA (SQ. FT.)
1
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PARKING

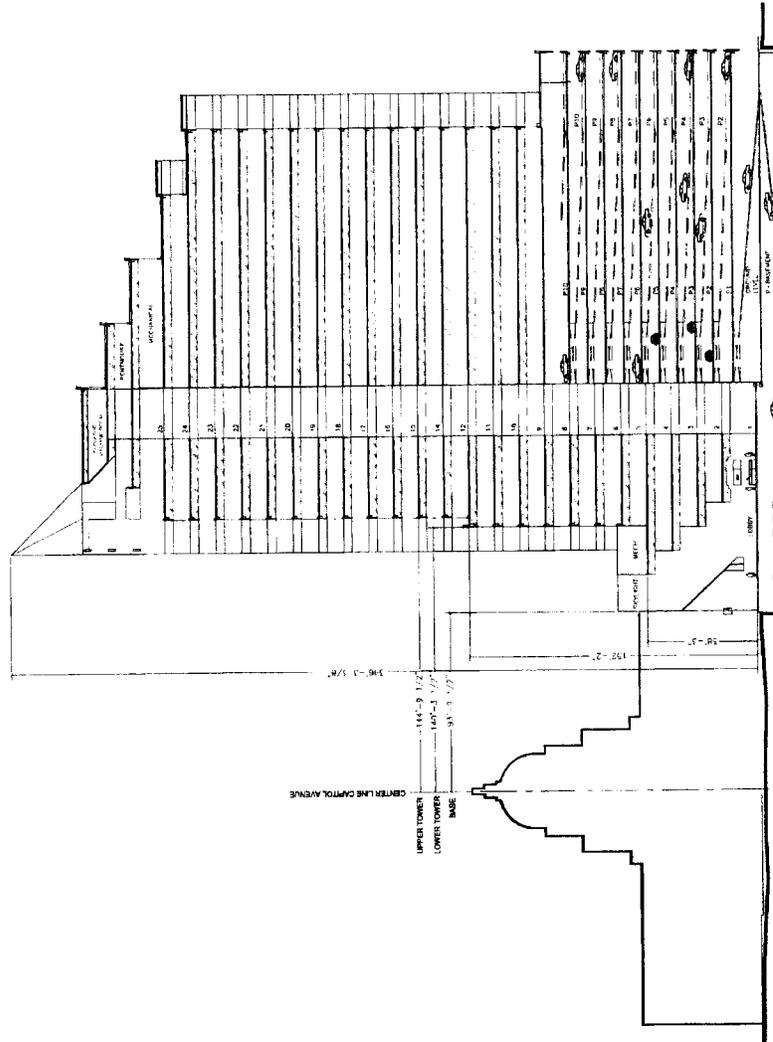
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TOTAL

400,000 SQ. FT. AREA FOR PARKING
PARKING STALLS PROVIDED: 700
PARKING STALLS REQUIRED: 700
EXTRA: 14
BICYCLE PARKING PROVIDED: 400 CLASSES IN RACKS

Subject: 500 Capitol Mall (P05-108)

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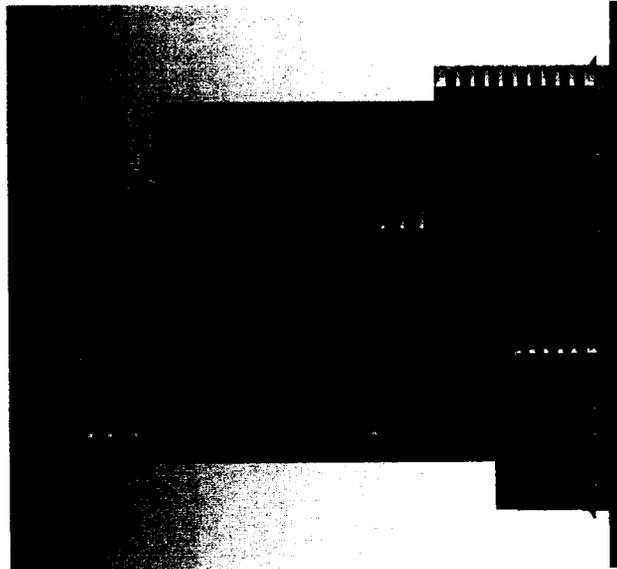
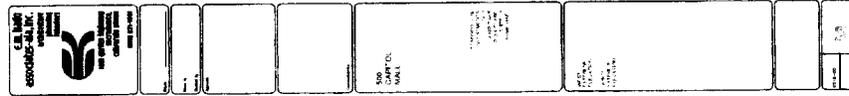
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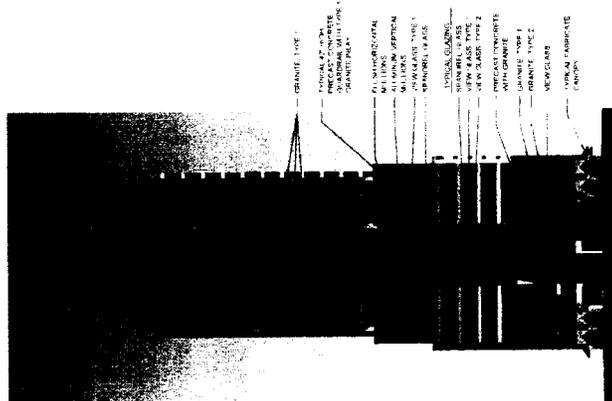
Subject: 500 Capitol Mall (P05-108)

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Exhibit E



WEST ELEVATION



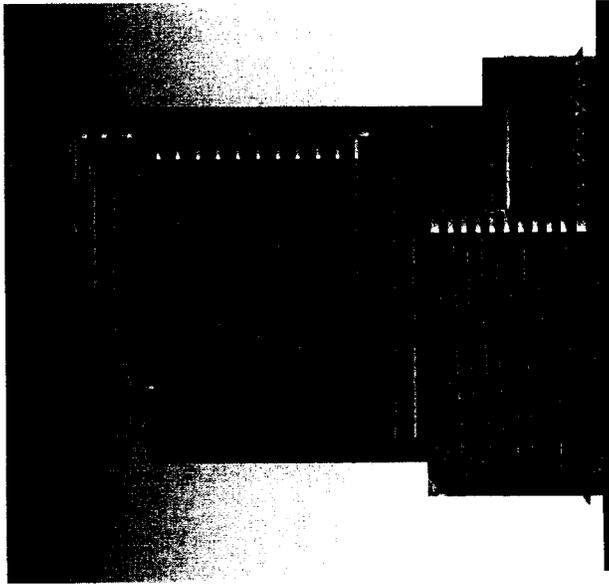
NORTH ELEVATION

Subject: 500 Capitol Mall (P05-108)

December 14, 2006

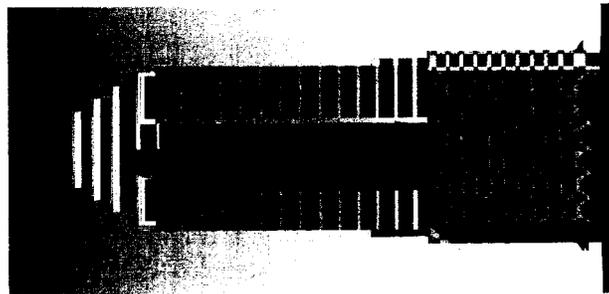
Exhibit F

				500 CAPITOL MALL					
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EAST ELEVATION

NOTE: SEE SHEET AT 1000 CALIFORNIA STREET

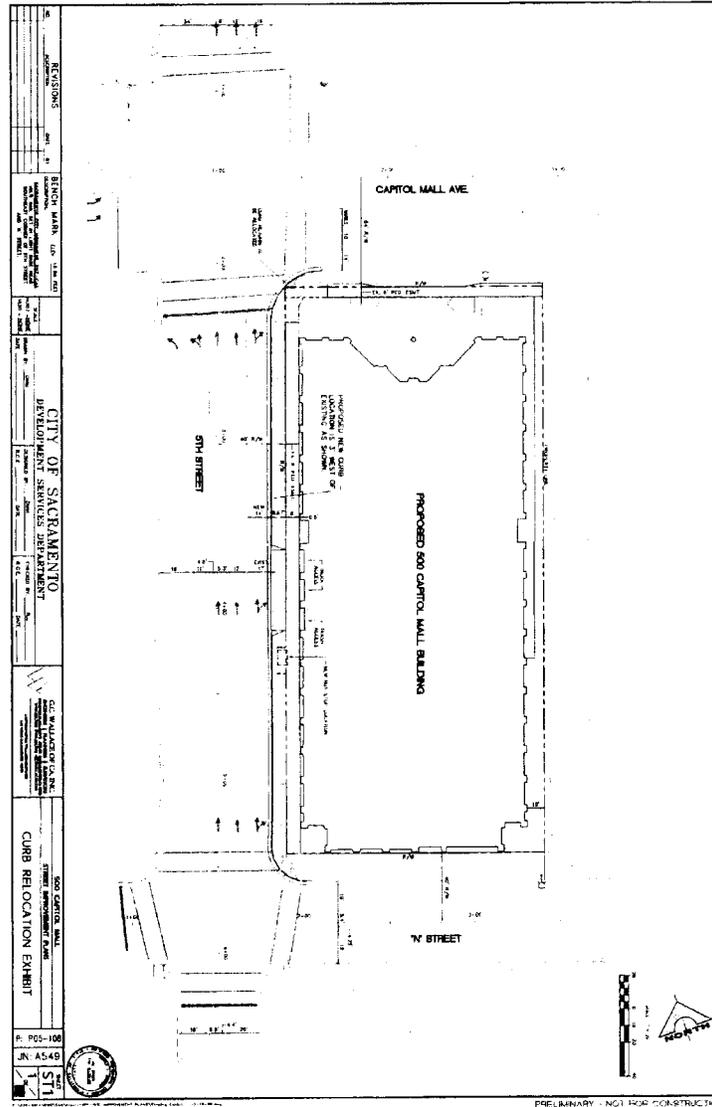


SOUTH ELEVATION

Subject: 500 Capitol Mall (P05-108)

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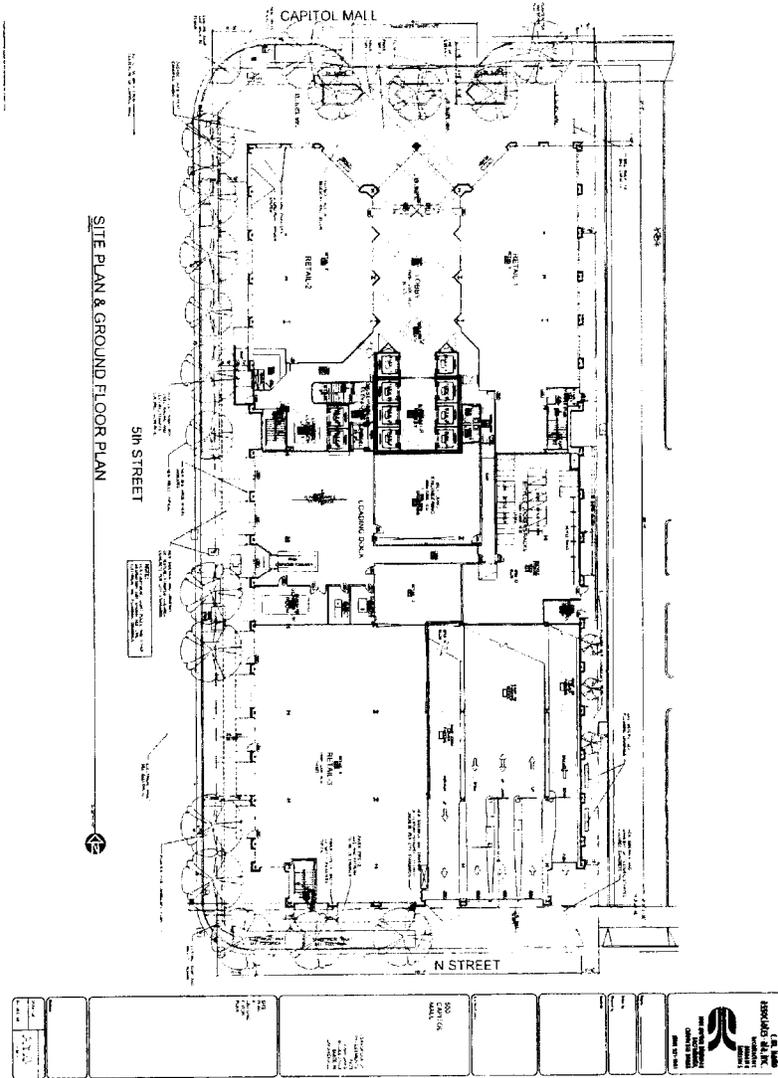
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Subject: 500 Capitol Mall (P05-108)

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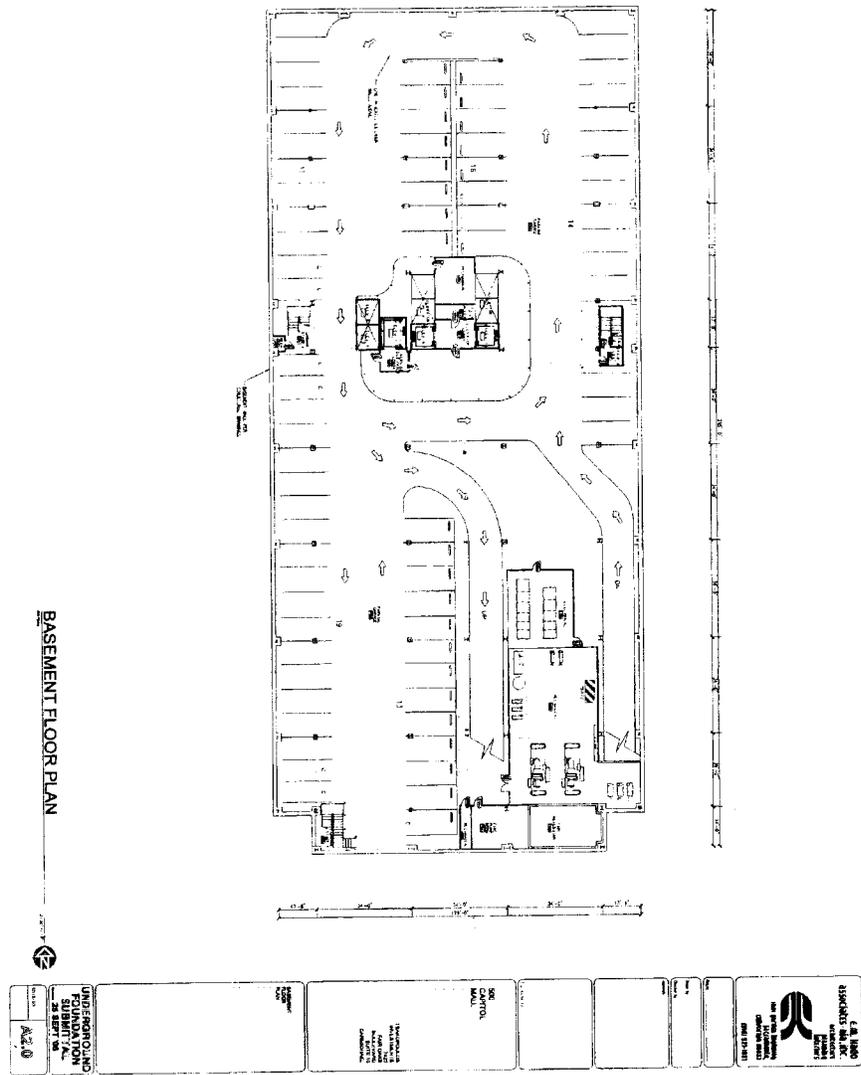
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Subject: 500 Capitol Mall (P05-108)

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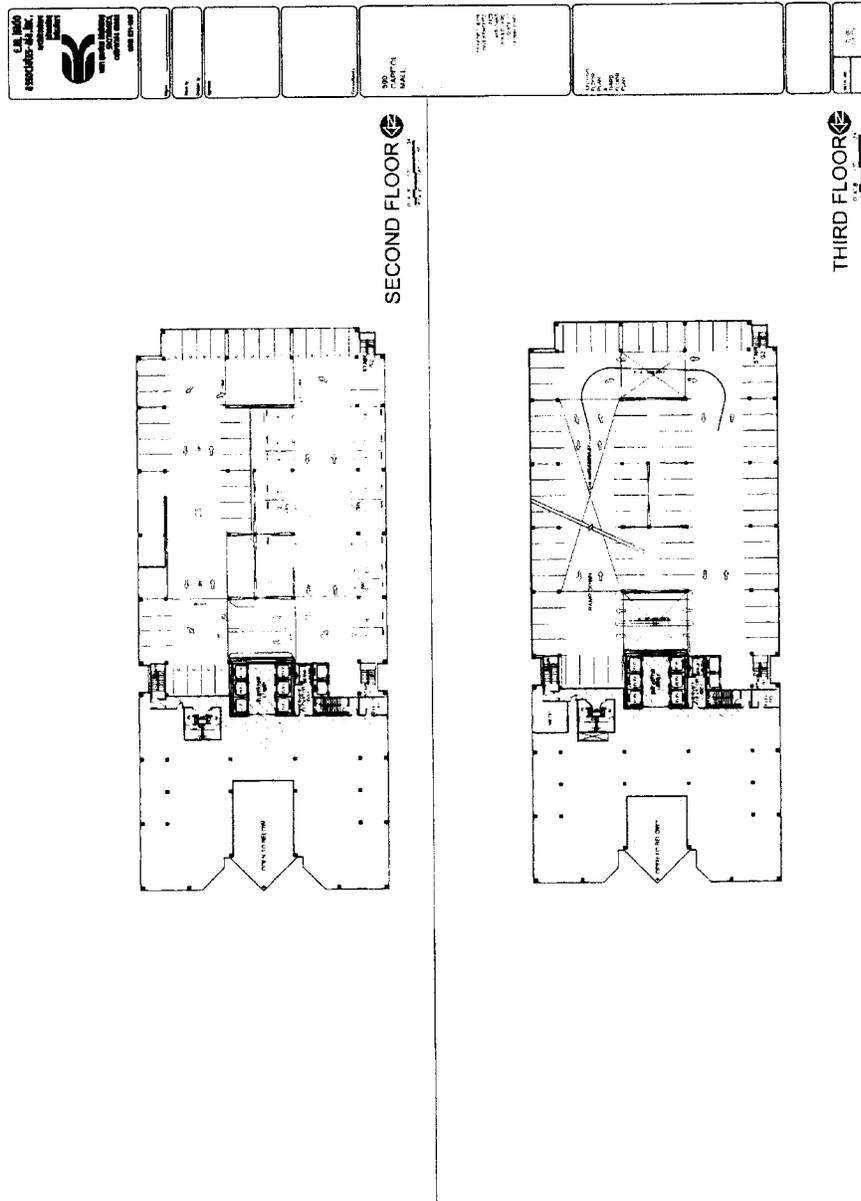
Exhibit I



Subject: 500 Capitol Mall (P05-108)

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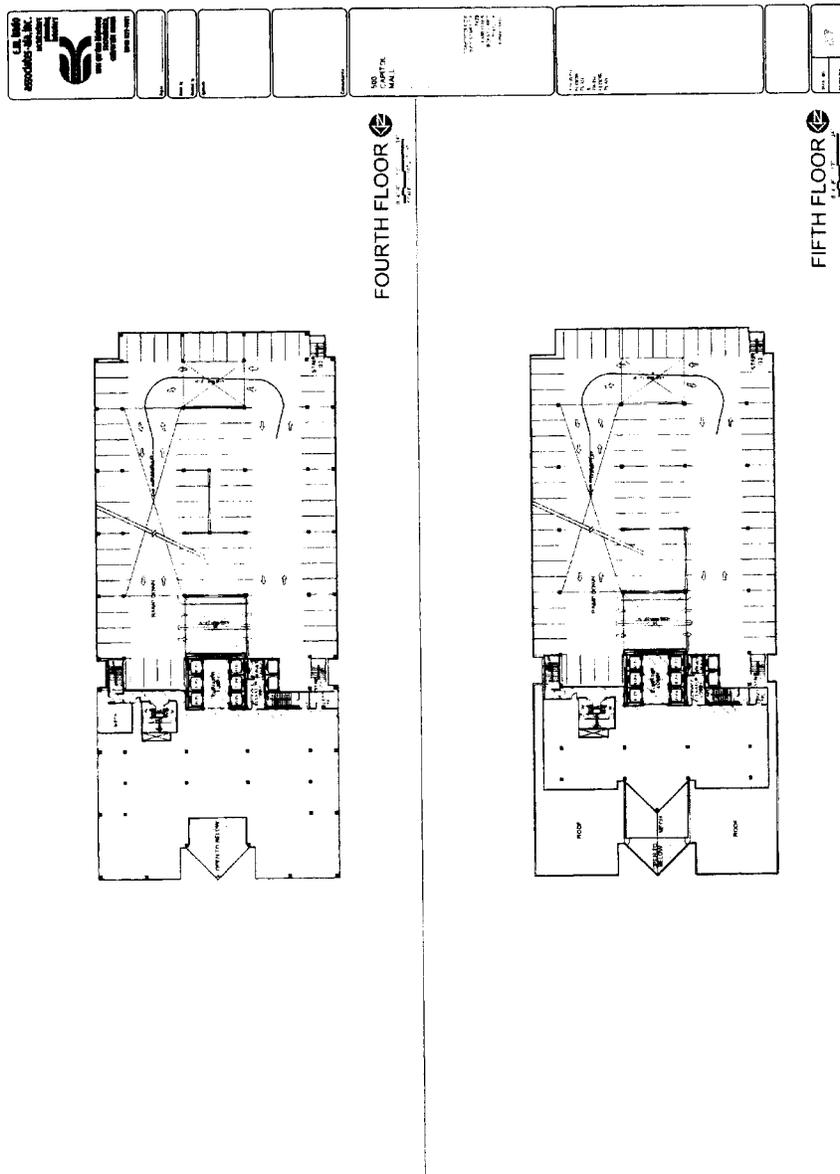
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Subject: 500 Capitol Mall (P05-108)

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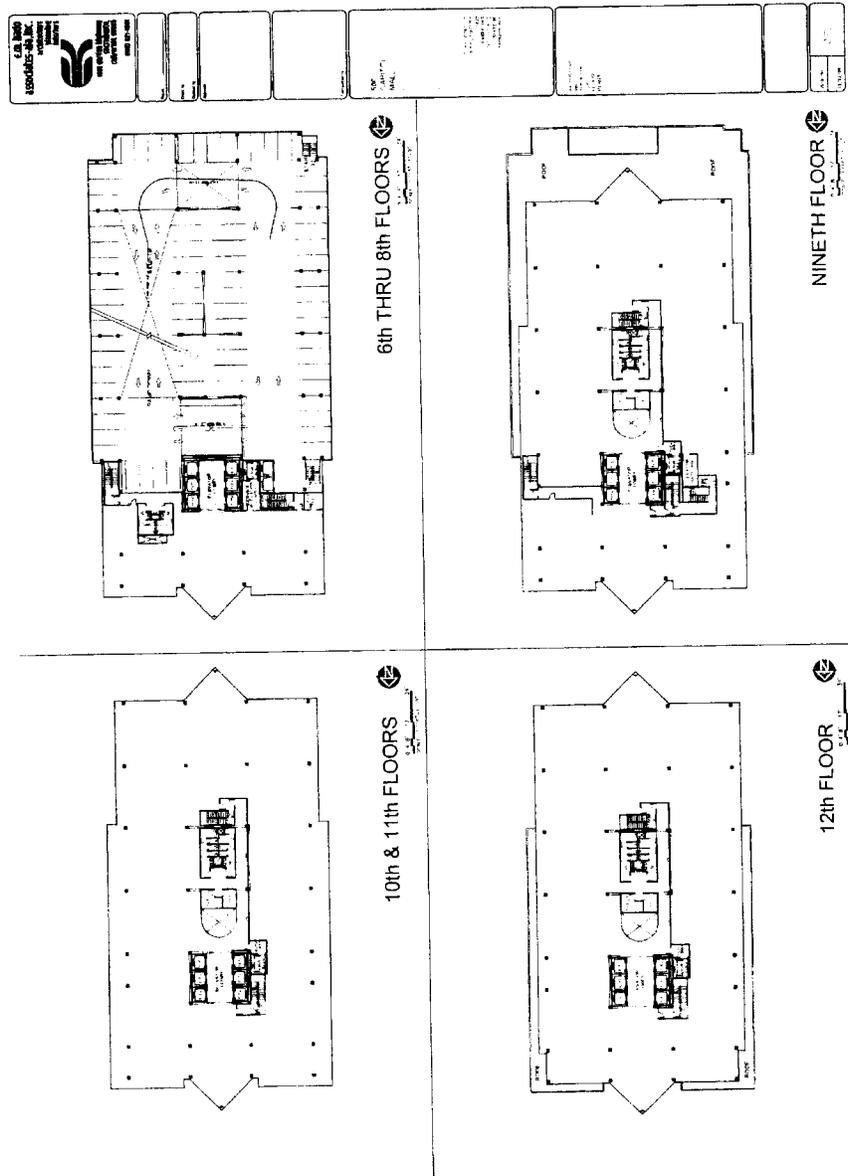
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Subject: 500 Capitol Mall (P05-108)

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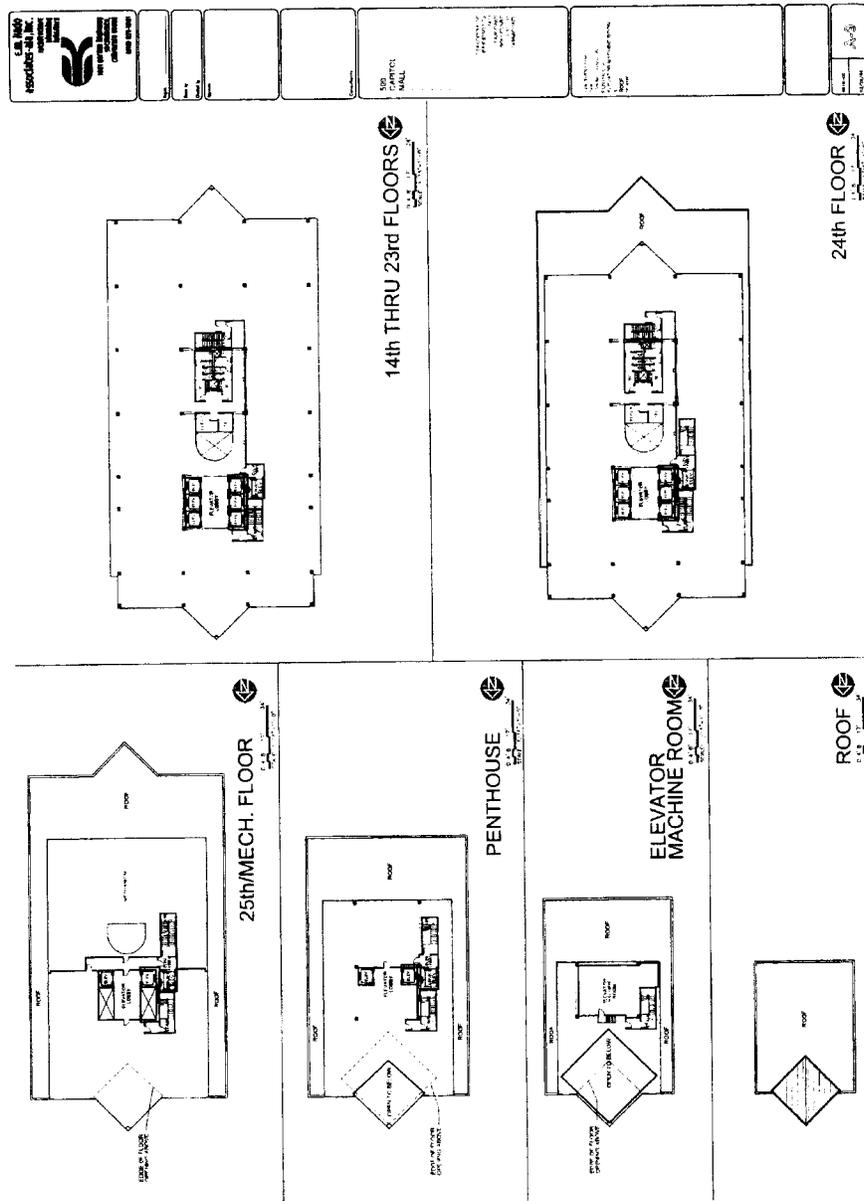
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Subject: 500 Capitol Mall (P05-108)

December 14, 2006

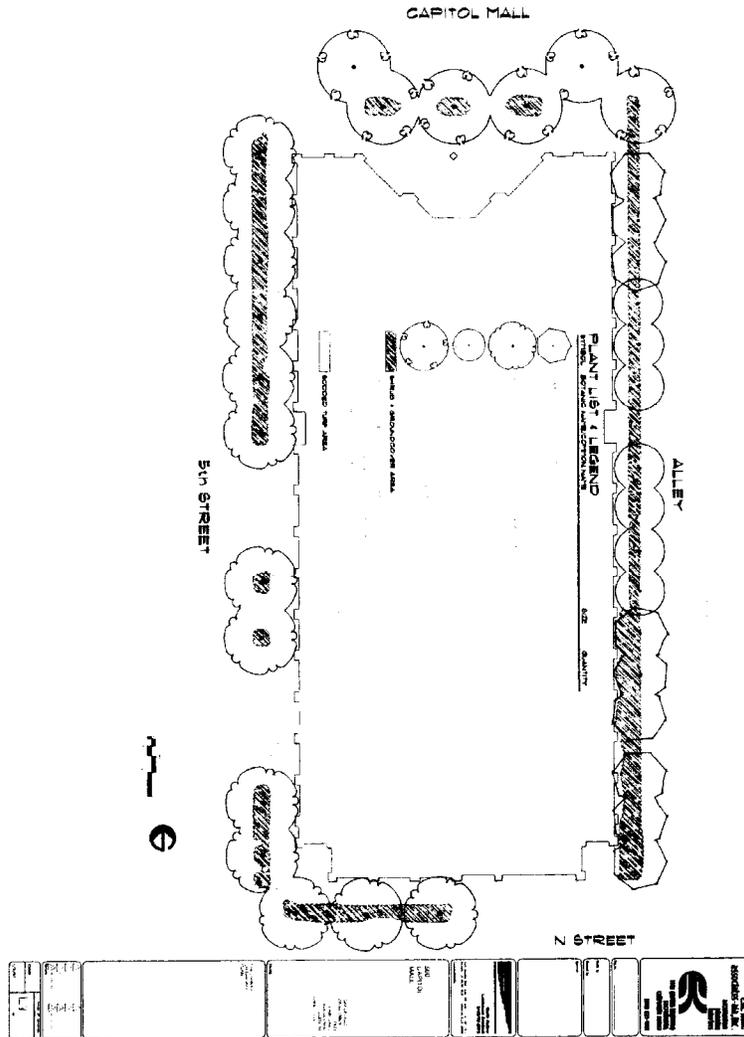
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Subject: 500 Capitol Mall (P05-108)

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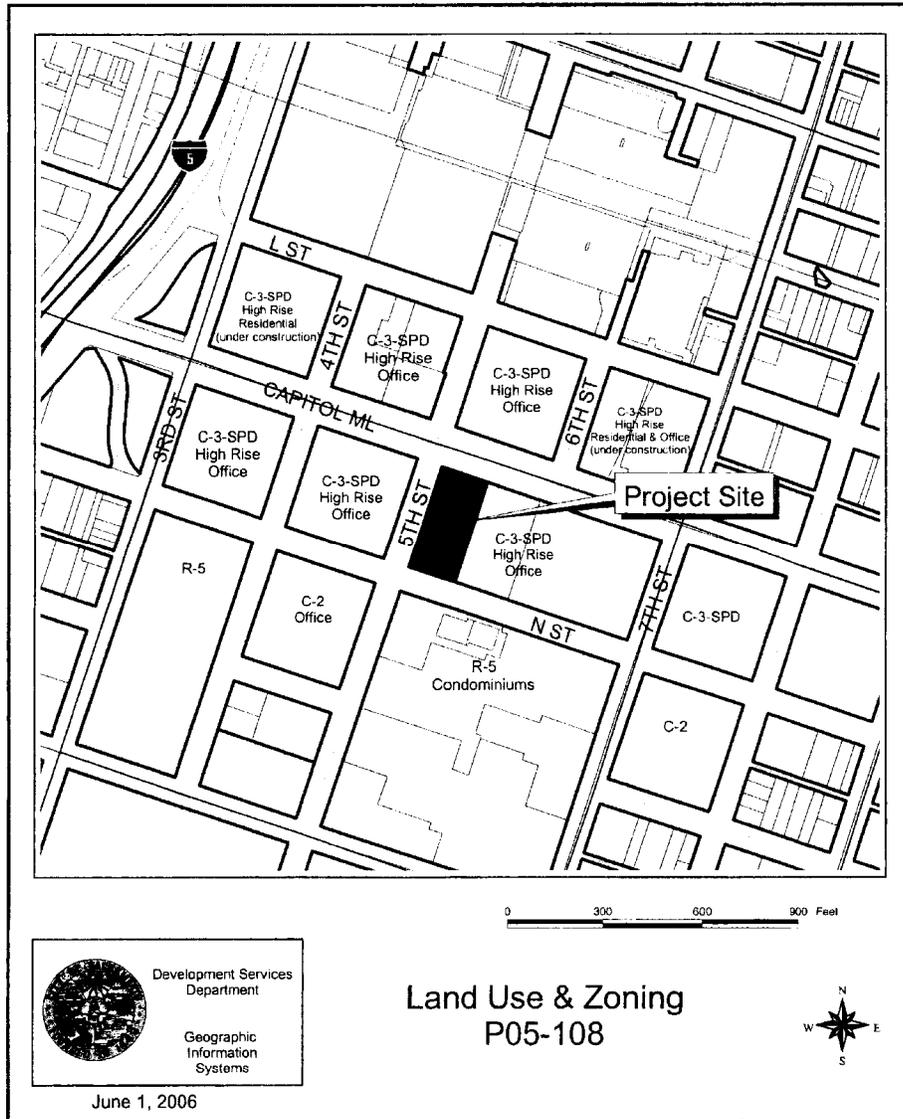
Exhibit N



Subject: 500 Capitol Mall (P05-108)

December 14, 2006

Attachment 2



Subject: 500 Capitol Mall (P05-108)

December 14, 2006

Attachment 3



**REPORT TO
DESIGN REVIEW AND
PRESERVATION BOARD
City of Sacramento**

**HEARING
December 20, 2006**

Honorable Members of the Design Review and Preservation Board:

Subject: 500 Capitol Mall: 25 Story office building with ground floor retail and parking garage.
A request for Board Review and Comment of proposed project in the Central Business District. (DR05-241)

A. Environmental Determination: Environmental Impact Report (EIR);

B. Design Review request to construct 25 story office structure, 396 feet in height at tallest point. The project includes 467,942 s.f. of office, 27,124 s.f. of retail, and 264,353 s.f. of garage and basement. 794 off-street parking spaces will also be provided. The new structure will replace an existing 155,180 square foot building, to be demolished.

Location/Council District/ Design Review District:

500 Capitol Mall

APN: 006-0146-030

Central City Design Review District

Central Business District Special Planning District (C-3-SPD)

Council District 1

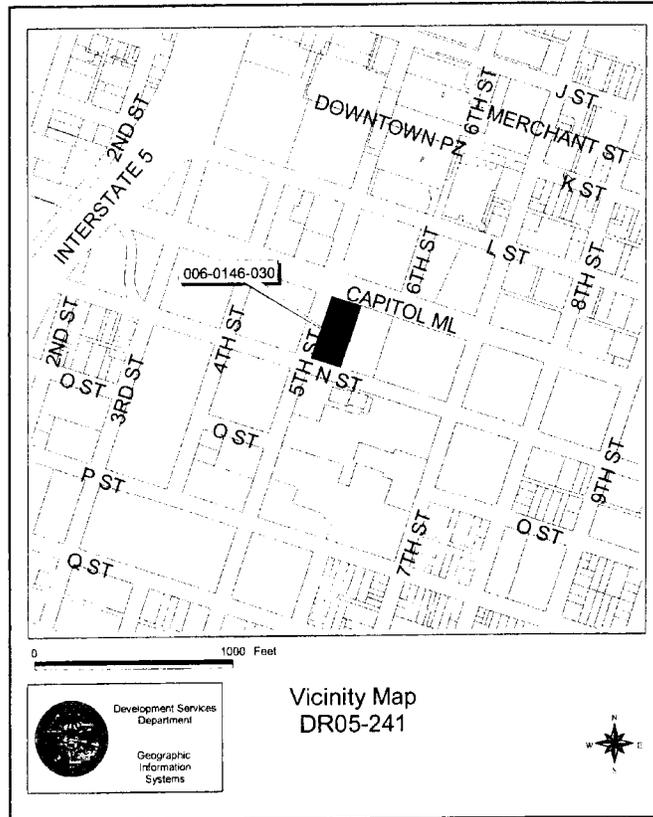
Recommendation: Staff recommends the Board approve the project, based on findings of fact and subject to the conditions of approval. The Board has approval authority over items A and B above, and its decision is appealable to the Planning Commission.

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Contact: Luis R. Sanchez, AIA, Design Review Director, 916-808-5957.

Applicant: E.M. Kado Assoc., AIA, Inc., 1661 Garden Highway, Suite 200, Sacramento, CA 95833, 916-921-1661

Owner: Tsakopoulos Investments, 7423 Fair Oaks Blvd., Suite 10, Sacramento, CA 95814

Summary: This project is also subject to Planning Commission approval, and the EUIR is now completed. The Board will take action on the environmental document as well as the project design. Staff feels that the project is substantially in compliance with the Urban Design Plan for projects in the CBD.

Table 1: Project Information
Existing zoning of site: Central Business District Special Planning District (C-3-SPD)
Existing use of site: Commercial building to be demolished
Property dimensions/area: 328.49' x 150.56' x 328.36' x 150.85'
Building square footage: 467,942 s.f. office/27,124 s.f. retail/264,353 s.f. parking garage and basement areas
Building height: 396 feet to highest point
Exterior building materials: pre-cast concrete, granite, aluminum mullions, blue tint glazing, fabric canopies

Background Information: This project was originally proposed to come before the Board in August of 2005 with a different design scheme. Since that time, the applicant has redesigned the project, lowering the height and increasing floor plates, as well as modifying the building massing and articulation. The Board provided review and comment on May 3, 2006. The Board was generally supported of the proposed project, and requested that the applicant take into consideration the following issues:

1. Provide additional information on landscaping and hardscape treatments, with more specific information on tree species and tree locations.
2. Look at offset glazing to provide more shadow casting and variety in the tower facades at fenestration.
3. Look at the main entry and add more detail and look at bringing glazing to the ground, overall it is understated and could use additional detailing and attention to provide more focus on the entry area.
4. Need more study at the base of the building to ensure good detailing, provide the Board with finer grain details at final review of the project?
5. Look at a more vertical transition between the building base and mid tower design to assist the overall massing of the project.

Public/Neighborhood Outreach and Comments: Staff sent notice of the Board's hearing to adjacent property owners and a number of neighborhood associations on 11/20/06.

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Environmental Considerations: In accordance with CEQA Guidelines, Section 15081, Environmental Planning Services (EPS) determined that an EIR should be prepared for the proposed project. The Draft EIR identified significant impacts for Noise, Cultural Resources, Public Utilities, Traffic and Circulation and Air Quality. Mitigation measures were identified to reduce many project impacts to a less than significant impact. Significant and unavoidable impacts remain for Air Quality, Noise, Traffic and Circulation. **None of the identified impacts involve the Board's design review authority over the project.**

The Draft EIR was prepared and released for a forty-five (45) day public review period, established by the State Clearinghouse, beginning on October 11, 2006 and ending on November 27, 2006. A public notice was placed in the Daily Recorder on October 11, 2006, which stated that 500 Capitol Mall Project Draft EIR was available for public review and comment. A public notice was posted with the Sacramento County Clerks Office on October 11, 2006. A Notice of Availability (NOA) dated October 5, 2006 was distributed to all interested groups, organizations, and individuals on October 11, 2006, for the Draft EIR. The NOA stated that the City of Sacramento had completed the Draft EIR and that copies were available at the City of Sacramento, Development Services Department, Environmental Planning Services, 2101 Arena Blvd., Suite 200, Sacramento, CA 95834. The NOA also indicated that the official forty-five day public review period for the Draft EIR would end on November 27, 2006.

Comment letters on the Draft EIR were received from Sacramento Regional County Sanitation District (SRCSD), California Department of Water Resources (DWR), Sacramento Regional Transit (RT), Larry Micheli, California Department of Transportation (Caltrans), and the Sacramento Metropolitan Air Quality Management District (SMAQMD). The comment letters and responses to comments are included in the Final EIR. The FEIR responds to all comments received on the Draft EIR and revises text and/or analysis where needed.

Project Design: The proposed project is substantially in compliance with the Board's design criteria for projects in the CBD. See analysis of site and building design to follow.

Use	Required Parking	Proposed Parking	Difference
Commercial/ Retail	0	NA	NA
Commercial/ Office	747	794	Plus 47

Total parking provided	Required bicycle parking	Provided bicycle parking	Difference

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80	75	80	Plus 5

As indicated above, the project meets or exceeds parking requirements.

Setbacks, height and bulk

Standard	Required	Proposed	Deviation?
Height	unlimited	396'	no
Front setback	90'-0" @ street-wall	93'-9 1/2" @ street wall	Minor (+ 4')
Side setback	0	4'-10 1/4" to face of wall	no
Street side setback	15'-0" @ street-wall	13'-9 1/2" to face of wall	Minor (<2')
Rear setback	NA	5'-11 5/8" to face of wall	no

As indicated above, the project meets or exceeds all applicable height and area requirements.

STAFF EVALUATION: Staff has utilized the previous review and comment report as a basis for project review by the Board. New information and staff comments are noted in bold, underlined text to assist the Board in project assessment. Staff has the following comments:

A. Site Design

- Building location and access:** The project site is comprised of a little less than 1/4 of the entire block to the south of Capitol Mall and between Capitol Mall, N Street, and 5th Street. The project site lies within the Central Business District. The applicant has placed the new structure in approximately the same location as the existing structure, fronting the site on the three existing street faces. Because there is no alley access, the applicant proposes access to the building's automobile parking garage off of N Street, and loading dock area is proposed along the central portion of 5th Street with retail spaces flanking this street. The main pedestrian entry is to be centered on the Capitol Mall building face. **A drop-off area has been incorporated to facilitate the retail/restaurant uses and alleviate any traffic issues on Capitol Mall.** Because the parcel

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is narrow, it becomes difficult to locate auto and dock access. The applicant has divided the functions on 2 streets to minimize impact on N Street. In addition to integrating these areas into the overall exterior design scheme, special attention must be given to the interior walls in these areas that are visible to pedestrians. Staff also notes that all trees along the 3 sides of the existing site (including 2 street faces) are shown for removal. Trees along 5th Street and N Street are currently outside of the property dimensions and are within the public right of way space. The applicant shall provide information on existing and proposed street trees, including space allowed for canopy growth. The applicant is making every attempt to save existing trees while working with Development Engineering on underground vault locations and coordinating with Urban Forest staff. Where trees are not possible, other means of providing landscaping and pedestrian friendly amenities will be utilized. The site design relates well with similar buildings within the surrounding blocks. Samples of the proposed decorative paving at walkways and plaza shall be provided for Board review.

2. **Setbacks and Pedestrian Protection:** The City Zoning Ordinance does not require specific building setbacks in the C-3-SPD zone; however, the *Sacramento Urban Design Plan*, 5.5.1. *Capitol Mall Massing Guidelines* recommend a 90' setback from the centerline of Capitol Mall to the street wall and a 140' setback from the centerline of Capitol Mall to the tower. Additionally, the guidelines recommend a 15'-0" building street wall setback on the side street (5th street). There is no recommendation for N Street within the Urban Design Plan. The Maximum Tower Diagonal is shown as Not Applicable in the design guidelines.

At the street level, the proposed building is set back 93'-9 1/2" from the centerline of Capitol Mall and that dimension is to the street wall of the proposed new structure. The tower is pushed back the additional 51' toward N Street. Along 5th Street, the building is set back 13'-9 1/4" to the weather wall (with pilasters 11'-6" + /- clear to the property line). The CBD Guidelines call for 15'-0" for street side setback, so at the face of the wall it is shy just under 2 feet. Along the property line between this proposal and the adjacent one, the applicant is showing a 5'-1 1/8" setback to the weather wall. Along N Street at street level, the applicant is showing a 1'- 0 3/4" setback to the weather wall.

The applicant has provided pedestrian protection along the various street edges with the proposal of canopies.

Section 5.2.2.1 Ground Level of the Sacramento Urban Design Plan states:

- *Recessed pedestrian-way or equivalent pedestrian protection design elements should be incorporated along a major portion of the building base, parallel to public streets, to provide pedestrian shelter during summer and winter months.*
- *Recessed pedestrian-ways should be wide enough to allow for efficient pedestrian movement, and provide sufficient space for potential outdoor café dining and vendors.*
- *Height of recessed pedestrian-ways and arcades should support and enhance pedestrian scale.*

Section 7.0 Pedestrian Edge states:

All new developments are encouraged to incorporate design elements that enhance the pedestrian environment. Due to hot summer temperatures and heavy winter rains, the incorporation of colonnades, arcades, awnings, canopies and other pedestrian protection should be designed into the new construction as architectural elements, or adapted to existing structures

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Section 5.0 of the massing guidelines for the C3 area include more specific design criteria and "step backs" from property lines for the street wall, the lower tower and the upper tower, plus maximum diagonal dimensions for towers. Section 5.5.1 Capitol Mall Massing district guidelines are more general in nature and have been developed as general massing requirements. These are designed to complement the policy specific to the Capitol Mall. Since this project lies within the Capitol Mall Massing District, the only setback guideline not being met by the applicant appears to be the 15' setback to the street-wall on the street side, or 5th Street (for specific street wall height, see B.9. below). The Board should review and comment on this issue and, also, on the pedestrian protection issue stated above. In addition, space for mature street trees must be provided. The Board was comfortable with this approach and supported the setback and step backs for this urban setting. Staff is also in support of the proposal.

3. **Project parking.** The total parking requirement for the project is 747 spaces, while the parking proposed for on site is 794, or 47 additional spaces. The design guidelines section 9.0 recommends that access to a garage should be located on the alley, not the street where feasible. Further, the garage opening should be softened and the entry gates must be set back at least 20' from the property. The proposal places two garage entrances, one on 5th Street for loading and another on "N" Street for parking garage access. Staff believes that the intent of the urban design plan is to keep vehicular entrances to a minimum where possible to strengthen street edges and create a more pedestrian friendly environment. The applicant has been in contact with other City departments on these placements, and should provide the Board and staff their design rationale for placement. The Board is requested to review and comment on this issue and provide specific comments on placement and treatment. Given the restrictions on this project, staff supports the proposed garage opening locations, with the surfaces visible from street views to receive treatment comparable with and complementary to the exterior skin.
4. **Landscaping and Hardscape.** Section 11.0 of the design guidelines states clearly Sacramento's desire to both retain existing shade trees, and also to add new large shade trees where possible, within the central core area. The proposed project's landscape document illustrates three existing shade trees to remain along Capitol Avenue, but is also showing removal of all other existing street trees along 5th Street and N Street. The applicant should be prepared to discuss his plans and reasoning with the Board for removal of so many existing trees within the public right of way. Staff recommends careful review of the proposed landscape plan by the Board's landscape architect. A plaza area is proposed on Capitol mall, with decorative paving patterns proposed at the sidewalk areas around the structure. Staff recommends that proposed detailing and information be provided by the applicant at the meeting. Tree locations have been modified to allow for underground vaults, and to allow the new drop-off on Capitol Mall. Revised plans shall be provided for review by the Board at the hearing.
5. **Signage.** Section 7.7 of the guidelines states that new developments should consider a signage program during the building design phase to ensure compatibility with the architectural style of the building. Signage should be appropriate in location, design and materials to the building. Staff recommends that the applicant provide a preliminary signage program for the building for discussion with the Board at the hearing.

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Staff will coordinate final program with the applicant.

6. **Service Access/Trash storage.** Section 8.0 of the design guidelines provides guidance for service and waste storage and states the following: For major projects, trash storage facilities, loading docks, mail rooms and other service related functions should be located within the interior space. Truck parking for pick-up and deliveries should be provided on the following ratio: 1 truck parking space (12' x 37' and 19' high clearance) per 100,000 gross square feet (g.s.f.) of building space. The façade around the service opening should be treated in a decorative manner. Appropriate treatment of these service and auto access openings is critical since they form part of the street wall. The applicant should provide information on any proposed doors at the dock area with appropriate design and material for doors, and provide architectural treatments commensurate with exterior wall treatments proposed for both locations. Information on door materials, colors, and design should be provided to the Board for final review at the hearing.
7. **Bicycle Parking and Storage.** The project will be required to provide bicycle parking per City Code requirements. The location of the interior bicycle parking has been illustrated and appears to be adequate.
- Section 10.0 of the Architectural Design Guidelines of the Urban Design Plan states that the "Bicycle locker facilities should be located within the interior of the building. Access for bicycle commuters should be located at the rear of the building, if possible."
 - Section 10.0 of the Urban Design Plan also states that the "Decorative short term bicycle parking racks should be provided on site, near the front entry of the building."

The applicant should provide the Board with the final proposed location and design of all bicycle parking for final review at the hearing.

8. **Exterior lighting.** Section 7.6 of the Architectural Design Guidelines gives an outline for lighting in order to enhance both the building, and also to provide nighttime security. A lighting plan with light fixtures should be provided for staff and the Board's review. A nighttime lighting rendering showing the lighting intent is also typically called for in all major projects. The applicant should provide the Board with a night time rendering as well as proposed lighting locations and light fixture design and colors for final review at the hearing.
- B. Building Design**
9. **Massing and Street Wall Heights.** The proposed building appears to have all of the typical massing components comprised of Base or Street Wall, Lower Tower and Upper Tower. The North elevation presents a 60' high street wall that then steps back to the Lower Tower; then again steps back 5' to the Upper Tower. An angled glass element is dominant on this façade with curtain wall glazing flanking. The angled element continues to the building top, ending with an angled peak against the skyline. The West elevation has the Capitol Mall street wall returning around the corner at 5th Street and abutting the parking garage component. The garage is approximately 55 to 60 feet above the Capitol Mall street wall and proposed to be fully glazed and treated as other exterior walls. The middle and upper tower rise above that, with stepping masses leading to the angled peak. The South elevation on N Street has the parking garage mass wrapping the corner

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with middle and upper towers above stepping to the peak. Finally, the East elevation abutting the adjacent property wraps the parking garage around, then steps back to the street wall at Capitol Mall, with lower and middle towers above, stepping to the peak.

As noted, the Street Wall does not continue around the entire building at the same level, but comes up at 5th Street and N Street to accommodate the 10 level parking garage. The Urban Design Plan in *sections 4.0 Building Component Definitions and section 5.5.1 Capitol Mall Massing Guidelines* clearly shows the building Base, or Street Wall height, continuing straight along the street front and also along the two side street walls as well as along the rear, see "corner condition diagram in attachment 5 section 5.5.1". Staff feels that given the narrow site, it is an acceptable solution, in conjunction with appropriate wall treatments at the pedestrian level.

10. **Color Texture and Materials.** Materials and color boards have been submitted for review and comment. The exterior material proposed is two warm colors of granite, with a warm tone pre-cast concrete at upper towers. Blue tinted glazing and spandrel glass are also proposed. Guidelines typically ask for clear glazing where possible, which would be most appropriate at ground floor retail. Final colors and materials board should be proceed to the Board for final review at the hearing.

For reference, section 6.0 of the design guidelines recommends compatibility with the surrounding structures and high quality and durable materials like natural stone or terra cotta. Tower materials are recommended to be terra cotta, pre-cast, gfrc etc. *Highly reflective mirror glass walls as the primary design element should be avoided.* Staff feels the color and material palette presented previously to the Board is appropriate.

Building Rhythm. Section 6.3 of the Sacramento Urban Design Plan states that *Building rhythm relates to the horizontal and vertical patterns expressed by cornices, columns, fenestration or variation in massing.* It goes on to state that *New developments should respect building rhythms of adjacent buildings on the same block face* and that *Facades should employ several related rhythms and avoid repetition of one or very few elements at all levels.* Staff feels that the applicant should review proposed fenestration and articulation at each façade to provide a variety of opening types, both punch and curtain wall. Staff also feels that the applicant should explore adding more vertical articulation, particularly on the west and east elevations to avoid a monotonous "ribbon window" appearance. Additional larger scale details indicating how the windows will be detailed, recessed, or otherwise articulated should be provided for staff and Board review. Staff recommends that the Board review and comment on the rhythm of the different facades proposed. Additional information and details should be provided to the Board and staff on treatment at cornice lines. Exterior elevations with the approach selected by the architect will be presented at the hearing for the Board's final action. Staff feels that this building fits in with the context of buildings in the vicinity.

11. **Offsets, Insets and Reveals.** Staff feels that the proposal does exhibit an adequate amount of offsets, insets and reveals. The Board had requested that the applicant look at location of glazing relative to the frame to allow for shadow casting elements.

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12. **Pedestrian Edge and Environment.** The design guidelines section 7.0 encourages all new development to incorporate design elements to enhance the pedestrian environment. The applicant proposes fabric awnings at the three street elevations. Although staff felt that the caliber of this building and its prominent location on Capitol Mall necessitated a more substantial approach to canopy treatments, the Board supported the use of canvas awnings. The use of granite banding along the new public sidewalks is supported by the Board and staff.
13. **Building Top.** Section 5.2.2.8 of the Sacramento Urban Design Guidelines states the following; *the design of building tops may be approached in one of two ways for new developments and projects exceeding 150' in height.*

1. *The structure may have a flat building top to accommodate an emergency helicopter.*
2. *a three dimensionally designed building top such as stepped back, pyramidal, towered, and domed, etc. may be provided.*

Either design alternative should provide a decorative and distinctive cap to the building. All mechanical equipment should be screened by means of an enclosed penthouse or equivalent design solution. Tele-communication transmission and receiving equipment cannot be located on the exterior of a building rooftop. Incorporate tele-communication equipment in an integrated manner into the architectural design of the rooftop or penthouse. Section 5.3.2.6 (for minor projects) goes on to state the following:

All mechanical equipment must be screened from view by means of an enclosed penthouse or equivalent integrated design solution. The design and materials of mechanical equipment enclosure must be integral to the main building.

The functional use of roof tops for recreational, restaurant, day-care, etc. use is encouraged. Adherence to health, safety, and fire codes to achieve functional use of rooftops should be accomplished in a visually compatible manner to the overall architectural design.

The proposed building top is an extension of the glass element, ending in an angled element coming to a peak. Staff and the Board felt that the top integrates with the proposed building tower and base design and will fit well into the Sacramento skyline.

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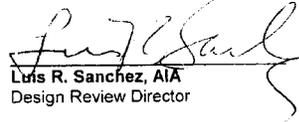
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Respectfully Submitted by:


Luis R. Sanchez, AIA
Design Review Director

Report Reviewed by:

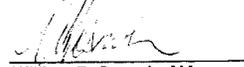

William R. Crouch, AIA
Urban Design Manager

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Pg 21	Design Concept Letter

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Proposed Findings and Conditions
Findings Of Fact

A. Environmental Determination: EIR

1. The Design Review and Preservation Board of the City of Sacramento finds as follows:

Based on the initial study conducted for 500 Capitol Mall Project, SCH # 2005112038, (herein after the Project), the City of Sacramento's Environmental Planning Services determined, on substantial evidence, that the Project may have a significant effect on the environment and prepared an environmental impact report ("EIR") on the Project. The EIR was prepared, noticed, published, circulated, reviewed, and completed in full compliance with the California Environmental Quality Act (Public Resources Code §21000 *et seq.* ("CEQA"), the CEQA Guidelines (14 California Code of Regulations §15000 *et seq.*), and the City of Sacramento environmental guidelines, as follows:

a. A Notice of Preparation of the Draft EIR was filed with the Office of Planning and Research and each responsible and trustee agency April 13, 2006 and was circulated for public comments from April 13, 2006 through May 12, 2006.

b. A Notice of Completion (NOC) and copies of the Draft EIR were distributed to the Office of Planning and Research on October 11, 2006 to those public agencies that have jurisdiction by law with respect to the Project, or which exercise authority over resources that may be affected by the Project, and to other interested parties and agencies as required by law. The comments of such persons and agencies were sought.

c. An official 45-day public comment period for the Draft EIR was established by the Office of Planning and Research. The public comment period began on October 11, 2006 and ended on November 27, 2006.

d. A Notice of Availability (NOA) of the Draft EIR was mailed to all interested groups, organizations, and individuals who had previously requested notice in writing on October 11, 2006. The NOA stated that the City of Sacramento had completed the Draft EIR and that copies were available at the City of Sacramento, Development Services Department, New City Hall, 915 I Street, Third Floor, Sacramento, California 95814. The letter also indicated that the official 45-day public review period for the Draft EIR would end on November 27, 2006.

e. A public notice was placed in the Daily Recorder on October 11, 2006, which stated that the Draft EIR was available for public review and comment.

f. A public notice was posted in the office of the Sacramento County Clerk on October 11, 2006.

g. Following closure of the public comment period, all comments received on the Draft EIR during the comment period, the City's written responses to the significant environmental points raised in those comments, and additional information added by the City were added to the Draft EIR to produce the Final EIR.

2. The following information is incorporated by reference and made part of the record supporting these findings:

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- a. The Draft and Final EIR and all documents relied upon or incorporated by reference including:
 - b. The City of Sacramento General Plan, City of Sacramento, January, 1988 and all updates.
 - c. Environmental Impact Report City of Sacramento General Plan Update, City of Sacramento, March, 1987 and all updates.
 - d. Findings of Fact and Statement of Overriding Considerations for the Adoption of the Sacramento General Plan Update, City of Sacramento, 1988 and all updates.
 - e. Zoning Ordinance of the City of Sacramento
 - f. Blueprint Preferred Scenario for 2050, Sacramento Area Council of Governments, December, 2004
 - g. Sacramento Housing and Redevelopment Agency, Sacramento Department of City Planning, Urban Design Plan 3.0, Architectural Design Policies
 - h. City of Sacramento, 2005-2010, Capitol Improvement Program, Utilities Program Overview
 - i. The Mitigation Monitoring Plan for the Project.
 - j. All records of decision, staff reports, memoranda, maps, exhibits, letters, synopses of meetings, and other documents approved, reviewed, relied upon, or prepared by any City commissions, boards, officials, consultants, or staff relating to the Project.
3. The Design Review and Preservation Board has final approval authority over the following Project entitlements:
 - Design Review.
 4. With respect to the entitlements over which the Design Review and Preservation Board has final approval authority (architectural design) and pursuant to CEQA Guidelines section 15090, the Design Review and Preservation Board certifies that:
 - a. The Final EIR constitutes an adequate, accurate, objective, and complete final environmental impact report in full compliance with the requirements of CEQA, the State CEQA Guidelines, and the City of Sacramento environmental guidelines;
 - b. The Final EIR has been presented to the Design Review and Preservation Board, and the Board has reviewed and considered the information contained in the Final EIR prior to taking action on the Project;
 - c. The Final EIR reflects the Design Review and Preservation Board 's independent judgment and analysis.

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5. CEQA requires that the lead agency adopt mitigation measures or alternatives, where feasible, to substantially lessen or avoid significant environment impacts that would otherwise occur. Project modifications or alternatives are not required, however, where such changes are infeasible or where the responsibility for the project lies with some other agency. (CEQA Guidelines, § 15091, subd. (a), (b).)

With respect to a project for which significant impacts are not avoided or substantially lessened, a public agency, after adopting proper findings, may nevertheless approve the project if the agency first adopts a statement of overriding considerations setting for the specific reasons why the agency found that the project's "benefits" rendered "acceptable" its "unavoidable adverse environmental effects." (CEQA Guidelines, §§ 15093, 15043, subd. (bb); see also Pub. Resources Code, § 21081, subd. (b).)

Based on its review and consideration of the information contained in the EIR and the oral and documentary evidence presented at the hearing, the Design Review and Preservation Board finds that, with respect to the design of the project over which it has review and approval authority, the Project will have no significant or potentially significant effect on the environment.

B. The Design Review request for construction of a 25 story office structure, 396 feet in height at tallest point. The project includes 467,942 s.f. of office, 27,124 s.f. of retail, and 264,353 s.f. of garage and basement. 794 off-street parking spaces will also be provided. The project is approved, subject to the following Findings of Fact and Conditions of Approval:

1. The project is based upon sound principles of land use, in that the proposed use is allowed in this zone, and includes conditions addressing building and site design.
2. The proposed use will be consistent with the objectives of the City of Sacramento General Plan.
3. The proposed use would not be detrimental to the public health, safety and welfare, and would not result in a public nuisance as the buildings and landscaping have been designed so as to be compatible with the existing character of the general vicinity, and shall not change the essential character of the project area.
4. The project, as conditioned, enhances the surrounding neighborhood.
5. The project, as conditioned, will complement certain aspects of the structures in the vicinity, and conforms to the Board's design criteria.

Conditions Of Approval

The Design Review request to construct the 25 story office structure, 396 feet in height at tallest point, includes 467,942 s.f. of office, 27,124 s.f. of retail, and 264,353 s.f. of garage and basement, and its associated site improvements is hereby approved subject to the following conditions:

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- A. The design of the site (see plans attached) is hereby approved subject to the following conditions. These conditions must be met prior to the issuance of a building permit:**
1. The building site shall be sited as indicated in the report and exhibits. Final site and landscaping plans shall be reviewed by staff and the Board's landscape architect per the Board's comments and direction at the hearing.
 2. The project shall have setbacks as indicated in the report and exhibits.
 3. The project shall include pedestrian access and entries as indicated in the report and exhibits.
 4. Auto access, general and specific site layout shall be as indicated in the report and exhibits.
 5. The Board shall review and provide conditions on final lighting proposed. Final details related to lighting shall be reviewed and approved by staff per the Board's direction at the hearing.
 6. Mechanical equipment proposed shall be screened as necessary to fit in with the design of the new building. Backflow prevention devices, SMUD boxes, etc., shall be placed where not visible from street views, and screened from any pedestrian view. The Applicant shall submit final mechanical locations and screening to staff for review and approval.
 7. Final Service and Trash area plans shall be reviewed and approved by staff.
 8. Final bicycle parking and storage shall be shown on the final plans and reviewed for approval by staff.
- B. The design of the building (see plans attached) is hereby approved subject to the following conditions:**
9. Final Massing and Rhythm and Building Heights shall be as indicated on the report and exhibits.
 10. The buildings, materials and colors for the new project shall be as indicated in the report and exhibits.
 11. Final Mechanical plans and screening shall be reviewed and approved by staff.
 12. Final details of awnings, pilasters, base details, fenestration details, garage door details, and any other building and site design details not directly reviewed or approved by the Board at the hearing shall be reviewed and approved by staff per the Board's direction.
 13. All required new and revised plans shall be submitted for review and approval of staff prior to issuance of building permits. A set of the appropriate plans shall be submitted directly to Design Review staff. Any necessary planning entitlements

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shall have been approved by the Planning Commission or the Zoning Administrator prior to final Design Review sign-off of plans.

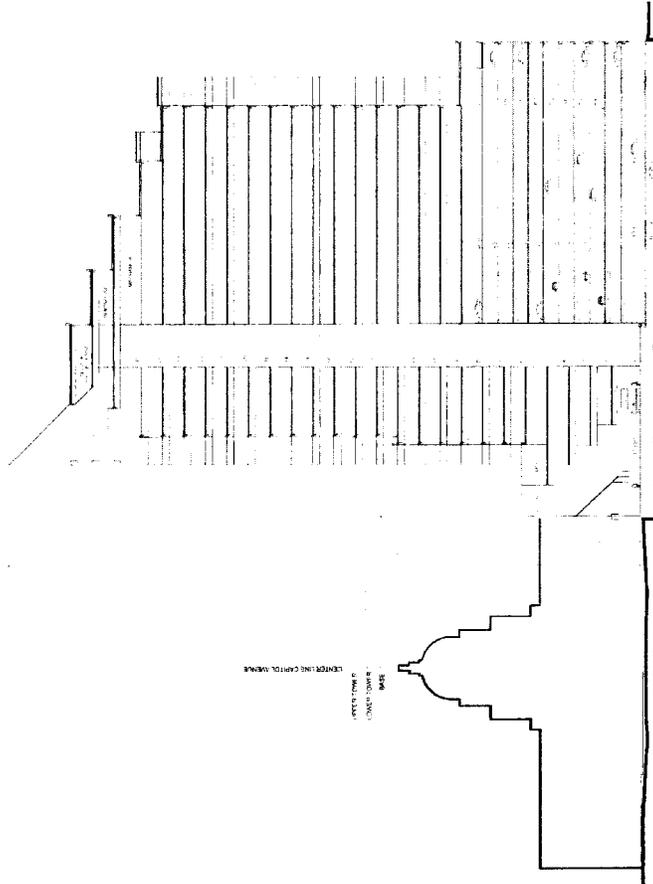
14. The approval shall be deemed automatically revoked unless required permits have been issued, and construction begun, within two years of the date of the approval. Prior to expiration, an extension of time may be granted by the Board upon written request of the Applicant.
15. Final occupancy shall be subject to approval by Design Review staff and shall involve an on-site inspection.

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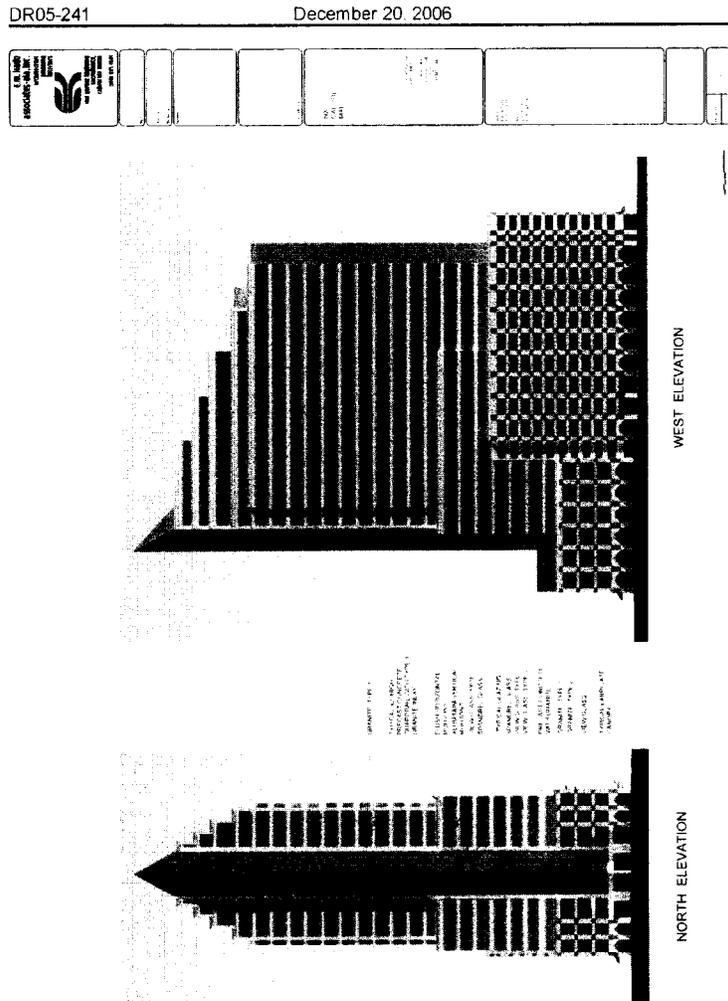


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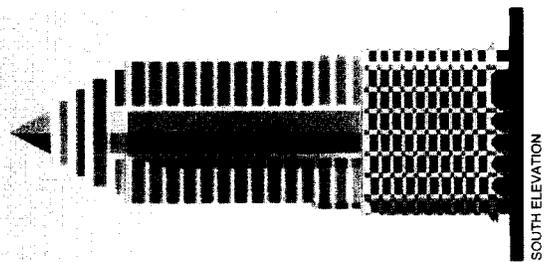
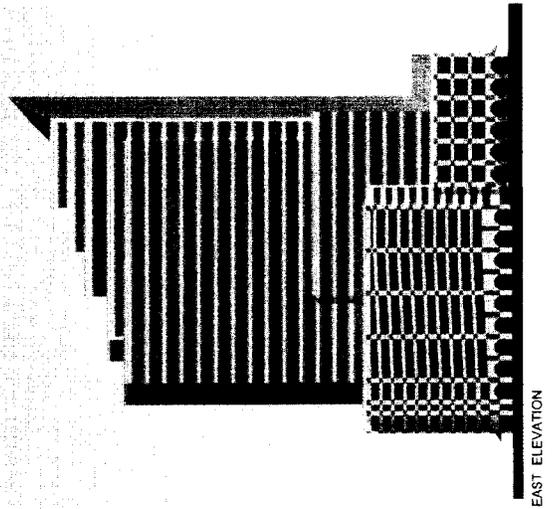
109

Subject: 500 Capitol Mall (P05-108)

December 14, 2006

DR05-241 December 20, 2006

									
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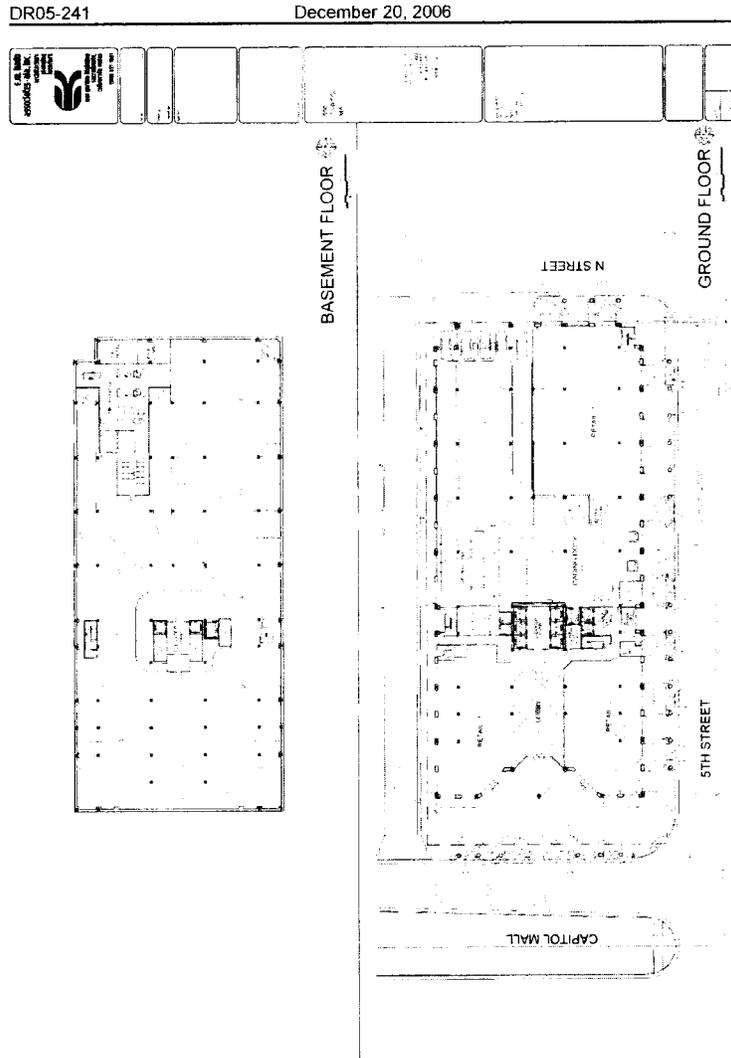


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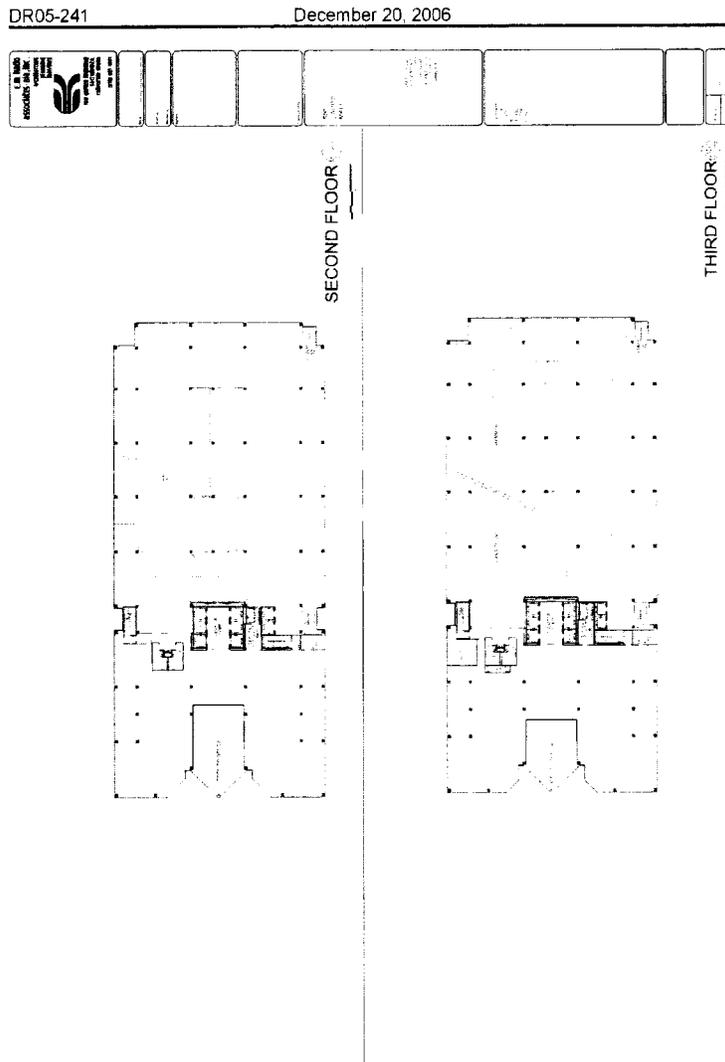


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Subject: 500 Capitol Mall (P05-108)

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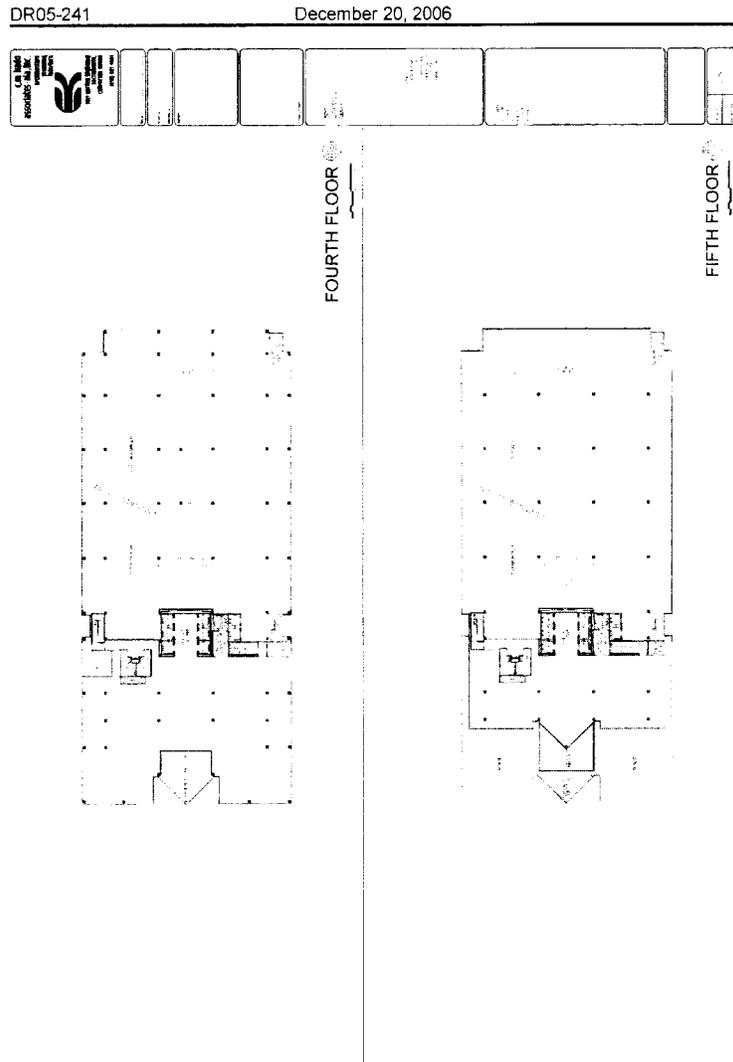


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Subject: 500 Capitol Mall (P05-108)

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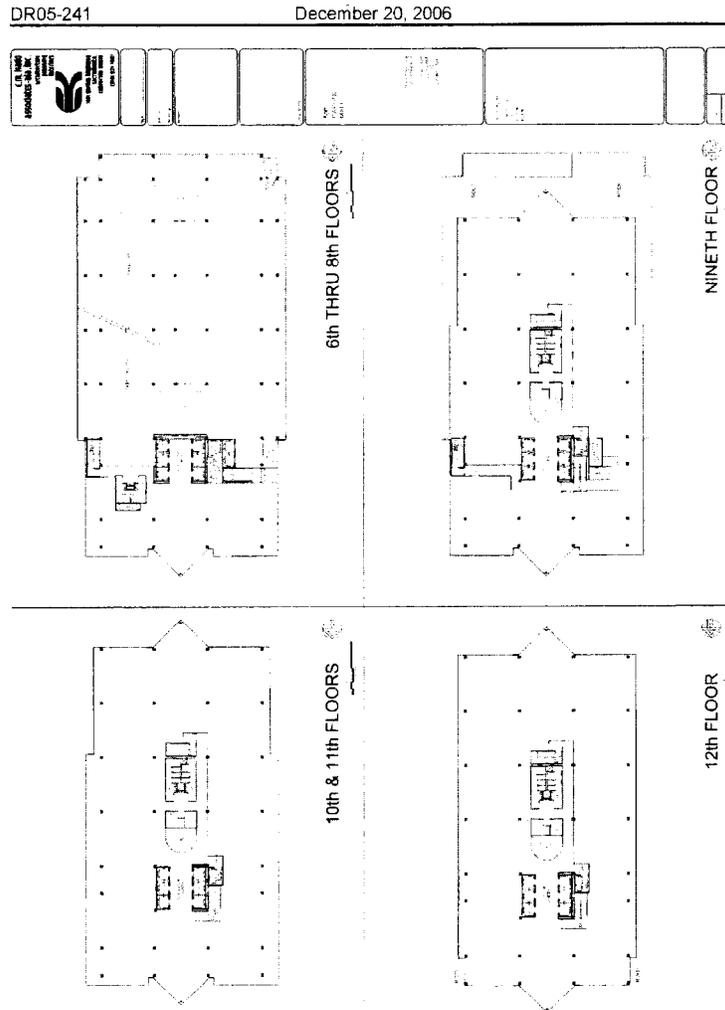


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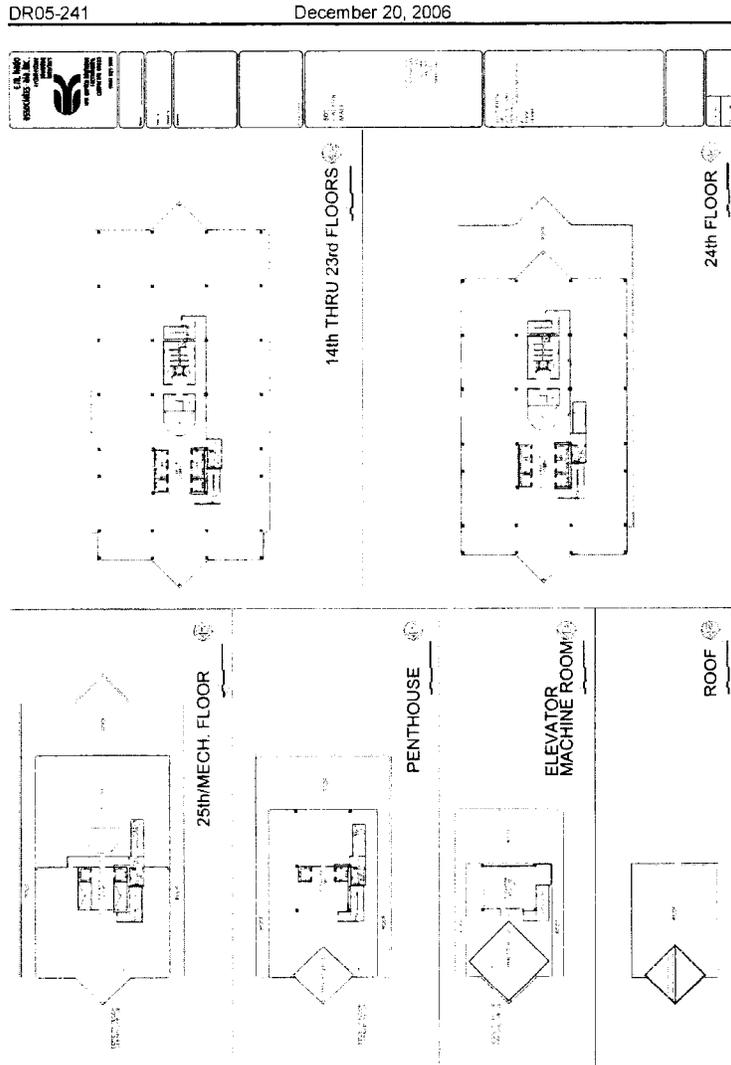
Subject: 500 Capitol Mall (P05-108)

December 14, 2006



Subject: 500 Capitol Mall (P05-108)

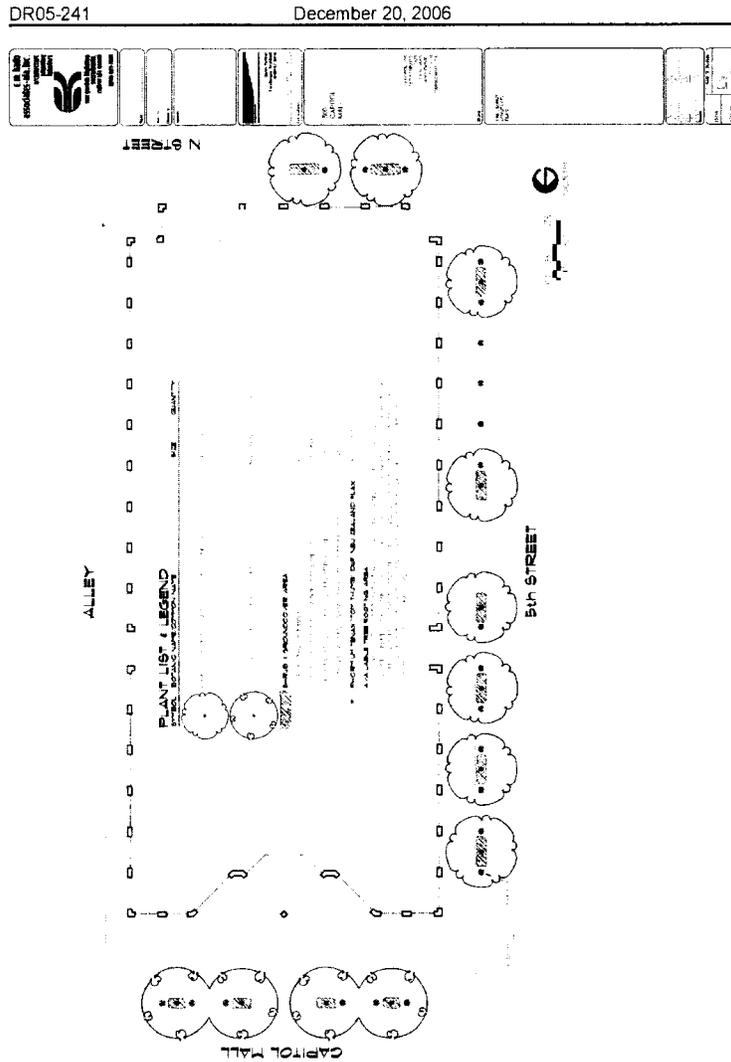
December 14, 2006



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December 14, 2006



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500 Capitol Mall (P05-108; DR05-241)

February 27, 2007

Subject: 500 Capitol Mall (P05-108)

December 14, 2006

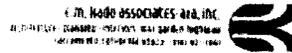
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Subject: 500 Capitol Mall (P05-108)

December 14, 2006

DR05-241 December 20, 2006



24 April 2006

DESIGN STATEMENT - 500 CAPITOL

Basically the project program is to provide a multi-story office building of 400,000 sq. ft. rentable floor area upon the given site. The building is to be of high quality catering to large law firms and accounting offices. Class A rating is the designated goal.

The design is executed in a contemporary motif. The exterior materials of light blue tinted glass and granite are articulated much like other new highrise office buildings recently built in the Central Business District.

The shape and massing of the building is the result from conforming to the Sacramento Central Business District Building Massing Guidelines and the Capitol Avenue view corridor setback requirements.

I articulated the massing to be interlocking shapes in lieu of stacked rectangular masses.

The top four levels of the building are stepped so as to relate to the stepped building tops of nearby highrise office buildings.

The rooftop is capped with a pointed skylight allowing daylight into the two levels of the penthouse.

Edwin M. Kado
President
E. M. Kado Associates AIA, Inc.

Subject: 500 Capitol Mall (P05-108)

December 14, 2006

Attachment 4



**CITY OF SACRAMENTO DESIGN REVIEW AND PRESERVATION BOARD
RECORD OF DECISION**

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

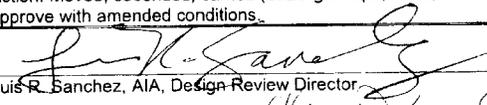
Project Name:	Office/ Retail Building
Project Number:	DR05-241
Project Location:	500 Capitol Mall
Assessor's Parcel No.:	006-0146-030
Applicant:	E.M. Kado Assoc., AIA, Inc.
Action Status:	Approved
	Action Date: 12/20/2006

REQUESTED ENTITLEMENT(S): 500 Capitol Mall: 25 Story office building with ground floor retail and parking garage. A request for Board Review and Comment of proposed project in the Central Business District. (DR05-241)

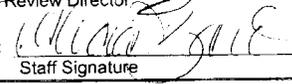
A. Environmental Determination: Environmental Impact Report (EIR);

B. Design Review request to construct 25 story office structure, 396 feet in height at tallest point. The project includes 467,942 s.f. of office, 27,124 s.f. of retail, and 264,353 s.f. of garage and basement. 794 off-street parking spaces will also be provided. The new structure will replace an existing 155,180 square foot building, to be demolished.

ACTIONS TAKEN: On 12/20/2006, the Design Review and Preservation Board took the following actions based on the attached findings of fact and subject to the attached conditions of approval:
Action: Moved, seconded, carried (LaBarge/Hope, 7:0:0, Absent - Fuller), to approve with amended conditions.

Action certified by: 
Luis R. Sanchez, AIA, Design Review Director

Sent to Applicant: 12/21/2006

By: 
Staff Signature

NOTICE OF PROTEST RIGHTS

The above conditions include the imposition of fees, dedications, reservations, or other exactions. Pursuant to California Government Code section 66020, this Notice of Decision serves as written notice to the project applicant of (1) the amount of any fees and a description of any dedications, reservations, or exactions imposed, and (2) that the applicant may file a protest against the imposition of those fees, dedications, reservations, or other exactions within 90 days of the date of this approval, which is deemed to be the date that the fees, dedications, reservations, or other exactions are imposed. If the payment of a fee is imposed as a condition of approval, but the amount of the fee is not stated in this Notice of Decision and is not otherwise available to the applicant on a fee schedule or otherwise, the 90 days protest period will begin to run when the applicant is notified of the amount of the fee.

Subject: 500 Capitol Mall (P05-108)

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For purposes of this notice, the following fees are deemed to be imposed upon approval of the first discretionary entitlement for the subject development project and are subject to the protest procedures set forth in Title 18 of the Sacramento City Code as indicated: North Natomas Public Facilities Fee, Transit Fee, and Drainage Fee (SCC 18.24.160); North Natomas Land Acquisition Fee (SCC 18.24.340); North Natomas School Facilities Fee (SCC 18.24.710); Jacinto Creek Planning Area Facilities Fee (SCC 18.26.150); Willow Creek Project Area Development Fee (SCC 18.32.150); Development Impact Fees for the Railyards, Richards Boulevard, and Downtown Areas (SCC 18.36.150); Habitat Conservation Fee for the North and South Natomas Community Plan Areas (18.40.090); and Park Development Impact Fee (18.44.140).

The time within which to challenge a condition of approval of a tentative subdivision map, including the imposition of fees, dedication, reservation, or other exaction, is governed by Government Code section 66499.37.

EXPIRATION

TENTATIVE MAP: Failure to record a final map within three years of the date of approval or conditional approval of a tentative map shall terminate all proceedings.

SPECIAL PERMIT: A use for which a Special Permit is granted must be established within three years after such permit is issued. If such use is not so established, the Special Permit shall be deemed to have expired.

VARIANCE: Any variance involving an action which requires a building permit shall expire at the end of three years unless a building permit is obtained within the variance term.

PLAN REVIEW: Any plan review shall expire at the end of three years unless a building permit is obtained within the plan review term.

DESIGN REVIEW: The approval shall be deemed automatically revoked unless required permits have been issued and construction begun within two years of the date of the approval. Prior to expiration, an extension of time may be granted by the Board upon written request of the applicant.

NOTE: Violation of any of the foregoing conditions will constitute grounds for revocation of this permit. Building permits are required in the event any building construction is planned. The County Assessor is notified of actions taken on rezoning, special permits and variances.

APPEALS

Appeals of the Design Review and Preservation Board decision of this item to the Planning Commission must be filed at 915 I Street, New City Hall, 3rd Floor, within 10 calendar days of this meeting, on or before 12/30/2006. If the 10th day falls on a Sunday or holiday, the appeal may be filed on the following business day.

Findings Of Fact**A. Environmental Determination: EIR**

1. The Design Review and Preservation Board of the City of Sacramento finds as follows:

Based on the initial study conducted for 500 Capitol Mall Project, SCH # 2005112038, (herein after the Project), the City of Sacramento's Environmental Planning Services determined, on substantial evidence, that the Project may have a significant effect on the environment and prepared an environmental impact report ("EIR") on the Project. The EIR was prepared, noticed, published, circulated, reviewed, and completed in full compliance with the California Environmental Quality Act (Public Resources Code §21000 *et seq.* ("CEQA"), the CEQA Guidelines (14 California Code of Regulations §15000 *et seq.*), and the City of Sacramento environmental guidelines, as follows:

- a. A Notice of Preparation of the Draft EIR was filed with the Office of Planning and Research and each responsible and trustee agency April 13, 2006 and was circulated for public comments from April 13, 2006 through May 12, 2006.
- b. A Notice of Completion (NOC) and copies of the Draft EIR were distributed to the

Revised 05/15/06
Original to Applicant
Copy to File

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Subject: 500 Capitol Mall (P05-108)

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Office of Planning and Research on October 11, 2006 to those public agencies that have jurisdiction by law with respect to the Project, or which exercise authority over resources that may be affected by the Project, and to other interested parties and agencies as required by law. The comments of such persons and agencies were sought.

- c. An official 45-day public comment period for the Draft EIR was established by the Office of Planning and Research. The public comment period began on October 11, 2006 and ended on November 27, 2006.
 - d. A Notice of Availability (NOA) of the Draft EIR was mailed to all interested groups, organizations, and individuals who had previously requested notice in writing on October 11, 2006. The NOA stated that the City of Sacramento had completed the Draft EIR and that copies were available at the City of Sacramento, Development Services Department, New City Hall, 915 I Street, Third Floor, Sacramento, California 95814. The letter also indicated that the official 45-day public review period for the Draft EIR would end on November 27, 2006.
 - e. A public notice was placed in the Daily Recorder on October 11, 2006, which stated that the Draft EIR was available for public review and comment.
 - f. A public notice was posted in the office of the Sacramento County Clerk on October 11, 2006.
 - g. Following closure of the public comment period, all comments received on the Draft EIR during the comment period, the City's written responses to the significant environmental points raised in those comments, and additional information added by the City were added to the Draft EIR to produce the Final EIR.
2. The following information is incorporated by reference and made part of the record supporting these findings:
- a. The Draft and Final EIR and all documents relied upon or incorporated by reference including:
 - b. The City of Sacramento General Plan, City of Sacramento, January, 1988 and all updates.
 - c. Environmental Impact Report City of Sacramento General Plan Update, City of Sacramento, March, 1987 and all updates.
 - d. Findings of Fact and Statement of Overriding Considerations for the Adoption of the Sacramento General Plan Update, City of Sacramento, 1988 and all updates.
 - e. Zoning Ordinance of the City of Sacramento
 - f. Blueprint Preferred Scenario for 2050, Sacramento Area Council of Governments, December, 2004
 - g. Sacramento Housing and Redevelopment Agency, Sacramento Department of City Planning, Urban Design Plan 3.0, Architectural Design Policies
 - h. City of Sacramento, 2005-2010, Capitol Improvement Program, Utilities Program

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Overview

- i. The Mitigation Monitoring Plan for the Project.
 - j. All records of decision, staff reports, memoranda, maps, exhibits, letters, synopses of meetings, and other documents approved, reviewed, relied upon, or prepared by any City commissions, boards, officials, consultants, or staff relating to the Project.
3. The Design Review and Preservation Board has final approval authority over the following Project entitlements:
- Design Review.
4. With respect to the entitlements over which the Design Review and Preservation Board has final approval authority (architectural design) and pursuant to CEQA Guidelines section 15090, the Design Review and Preservation Board certifies that:
- a. The Final EIR constitutes an adequate, accurate, objective, and complete final environmental impact report in full compliance with the requirements of CEQA, the State CEQA Guidelines, and the City of Sacramento environmental guidelines;
 - b. The Final EIR has been presented to the Design Review and Preservation Board, and the Board has reviewed and considered the information contained in the Final EIR prior to taking action on the Project;
 - c. The Final EIR reflects the Design Review and Preservation Board's independent judgment and analysis.
5. CEQA requires that the lead agency adopt mitigation measures or alternatives, where feasible, to substantially lessen or avoid significant environment impacts that would otherwise occur. Project modifications or alternatives are not required, however, where such changes are infeasible or where the responsibility for the project lies with some other agency. (CEQA Guidelines, § 15091, subd. (a), (b).)

With respect to a project for which significant impacts are not avoided or substantially lessened, a public agency, after adopting proper findings, may nevertheless approve the project if the agency first adopts a statement of overriding considerations setting for the specific reasons why the agency found that the project's "benefits" rendered "acceptable" its "unavoidable adverse environmental effects." (CEQA Guidelines, §§ 15093, 15043, subd. (bb); see also Pub. Resources Code, § 21081, subd. (b).)

Based on its review and consideration of the information contained in the EIR and the oral and documentary evidence presented at the hearing, the Design Review and Preservation Board finds that, with respect to the design of the project over which it has review and approval authority, the Project will have no significant or potentially significant effect on the environment.

- B. The Design Review** request for construction of a 25 story office structure, 396 feet in height at tallest point. The project includes 467,942 s.f. of office, 27,124 s.f. of retail, and 264,353 s.f. of garage and basement. 794 off-street parking spaces will also be

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December 14, 2006

provided. The project is approved, subject to the following Findings of Fact and Conditions of Approval:

1. The project is based upon sound principles of land use, in that the proposed use is allowed in this zone, and includes conditions addressing building and site design.
2. The proposed use will be consistent with the objectives of the City of Sacramento General Plan.
3. The proposed use would not be detrimental to the public health, safety and welfare, and would not result in a public nuisance as the buildings and landscaping have been designed so as to be compatible with the existing character of the general vicinity, and shall not change the essential character of the project area.
4. The project, as conditioned, enhances the surrounding neighborhood.
5. The project, as conditioned, will complement certain aspects of the structures in the vicinity, and conforms to the Board's design criteria.

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Conditions Of Approval

The Design Review request to construct the 25 story office structure, 396 feet in height at tallest point, includes 467,942 s.f. of office, 27,124 s.f. of retail, and 264,353 s.f. of garage and basement, and its associated site improvements is hereby approved subject to the following conditions:

- A. The design of the site (see plans attached) is hereby approved subject to the following conditions. These conditions must be met prior to the issuance of a building permit:**
1. The building site shall be sited as indicated in the report and exhibits. Final site and landscaping plans shall be reviewed by staff and the Board's landscape architect per the Board's comments and direction at the hearing.
 2. The project shall have setbacks as indicated in the report and exhibits.
 3. The project shall include pedestrian access and entries as indicated in the report and exhibits.
 4. Auto access, general and specific site layout shall be as indicated in the report and exhibits.
 5. The Board shall review and provide conditions on final lighting proposed. Final details related to lighting shall be reviewed and approved by staff per the Board's direction at the hearing.
 6. Mechanical equipment proposed shall be screened as necessary to fit in with the design of the new building. Backflow prevention devices, SMUD boxes, etc., shall be placed where not visible from street views, and screened from any pedestrian view. The Applicant shall submit final mechanical locations and screening to staff for review and approval.
 7. Final Service and Trash area plans shall be reviewed and approved by staff.
 8. Final bicycle parking and storage shall be shown on the final plans and reviewed for approval by staff.
- B. The design of the building (see plans attached) is hereby approved subject to the following conditions:**
9. Final Massing and Rhythm and Building Heights shall be as indicated on the report and exhibits.
 10. The buildings, materials and colors for the new project shall be as indicated in the report and exhibits.
 11. Final Mechanical plans and screening shall be reviewed and approved by staff.
 12. **Final details of awnings, pilasters, base details, fenestration details, garage door details, and any other building and site design details not directly reviewed or**

Subject: 500 Capitol Mall (P05-108)

December 14, 2006

approved by the Board at the hearing shall be reviewed and approved by staff per the Board's direction.

13. All required new and revised plans shall be submitted for review and approval of staff prior to issuance of building permits. **A set of the appropriate plans shall be submitted directly to Design Review staff.** Any necessary planning entitlements shall have been approved by the Planning Commission or the Zoning Administrator prior to final Design Review sign-off of plans.
14. The approval shall be deemed automatically revoked unless required permits have been issued, and construction begun, within two years of the date of the approval. Prior to expiration, an extension of time may be granted by the Board upon written request of the Applicant.
15. Final occupancy shall be subject to approval by Design Review staff and shall involve an on-site inspection.

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December 14, 2006

Attachment 5

CITY OF SACRAMENTO
PLANNING & BUILDING DEPARTMENT
1231 I Street, Room 200 Sacramento, CA 95814

APPEAL OF THE DECISION OF THE
DESIGN REVIEW/PRESERVATION BOARD

PAID

DATE: January 2, 2007

TO THE PLANNING DIRECTOR:

I do hereby make application to appeal the decision of the Design Review/Preservation Board on
December 20, 2006 (hearing date), project number (DR/PB#) P05-108 when:

- Structure Review for 500 Capitol Mall
- Sign Review for _____
- Building Move for _____
- Other _____ for _____

was: Granted by the Design Review/Preservation Board
 Denied by the Design Review/Preservation Board

GROUND(S) FOR APPEAL: (Explain in detail - attach additional sheets if necessary)

See attachment.

- PROPERTY LOCATION: 500 Capitol Mall
- APPELLANT: (please print) IBEW340 PHONE #: 530-758-0757
- ADDRESS: 417 E Street, Davis, CA 95616
- APPELLANT'S SIGNATURE [Signature]

WILLIAM D. KOPPEE, Attorney at Law for IBEW340

THIS BOX FOR OFFICE USE ONLY

Received by: _____	Date received: _____	DR/PB# _____
Filing Fee: ****See Fee Schedule _____		
Date forwarded (original & receipt) to CPC Clerical/City Clerk _____		
Distribute Copies To: GLS, Project Planner, Principal/Senior		

Subject: 500 Capitol Mall (P05-108)

December 14, 2006

Grounds for Appeal:

- 1) The City may not bifurcate the certification of an EIR and have two non-elected decision-making bodies certify the same EIR. On December 20, 2006, the Design Review Board of the City of Sacramento certified the final Environmental Impact Report for the 500 Capitol Mall project. The City has also provided notice that the Planning Commission will certify the Environmental Impact Report for the 500 Capitol Mall project on January 11, 2007. The process adopted by the City of Sacramento of bifurcating the certification of a final Environmental Impact Report violates CEQA. (See, 14 California Code of Regulations §15025 and 15090.) Unlike other tasks involved in the EIR preparation, consideration of the information in an EIR before project approval may not be delegated to a subordinate body or official. (14 California Code of Regulations §15025(b)(1), 15090(a)(2); *City of Carmel-by-the Sea v Board of Supervisors* (1977) 71 Cal. App. 3d 84.)
- 2) The City of Sacramento violated CEQA by failing to provide notice that the City's Design Review Board would certify the Environmental Impact Report for 500 Capitol Mall. The City did not provide notice to those on the notice list of the City's intent to certify the Environmental Impact Report on December 20, 2006.
- 3) The City of Sacramento violated CEQA and due process of law by requiring members of the public who oppose the project to post the filing fee to appeal the certification of the EIR from both the Design Review Board certification and the Planning Commission certification of the EIR. This process discourages public participation and amounts to an unfair tax on public participation in the Environmental Review process.
- 4) The design for the project violates CEQA because design features do not take into account energy conservation as required by Appendix F of the CEQA Guidelines, and the design for the project is energy inefficient. The project uses excessive night lighting and pollutes the night sky with unnecessary light.
- 5) The ingress and egress from the project garage create traffic impacts that were not considered in the Environmental Impact Report, and these impacts may be significant.
- 6) The position of the building loading docks create significant traffic impacts that were not considered in the Environmental Impact Report.
- 7) The models and elevations for the project were far less detailed than for other projects of similar scope that have been presented to the Design Review Board. The lack of a model and sufficient elevations makes it impossible for the public and even the Design Review Board to understand the visual impact of the project.

Subject: 500 Capitol Mall (P05-108)

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December 14, 2006

Attachment 6

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December 15, 2006

VIA HAND DELIVERY AND ELECTRONIC MAIL

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

RE: 500 Capitol Mall (P05-108)
DEIR (SCH No. 2005112038)

Dear Mr. Johnson:

As you know, this firm represents 500 Capitol Mall, LLC, the applicant for the 500 Capitol Mall Project ("Project") evaluated in the above-referenced Draft Environmental Impact Report ("DEIR"). We had the opportunity to review the November 27, 2006 comment letter submitted to the City by Jody Jones, District Director of the California Department of Transportation ("Caltrans"). We write at this time to voice our strong objection to Caltrans' effort to convince the City to require mitigation for freeway mainline impacts associated with the Project. As we explain below, the mitigation suggested by Caltrans - potential future construction of HOV lanes and American River Bridge expansion - is beyond the power of the City to impose and runs contrary to the City's historic opposition to construction of HOV lanes. Accordingly, we respectfully submit that the City should proceed with Project approval by adopting appropriate findings and overriding considerations that acknowledge the legal, social and political infeasibility of imposing freeway mainline impact mitigation on the Project.

I. THE CITY MAY ONLY IMPOSE FEASIBLE MITIGATION MEASURES ON THE PROJECT AND THE PROPOSED MAINLINE FREEWAY MITIGATION IS NOT CURRENTLY FEASIBLE.

It is axiomatic that, when considering mitigation for significant environmental impacts, the lead agency (here, the City) need only consider and evaluate feasible mitigation measures. In the case of *Concerned Citizens of S. Cal. Los Angeles v. Los Angeles Unified School District* (1994) 24 Cal.App.4th 826, 841, the Court of Appeal specifically rejected the suggestion that the School

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District was required to evaluate mitigation measures that, by themselves, would constitute "a project at least as complex, ambitious, and costly" as the school project, itself. Accordingly, the Court of Appeal held that, because such mitigation measures were infeasible, there was no need to discuss them in the EIR.

In its comment letter, Caltrans suggests that the City could provide mitigation by requiring the Project to participate in some form of pro-rata contribution to the cost of constructing HOV lanes and the American River Bridge widening. These proposed mitigation measures were estimated by Caltrans to cost at least 50.4 Million Dollars. Because these possible mitigation measures would clearly constitute projects on their own accord, the City is not obligated to evaluate them in the EIR. Moreover, as we explain below, Caltrans' proposed freeway mitigation measures are infeasible for a variety of reasons, any and all of which preclude the City from imposing them on the Project and insulate the EIR from challenge based on any asserted failure of the City to properly consider them.

2. CALTRANS HAS JURISDICTION OVER FREEWAY MAINLINE IMPROVEMENTS.

As the DEIR notes on page 5 b-41, freeway mainline improvements are within the exclusive jurisdiction of Caltrans, which can and should propose and adopt appropriate improvement plans that would reduce freeway mainline impacts. Public Resources Code Section 21081 and CEQA Guidelines Section 15092, both provide that, in such circumstances, an EIR may be approved by acknowledging that proposed mitigation measures are "within the responsibility and jurisdiction of another public agency that has adopted, or can and should adopt, such changes." Here, of course any effort to construct freeway mainline improvements lies within Caltrans' jurisdiction, which can and should pursue them. Accordingly, if these mitigation measures become feasible, it will be Caltrans, not the City, that provides them.

3. A MITIGATION FEE TOWARD CONSTRUCTION OF FREEWAY MAINLINE IMPROVEMENTS CANNOT BE IMPOSED ON THE PROJECT.

In its comment letter, Caltrans concedes that it does not have any improvement plans in place for construction of its proposed freeway mainline improvements. In such circumstances, there simply exists no legal basis for either Caltrans, or the City, to impose a mitigation fee on the Project to be used toward construction of such possible, future improvements. Caltrans has no such fee in place, and does not suggest in its comment letter that it has authority, or desire, to enact one.

The City, on the other hand, cannot impose such a fee under CEQA. Rather, it could do so only if such a fee were in place and properly adopted based upon an approved capital improvement plan. As CEQA makes clear, public agencies may only use their "discretionary powers other than

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CEQA" to mitigate environmental impacts. Pub. Res. Code §21004. The City has no fee in place that could be imposed on the Project to mitigate for impacts to the freeway mainline. Until such time as Caltrans has adopted an appropriate capital improvement plan to construct specific freeway improvements, it would be sheer speculation for the City to enact and impose a fair-share fee on the Project.

Fee-based mitigation based upon fair-share contributions, as suggested by Caltrans, can be imposed only if it is "part of a reasonable plan of actual mitigation that the relevant agency commits itself to implementing." *Anderson First Condition v. City of Anderson* (2005) 130 Cal.App.4th 1173. See also *Kings County Farm Bureau v. City of Hanford* (1990) 221 Cal.App.3d 692, 727 [commitment to pay fee is not mitigation unless the mitigation will actually result]; *San Franciscans for Reasonable Growth v. County of San Francisco* (1984) 151 Cal.App.3d 61, 79 [mitigation fee improper where mitigation program is undefined]. Without a "reasonable plan" in place to construct freeway mainline improvements, neither the City, nor Caltrans, has any ability to impose fee-based mitigation measures on the Project relative to freeway mainline impacts. Caltrans has not yet committed itself to constructing either HOV lanes or widening of the American River Bridge. Thus, it is simply premature to assume that Caltrans' proposed mitigation measures will actually be constructed and, thus, any fee imposed on the 500 Capitol Mall project would not constitute mitigation for freeway mainline impacts. See, *Endangered Habitats League v. County of Orange* (2005) 131 Cal.App.4th 777.

Even assuming that the City could impose a fee-based mitigation measure on the Project to offset the Project's fair-share contribution to freeway mainline improvements, the City would first have to enact such a fee. To do so, the City would have to satisfy the procedural requirements of the Mitigation Fee Act, Gov't Code §66000, *et seq.* and the constitutional requirements of demonstrating a nexus between the Project's impacts and the fee imposed. *Dolan v. City of Tigard* (1994) 512 U.S. 374; *Nollan v. California Coastal Commission* (1987) 483 U.S. 825. Not only has the City not enacted such a fee, it cannot do so now without some reasonable basis to calculate the cost of the mitigation and the fair-share contribution of the Project.

In this regard, in its comment letter, Caltrans itself points out that the City participates in a ½ percent sales tax under Measure A to raise funds for local and regional traffic improvements, which could provide 50% of the costs for construction of HOV lanes. Assuming that such construction were to occur, the Project would participate in such construction through payment of Measure A taxes. Any additional mitigation fee would result in the Project being assessed and required to pay a disproportionate share of funding for such improvements.

In such circumstances, the City is not required to propose or analyze a fair-share fee that it cannot legally impose on the Project. CEQA Guidelines §15126.4(a)(5). Rather, the EIR need only

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refer to the fact that the measure is infeasible legally and explain its reasoning. Here, the City has done so in its response to Caltrans' comment letter. CEQA demands, and the City may require, nothing more.

4. CALTRANS CANNOT REQUIRE THE CITY TO IMPOSE FREEWAY MITIGATION MEASURES THAT THE CITY DOES NOT DESIRE.

Given the legal infeasibility of Caltrans' proposed mitigation measures, the City is free to approve the Project with appropriate findings and a statement of overriding considerations. Pub. Res. Code §21081(a)(3). Separate and apart from this legal infeasibility, the City retains the power to determine whether specific mitigation measures are simply undesirable and, on that basis, infeasible. Accordingly, a leading CEQA treatise confirms that "a mitigation measure may be found infeasible if, after balancing the relevant factors, the lead agency concludes that the measure is undesirable and therefore should not be adopted." Kostka & Zischke, *Practice Under the California Environmental Quality Act*, §17.18, p.821. Moreover, consideration of the feasibility of mitigation measures may be based upon practical considerations. *No No Transit, Inc. v. City of Long Beach* (1987) 197 Cal.App.3d 241. In short, the City, as the lead agency, ultimately decides which mitigation measures to require, based on a variety of feasibility factors.

Here, an additional factor that the City may want to consider is the ultimate wisdom and desirability of constructing HOV lanes - the central mitigation measure suggested by Caltrans. In this regard, recent studies have indicated that HOV lanes result in increased automobile accidents - thereby impacting health and safety considerations. See [Texas Transportation Institute, *Crash Analysis of Selected High Occupancy Vehicle Facilities in Texas* (2005)]. [A copy of this Analysis, and a short synopsis of its findings are attached]. Moreover, the City Council has twice declined to participate in funding of HOV lanes on other area freeways, which serve to encourage urban sprawl by making long commutes preferable to alternative options, such as light rail, bus and infill development. Accordingly, the cure - construction of HOV lanes - may be worse than the disease - slower flowing, but safer, traffic on area freeways.

5. CONCLUSION

Ultimately, it is the City, not Caltrans, that has the authority to impose or reject mitigation measures for the Project. Here, however, the City has no power to impose fee-based mitigation to reduce impacts to the freeway mainline. Moreover, even if the City did have such power, it is equally empowered to reject such mitigation measures by adopting appropriate findings and a statement of overriding considerations. Staff has proposed just that and we fully endorse this approach.

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We ask that this letter, and its attachments, be included in the Administrative Record for the Project. We respectfully request that the City acknowledge the legal and practical infeasibility of Caltrans' proposed freeway mainline impact mitigation measures and approve the Project with appropriate findings and a statement of overriding considerations.

Very truly yours,

LAW OFFICES OF
GREGORY D. THATCH



LARRY C. LARSEN

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cc: Angelo G. Tsakopoulos (e-mail)

Subject: 500 Capitol Mall (P05-108)

December 14, 2006

Study: HOV/Carpool Lanes Cause Accidents

<http://www.thenevnewspaper.com/ric/news.asp?ID=292&m=print>

3/31/2005

Study: HOV/Carpool Lanes Cause Accidents

Texas Transportation Institute study finds that buffer-separated HOV lanes cause a 50 percent increase in injury accidents.

A newly released Texas Transportation Institute study suggests that High Occupancy Vehicle (HOV) or carpool lanes that are not separated from regular lanes with a physical barrier experience a 41-56 percent increase in injury accidents. Almost all new freeway lanes are set aside for HOV use only because federal environmental regulations strongly favor their use.



The main benefit promised by HOV lanes -- faster travel for carpoolers -- is what causes the accidents, according to the study. During peak traffic times the speed differential between the regular lanes and HOV lanes ranges between 21 and 35 MPH. For example, a slower car trying to merge into the HOV lane may be rear-ended by faster moving HOV traffic that cannot slow down in time. Overall, the general purpose traffic lane closest to the HOV lanes experienced a 153-188 percent increase in injury accidents.

The study examined 1,150 individual crash reports from the I-35 and LBJ Freeways in Dallas, Texas from 1997-2000.

Full text of study available below in a 1.8mb PDF file.

Key Statistic:

Dallas corridors with buffer-separated concurrent flow HOV lanes did show a change in crash occurrence with an increase in injury crash rates. The IH-35E North corridor experienced a 56 percent increase in the injury crash rate. The IH-635 corridor experienced a 41 percent increase in the injury crash rate. [Page 2]

The average number of injury crashes in Lane 1 of IH-35E from 1997-2000 is 153 percent higher than the 1990-1994 average. The average number of injury crashes number in Lane 1 of IH-635 from 1997-2000 is 188 percent higher than the 1990-1994 average. An increase in the other general-purpose lanes was noted for both corridors; but, the increase is not as substantial as the Lane 1 increase. [Page 30]

Article Excerpt:

The research team identified three key findings from the crash data analysis of Dallas corridors with buffer-separated concurrent flow HOV lanes.

- *Increase in injury crash rate*
 - *Increase in injury crashes primarily focused in the HOV lane and the adjacent general-purpose lane (Lane 1).*
 - *Increase in injury crashes is likely due to the speed differential between the HOV lane and the general-purpose lanes. The general-purpose lanes experience congestion during peak periods, while the HOV lanes usually operate at the speed limit.*
- [Page 3]*

The increase in injury crash occurrences in Dallas corridors with buffer separated HOV lanes is likely due to the speed differential between the HOV lane and the adjacent general-purpose lane. [Page 43]

Source: CRASH ANALYSIS OF SELECTED HIGH-OCCUPANCY VEHICLE (Texas Transportation Institute, 3/30/2005)

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December 14, 2006

Technical Report Documentation Page			
1. Report No. FHWA TX-04/0-4434-1	2. Government Accession No.	3. Recipient's Catalog No.	
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		6. Performing Organization Code	
7. Author(s) A. Scott Cothron, Stephen E. Ranft, Carol H. Walters, David W. Fenno, and Dominique Lord		8. Performing Organization Report No. Report 0-4434-1	
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16. Abstract In Texas, high-occupancy vehicle (HOV) lanes have emerged as an integral part of the state's current and future transportation system to aid urban mobility. As a result, the issue of HOV lane design and the influence of design on safety has become the focus of much attention in the transportation community. The objective of this research was to develop a better understanding of the safety issues associated with HOV lanes, particularly buffer-separated concurrent flow HOV lanes. The research team increased their understanding of these issues by surveying transportation professionals from across the United States on the topic of HOV lane safety for barrier-separated and buffer-separated facilities. Electronic crash data was analyzed and crash reports from Dallas, Texas, were reviewed to determine crash characteristics both before and after HOV lane implementation in selected corridors. The analysis of the IH-30 corridor with a moveable barrier-separated contraflow HOV lane did not indicate a change in injury crash occurrence. The IH-35E North and IH-635 corridors with buffer-separated, concurrent flow HOV lanes did show a change in crash occurrence with an increase in injury crash rates. Based on the key findings of the crash data analysis, the research team developed guidance for design when implementing HOV lanes similar to those in operation in Dallas, Texas. This guidance indicates desirable corridor characteristics when considering HOV lane implementation and recommends roadway cross-sections.			
17. Key Words High-Occupancy Vehicle Lanes, Safety, Crash Data, Barrier-Separated Lanes, Buffer-Separated Lanes, Concurrent Flow Lanes, Contraflow Lanes		18. Distribution Statement No restrictions. This document is available to the public through NTIS: National Technical Information Service 5285 Port Royal Road Springfield, Virginia 22161	
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**CRASH ANALYSIS OF SELECTED HIGH-OCCUPANCY VEHICLE
FACILITIES IN TEXAS: METHODOLOGY, FINDINGS, AND
RECOMMENDATIONS**

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Report 0-4434-1
Project Number 0-4434
Research Project Title: Safety Evaluation of HOV Lane Design Elements

Sponsored by the
Texas Department of Transportation
In Cooperation with the
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Federal Highway Administration

September 2003
Resubmitted: May 2004

TEXAS TRANSPORTATION INSTITUTE
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College Station, Texas 77843-3135

Subject: 500 Capitol Mall (P05-108)

December 14, 2006

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December 14, 2006

DISCLAIMER

The contents of this report reflect the views of the authors, who are responsible for the facts and the accuracy of the data presented herein. The contents do not necessarily reflect the official view or policies of the Texas Department of Transportation (TxDOT) or the U.S. Department of Transportation, Federal Highway Administration (FHWA). This report does not constitute a standard, specification, or regulation. The researcher in charge was A. Scott Cothron.

NOTICE

The State of Texas does not endorse products or manufacturers. Trade or manufacturers' names appear herein solely because they are considered essential to the object of this report.

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December 14, 2006

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EXECUTIVE SUMMARY

In Texas, high-occupancy vehicle (HOV) lanes have emerged as an integral part of the state's current and future transportation system to aid urban mobility. As a result, the issue of HOV lane design and the influence of design on safety has become the focus of much attention in the transportation community. This research report addresses the topic of HOV lane safety by analyzing crash data from Dallas corridors with HOV lanes and provides guidance based on the research findings.

The topic of priority lane treatment in Texas has been addressed in several previous major research studies. Project 0-1353, "An Evaluation of High-Occupancy Vehicle Lanes in Texas," provided comprehensive documentation of the performance characteristics of all existing HOV lanes in Texas. A one-year project, Project 7-1994, "Implementation and Evaluation of Concurrent Flow HOV Lanes in Texas," examined the operational performance of the two new buffer-separated concurrent flow lanes in Dallas. A multi-year project, Project 7-3942 "Investigation of HOV Lane Implementation and Operational Issues" (1,2,3), investigated the operational effectiveness of Dallas' interim HOV lanes. This research effort first explored safety issues concerning the HOV lanes in Dallas, but only one year of crash data after the HOV lanes had been opened was available for analysis. Therefore, it was determined that additional after data was needed in order to provide a better understanding of the effects of the HOV lanes regarding operational safety. Project 7-4961, "An Evaluation of Dallas Area HOV Lanes" (4), provided the first good sample of crash data available after the opening of the HOV lanes. This study took a cursory look at injury crash data from each of the HOV lane corridors and several corridors without HOV lanes in Dallas. It compared before and after injury crash rates and crash frequencies with three years of available after data. The results of the crash data analysis indicated that more in-depth research was needed to determine why there was an increase in overall injury crash rates in the two corridors with buffer-separated concurrent flow HOV lanes, thus, leading to this current research study.

Freeway corridors in Dallas, where HOV lanes have been implemented, offer a valuable opportunity to evaluate "before" and "after" crash data and determine whether there has been a change in crash occurrence. The research team analyzed injury crash data from three corridors in the Dallas area with HOV lanes. The IH-30 corridor east of downtown Dallas includes a

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moveable barrier-separated contraflow HOV lane that has been in operation since 1991. The IH-35E North and IH-635 corridors both include buffer-separated concurrent flow HOV lanes. Both facilities are bi-directional and have a painted buffer separation. They have been in operation since the mid 1990s. All of these HOV lanes are considered interim projects by the Federal Highway Administration (FHWA) because they were retrofitted into the existing freeway facility resulting in design exceptions from normally required standards.

The research team obtained electronic crash databases from the Accident Records Bureau (ARB) of the Texas Department of Public Safety (DPS) in Austin, Texas. The electronic crash data are simply the information contained in the DPS mainframe database which is coded from the hard copy crash reports (Form ST-3) that are completed at the time of a crash occurrence.

Injury crash rates from Dallas corridors with HOV lanes were analyzed over multiple years. Using injury crash rates, the research team looked for changes in crash occurrence in these corridors after implementing HOV lanes. The crash data from the IH-30 corridor does not indicate a change in injury crash occurrence, except during the years 1995 and 1996, when it appears that several large construction projects resulted in more crashes in the corridor.

Dallas corridors with buffer-separated concurrent flow HOV lanes did show a change in crash occurrence with an increase in injury crash rates. The IH-35E North corridor experienced a 56 percent increase in the injury crash rate. The IH-635 corridor experienced a 41 percent increase in the injury crash rate.

A closer look at the crash data indicates that the higher injury crash rates were primarily due to the crashes occurring on the HOV lane and on the inside general-purpose lane which is adjacent to the HOV lane. The research team obtained copies of approximately 1,150 crash reports (Form ST-3) covering the years 1997-2000 for both the IH-35E and IH-635 corridors. These are all the crash reports that indicated the location of the crash as occurring on either the buffer-separated concurrent flow HOV lane or the adjacent inside general-purpose lane. The research team conducted a thorough review of the crash reports to better understand the crash characteristics and to examine possible trends. The review of the ST-3s supported the information contained in the crash database.

The research team tried to determine driver intent and contributing factors by reviewing each individual crash report with particular attention given to the crash sketch and narrative prepared by the investigating officer. Although it is impossible to determine driver intent and

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crash causes with absolute certainty, the research team was able to obtain a general sense of typical crash characteristics. The research team found that many of the crashes that were occurring in the buffer-separated concurrent flow HOV lane or the adjacent inside general-purpose lane were related to the speed differential between the two lanes.

Based on the analysis of crash data and the copies of crash reports, the research team developed guidance for future design of HOV lanes in the Dallas area. This guidance includes suggestions for corridor characteristics and HOV lane cross-sections for barrier-separated contraflow HOV lanes and painted buffer-separated concurrent flow HOV lanes. In the case of buffer-separated concurrent flow HOV lanes, the cross-sections are intended to lessen the influence of speed differential between the HOV lane and the general-purpose lanes by providing greater width cross-section in the HOV lane area (i.e., inside shoulder, HOV lane, and painted buffer). This increased width provides room for two vehicles to be side by side and may prevent many of the types of crashes studied.

The research team identified three key findings from the crash data analysis of Dallas corridors with buffer-separated concurrent flow HOV lanes.

- Increase in injury crash rate
- Increase in injury crashes primarily focused in the HOV lane and the adjacent general-purpose lane (Lane 1).
- Increase in injury crashes is likely due to the speed differential between the HOV lane and the general-purpose lanes. The general-purpose lanes experience congestion during peak periods, while the HOV lanes usually operate at the speed limit.

Higher vehicle speeds and trip reliability in the HOV lane compared to general-purpose lanes are goals of implementing HOV facilities. However, in the case of buffer-separated HOV lanes, the speed differential also contributes to crash potential. Further research is needed to evaluate innovative safety countermeasures that address this operational issue, while still maintaining the mobility benefits of HOV lanes.

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CHAPTER 1: INTRODUCTION

1.1 PURPOSE

Over the last three decades, HOV lanes have been built in the Houston and Dallas regions. Similar facilities are being considered for other urban areas in Texas. With the emergence of HOV lanes as an integral part of the state's transportation system, issues related to their design and safety have become the focus of much attention in the transportation community. The implementation of Dallas HOV lanes offers the unique opportunity to evaluate crash data from the contraflow barrier-separated facility and the two concurrent flow buffer-separated facilities both "before" and "after" HOV lane implementation in the corridors.

1.2 BACKGROUND

The Dallas District of TxDOT and Dallas Area Rapid Transit (DART) have implemented short-term (interim) transit projects, such as buffer-separated concurrent flow HOV lanes that have enhanced public transportation and overall mobility until permanent treatments can be implemented. Dallas' two buffer-separated facilities are considered interim projects by the Federal Highway Administration as they have been retrofitted into the existing freeway facility resulting in design exceptions from normally required standards. A moveable barrier-separated HOV lane has also been in operation in Dallas as an interim project since 1991.

The topic of priority lane treatment in Texas has been addressed in several previous major research studies. Project 0-1353, "An Evaluation of High-Occupancy Vehicle Lanes in Texas," provided comprehensive documentation of the performance characteristics of all existing HOV lanes in Texas. A one year project, Project 7-1994, "Implementation and Evaluation of Concurrent Flow HOV Lanes in Texas," examined the operational performance of the two new buffer-separated concurrent flow lanes in Dallas. A multi-year project, Project 7-3942 "Investigation of HOV Lane Implementation and Operational Issues" (1,2,3), investigated the operational effectiveness of Dallas' interim HOV lanes. This research effort first explored safety issues concerning the HOV lanes in Dallas, but only one year of crash data after the HOV lanes had been opened was available for analysis. Therefore, it was determined that additional after data was needed in order to provide a better understanding of the effects the HOV lanes

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regarding operational safety. Project 7-4961, "An Evaluation of Dallas Area HOV Lanes" (4), provided the first good sample of crash data available after the opening of the HOV lanes. This study took a cursory look at injury crash data from each of the HOV lane corridors and several corridors without HOV lanes in Dallas. It compared before and after injury crash rates and crash frequencies with three years of available after data. The results of the crash data analysis indicated that more in-depth research was needed to determine why there was an increase in overall injury crash rates in the two corridors with buffer-separated concurrent flow HOV lanes, thus, leading to this current research study.

1.3 PROJECT OBJECTIVES

The objective of this research is to better understand the safety issues associated with HOV lanes, particularly buffer-separated facilities. This objective was accomplished by analyzing crash data over multiple years from three urban freeways in Dallas, Texas. A large sample of hard copy crash reports was examined in detail to determine important characteristics attributed to crashes in these corridors with HOV lanes.

1.4 ORGANIZATION OF THE REPORT

This report provides the reader a background of the topic of HOV lane safety, beginning with a discussion of available literature. This section is followed by a discussion of the current attitudes and safety issues as identified by transportation professionals from across the country on the topic of HOV lane safety. With an understanding of current safety issues, the reader is presented with crash data taken from HOV lane corridors in Dallas, Texas. The final section of the report offers conclusions and recommendations based primarily on the available crash data from Dallas.

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CHAPTER 2: LITERATURE FINDINGS

2.1 SAFETY OF BUFFER-SEPARATED HOV LANES

Previous studies throughout the country regarding the safety of HOV lane projects have been relatively inconclusive due to data limitations in both quality and quantity. Some studies have concluded that concurrent flow buffer-separated lanes are as safe as other types of HOV lane projects, while other studies have indicated a safety concern with concurrent flow HOV lane projects.

One research study compared the frequency and characteristics of crashes "before" and "after" an HOV lane was added to Riverside Freeway State Route 91 (SR 91) in the Los Angeles area. The HOV lane was created by taking the inside shoulder of the roadway. The study concluded that the HOV lane project did not have an adverse effect on the safety of the corridor, and the changes in crash characteristics were attributed to the change in location and timing of traffic congestion (5).

Another study conducted by California Polytechnic State University reported the effects HOV lanes have on the safety of selected California freeways. The study suggested the observed crash pattern resulted from differences in traffic flow and congestion rather than geometric and operational characteristics of the HOV facilities (6). The crash "hot spots" during the peak periods of freeways with and without HOV lanes were a result of localized congestion (6).

An FHWA study conducted in 1979 indicates that the lack of physical separation between the HOV lane and the general-purpose lanes can create several operational and safety problems. The speed differential and the merging into and out of the HOV lane were thought to contribute to increased crash potential. Slow vehicles merging into a high-speed HOV lane of faster vehicles or the HOV lane vehicles having to decelerate rapidly to merge into the general-purpose lanes can result in either side-swipe or rear-end crashes (7).

The purpose of a 1995 study conducted by the Hampton Roads Planning District Commission in Virginia was to determine the safety effects of implementing a buffer-separated HOV lane. Data from HOV lane facilities around the country were reviewed to determine the impact of varying buffer widths separating the HOV lane and the general-purpose lanes. The following HOV lane designs were reviewed: 3 to 8 foot buffer, 8 foot buffer raised 6 inches off

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the pavement, 13 foot buffer, and 0 to 2 foot buffer. The results indicated that the impact of the first three designs was inconclusive. However, the use of a buffer of 0 to 2 foot in width appeared to contribute to an increase in crash rates when compared to the pre-HOV crash rates for the freeways of interest. The speed differential between the HOV lane and the general-purpose lanes was identified as the possible cause of the crash rate increase (8).

In 2002, TTI completed a multi-year research Project 7-4961, "An Evaluation of Dallas Area HOV Lanes." In this study, injury crash rates were compared from before and after buffer-separated HOV lanes were implemented in two corridors. There was an increase in injury crash rate for the after condition. However, the data were not analyzed to determine whether the increase was statistically significant. Several factors were identified that may have contributed to an increase in crash rates. These factors included the loss of the inside shoulder and a reduction in general-purpose lane width from 12 feet to 11 feet for implementation of the buffer-separated HOV lane (4).

Other recent research conducted by the Midwest Research Institute (MRI) studied crash data from California on freeways where the inside shoulder was converted to a travel lane and the other lanes were reduced in width. All of the freeways examined statistically used the converted inside lane as a concurrent flow HOV lane. The analysis indicated that crash frequencies increased after the freeways were changed in this manner. However, the MRI research team did not attempt to explain the increase in the number of crashes (9).

2.2 SAFETY OF BARRIER-SEPARATED HOV LANES

Traffic crashes in the general-purpose lanes do not typically disrupt operation of barrier-separated HOV lanes. Barrier-separated roadways protect the HOV lane traffic and the general-purpose lanes from the considerable speed differential that may exist between the two traffic streams with concurrent flow HOV lanes (10). However, there has been some concern that physically separated roadways are detrimental to traffic flow when an incident occurs in either the HOV lane or mixed-flow facility, as the barrier limits the ability of traffic to maneuver around an incident (10). The 1979 FHWA study indicated that barrier-separated HOV facilities offered a high degree of safety for the general-purpose lanes and particularly for vehicles within the HOV lane (7).

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**CHAPTER 3:
ASSESSMENT OF ISSUES AND ATTITUDES FOR HOV LANE SAFETY**

3.1 INTRODUCTION

A thorough understanding of the issues and attitudes of transportation professionals regarding the topic of HOV lane safety is valuable in determining future implementation of the various designs of HOV lanes. The two HOV lane designs of particular interest for obtaining safety information are buffer-separated and barrier-separated. Buffer-separated HOV lanes are defined as facilities with buffers of varying widths, with or without delineators, and/or channelizers separating adjacent traffic flow. Barrier-separated HOV lanes are defined as facilities with fixed or moveable concrete barriers separating adjacent traffic flow.

3.2 SURVEY METHODOLOGY

The research team developed survey questions on the topic of buffer-separated and barrier-separated HOV lane safety for distribution to transportation professionals from around the country that are knowledgeable of the research topic. The draft survey questions were distributed to the members of the project's research monitoring committee for comments and revised based on those comments. The survey was automated using *Survey Solutions for the Web* software from Perseus Development Corporation (<http://www.perseus.com/>).

The survey instrument was distributed in two formats: an e-mail-based text and html-based Netscape file. Respondents with direct Internet access were able to open the Netscape file and submit responses directly. Those respondents without direct Internet access completed the survey in the e-mail text and used reply to send the completed survey. A portion of the survey respondents printed the Netscape file and returned the survey via fax.

3.3 SURVEY RECIPIENTS

The research team sent the opinion survey to members and friends of the Transportation Research Board HOV Systems Committee and members of the American Association of State Highway and Transportation Officials (AASHTO) Task Force for Public Transportation Facilities Design of the AASHTO Subcommittee on Design. These individuals are interested in the topics associated with HOV lanes as evidenced by their involvement in these groups. The

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research team felt that these individuals would offer excellent insight into the national experience regarding HOV lane safety as well as professional thoughts and experiences on the topic.

3.4 SURVEY RESPONSES

3.4.1 Respondents

The research team distributed 95 surveys and compiled results from 23 respondents. The response rate was 24 percent. The responses included more than 230 written comments on the various HOV lane safety issues. Individuals responding to the survey represent a mix of backgrounds, experience, and job responsibilities. Although not all the respondents had direct experience operating HOV lanes or in-depth knowledge of safety issues, the responses are of use in defining possible safety concerns with HOV facilities.

3.4.2 States with Buffer-Separated HOV Lanes

Of the 23 respondents, 12 were from states that operate buffer-separated HOV lanes. Information from areas with buffer-separated HOV lanes is particularly important to this research for use in comparison with observations from the Dallas area.

3.5 SURVEY DATA SUMMARY AND ANALYSIS

Appendix A contains the survey and results. Provided below are selected questions highlighting the opinion survey results and comments. The first half of the survey posed questions specifically related to buffer-separated HOV lanes, and the second half related to barrier-separated HOV lanes.

3.6 GENERAL FINDINGS OF SAFETY ISSUES SURVEY

3.6.1 Buffer-Separated HOV Lanes

Table 1 shows responses given by the transportation professionals surveyed to the following statement: "Based on your experience, please indicate your region or state's relative concern for any of the following safety issues associated with buffer-separated HOV lanes."

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Table 1. Safety Issues of Buffer-Separated HOV Lanes - Level of Concern.

Issue	High	Medium	Low	No	N/A	No Response	Total
Vehicles Illegally Crossing Buffer	6	5	3	1	5	3	23
Vehicle Merges at Ingress/Egress	3	5	5	1	5	4	23
Lack of, or Reduced Inside Shoulder Width	5	6	5	0	2	5	23
Reduced HOV Lane or Mainlane Widths	0	3	6	5	5	4	23
HOV Lane Used For Disabled Vehicles	4	1	5	5	4	4	23
HOV Lane Used For Evasive Action	3	5	6	1	4	5	23

3.6.2 Barrier-Separated HOV Lanes

Table 2 shows responses given by the transportation professionals surveyed to the following statement: "Based on your experience, please indicate your region or state's relative concern for any of the following safety issues associated with barrier-separated HOV lanes."

Table 2. Safety Issues of Barrier-Separated HOV Lanes - Level of Concern.

Issue	High	Medium	Low	No	N/A	No Response	Total
Operational Issues at Ingress/Egress Locations	2	5	6	2	3	5	23
Lack of, or Reduced Inside Shoulder Width	4	3	4	3	3	6	23
Reduced HOV Lane Widths	0	3	5	6	3	6	23
Disabled Vehicles in HOV Lane	3	4	4	4	2	6	23
Wrong Way Movements on HOV Lanes	3	2	3	6	3	6	23

3.7 SPECIFIC ISSUES FROM SAFETY ISSUES SURVEY

3.7.1 Buffer-Separated HOV Lanes

Issues the survey respondents indicated as typically occurring on buffer-separated HOV lanes were separated into the following categories:

- ingress/egress difficulty,
- illegally crossing the buffer,

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- speed differential, and
- reduced inside shoulder.

The safety issues at ingress/egress locations result from having extreme congestion in the general-purpose lanes. In this case, a vehicle in the HOV lane desiring to merge into the adjacent congested general-purpose lane is unable to find an acceptable gap in general-purpose lane traffic. Difficulty merging causes the vehicle to slow down or stop in the buffer area or within the HOV lane, possibly blocking other HOV lane traffic from continuing. Traffic queuing in the HOV lane is usually unexpected and may result in rear-end crashes. One survey respondent noted that their experience showed that most of the HOV lane crashes occurred in the vicinity of access points involving heavy merge volumes or weave areas.

The issue of vehicles illegally crossing the buffer involves occupancy violators and non-violators. Occupancy violators will illegally cross the buffer to bypass slowed mainlane traffic and then return across the buffer to the mainlanes when the traffic is moving steadily again. Also, occupancy violators may be familiar with enforcement practices in the area and illegally move back and forth across the buffer area to avoid known enforcement areas.

One survey respondent noted that vehicles crossing the buffer basically "hurt" the entrance to the HOV lanes. Another respondent noted that impatient HOV lane users may cross the buffer or use the access locations and go back to the general-purpose lanes to pass slower HOV lane vehicles.

Some respondents noted that the speed differential between the buffer-separated HOV lanes and the general-purpose lanes can be a safety concern. One survey respondent explained that many years ago transportation professionals realized the safety implications of placing high-speed traffic next to low-speed traffic and how the use of acceleration and deceleration lanes at freeway entrance and exit ramps exist to minimize the speed differential for merging vehicles. In a congested freeway situation, the speed differential between the outside freeway lane and entrance and exit ramps is typically not as substantial as the differential between the HOV lane and the first general-purpose lane. Another survey respondent noted a safety concern related to vehicles stopped in the general-purpose lane attempting to enter the HOV lane where vehicles were traveling at much higher speeds.

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Substandard width for the inside shoulder may cause disabled vehicles to stop in the HOV lane, either partially or completely blocking the lane. During uncongested time periods, drivers may be tempted to park a disabled vehicle on the HOV lane. In certain cases, the inside shoulder is either reduced or completely taken away to implement the HOV lane. One survey respondent noted some drivers do not understand that the shoulder has been taken away and simply park their disabled vehicle in the HOV lane.

3.7.2 Barrier-Separated HOV Lanes

Issues that the survey respondents indicated as typically occurring on barrier-separated HOV lanes were restricted mainly to the HOV lane and did not routinely influence the general-purpose lanes. Without a concerted effort of HOV lane enforcement, excessive speed in the lane can create a safety hazard resulting in crashes, particularly at access locations where a potential for queuing exists. Crashes within barriers of an HOV lane can make incident management difficult, particularly if the facility lacks shoulders. Facilities designed without inside shoulders do not provide a location to park disabled vehicles. The ability to pass stalled vehicles is important to the successful operation of barrier-separated HOV lane facilities. Some barrier-separated facilities include breakdown areas in the design to minimize the impact of not having shoulders.

The design of access points for a barrier-separated HOV lane is also noted as being critical in alleviating the number of vehicle crashes. The barrier-separation may create problems with sight distance at access points and horizontal curves, particularly when the HOV lane is operating during non-daylight hours. This situation requires ample signing and illumination to increase the level of safety. Access considerations also apply to getting emergency vehicles into the lane and providing adequate incident response in the event an incident has blocked the HOV lane and caused a long backup of traffic on the lane.

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CHAPTER 4: CRASH DATA ANALYSIS

4.1 INTRODUCTION

The research team analyzed available crash data from Dallas, both macroscopically and microscopically. Macroscopically, injury crash rates from each of the HOV lane corridors in the Dallas area were developed to determine whether the corridors experienced an overall change related to crash occurrence in the years after the HOV lanes were implemented in each corridor. Microscopically, locations of individual crashes and crash reports from the Dallas area were reviewed to determine crash characteristics and possible reasons for crash occurrence.

4.2 CRASH RATE ANALYSIS FOR DALLAS, TEXAS

4.2.1 Background

The Dallas area has 54.2 lane-miles of HOV lanes currently in operation on five freeways. The first HOV lane in Dallas opened in October 1991. The IH-30 HOV lane is a barrier-separated contraflow facility using a moveable barrier system. In late 1996, buffer-separated HOV lanes were opened in each direction on IH-35E North, and they operate 24 hours per day. The following year, buffer-separated HOV lanes were opened on IH-635, also serving traffic in each direction of travel and operating 24 hours per day. The latest addition to the Dallas area HOV lane network serves the area south of downtown Dallas as a reversible barrier-separated HOV lane along IH-35E South and buffer-separated and reversible barrier-separated HOV lanes along US-67. These last two corridors were not included in the crash data analysis since the HOV lanes have only been in operation since 2000. There was not enough after data yet available to do a comprehensive crash data analysis on these corridors.

In 2002, TTI completed a multi-year research Project 7-4961, "An Evaluation of Dallas Area HOV Lanes" (2). Although this project focused primarily on the mobility benefits of HOV lanes, it also took a cursory look at crash data from three of the HOV lane corridors in Dallas. The results of the crash data analysis indicated that more in-depth research was needed on the topic to determine why there was an increase in overall injury rates in the two corridors with buffer-separated concurrent flow HOV lanes.

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4.2.2 Reliability of Electronic Crash Data

The research team obtained the coded crash data from the Accident Records Bureau of the Texas Department of Public Safety in Austin. Coded crash data refers to crash information contained in the DPS mainframe database, which consists of all the data from the original crash reports (ST-3), with the exception of crash sketches and the exact wording of narratives.

The reader should be aware that crash reporting errors are possible. The main areas of concern for crash reporting errors with regard to this research were the coded location (i.e., lane designation) and severity of a crash within the corridors of interest. The research team made every effort to identify electronic database discrepancies by reviewing a large sample of the original ST-3 reports. The review of the ST-3s supported the information contained in the crash database. Researchers found that DPS personnel made proper corrections to information such as lane designation.

4.2.3 HOV Lane Corridor Injury Crash Rates

A "before" and "after" analysis of injury crash data was performed to evaluate changes in crash occurrence in corridors with the two types of HOV lane facilities available in the Dallas area, barrier- and buffer-separated facilities.

Injury crash rates are an effective means of measuring crash potential based on the concept of vehicle exposure measured in vehicle-miles traveled (VMT). Injury related, two-way crash rates (injury crashes per 100 Million VMT) for the three corridors of interest have been calculated for multiple years using ARB supplied data. Also, TTI had available peak period traffic volumes that could be used to develop peak period injury crash rates for a limited number of years.

Figures 1, 2, and 3 show the typical cross-sections for IH-30 (East R.L. Thornton Freeway), IH-35E North (Stemmons Freeway), and IH-635 (LBJ Freeway), respectively. Each cross-section is followed by a table (Tables 3-5) showing yearly crash rates for the particular corridor. Year 2000 crash data were the most recent data available from the DPS database at the time of this research.

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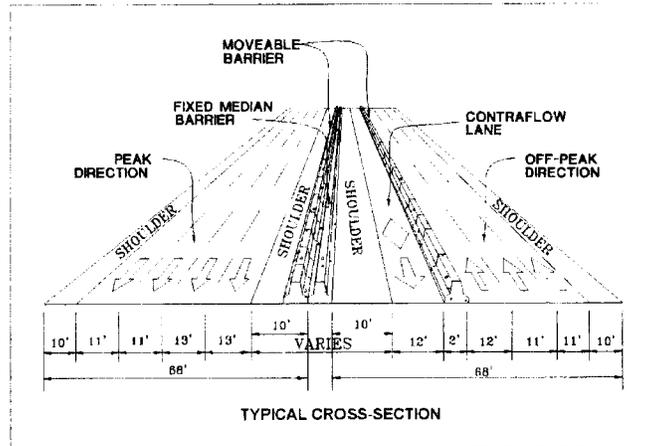


Figure 1. IH-30 (ERLT) Contraflow HOV Lane (Dallas, Texas).

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Table 3. IH-30 (ERLT) Freeway Corridor Injury Crash Rates.

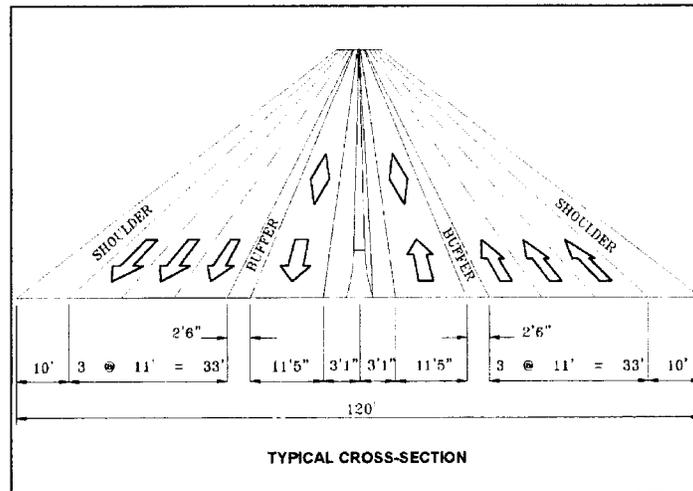
IH-30 with Contraflow Barrier Separated HOV Lane US-75 to Jim Miller Rd. (Control Section: 0009-11 from Milepoint 4.5 to 10.1)								
Injury Related Crashes								
Yr	Total Crashes	Peak Period Crashes	EB/WB	Nonserious/ Serious ¹	Weekday/ Weekend	Vehicle-Miles Traveled (100 Mil VMT) ²	Crash Rate (Crashes/ 100 Mil VMT)	Peak Period Crash Rate ³
85	244	-	116/128	212/32	151/93	2.67	81	-
86	276	-	134/142	237/39	190/86	2.91	95	-
87	235	-	125/110	211/24	147/88	2.79	84	-
88	213	-	120/93	192/21	142/71	2.75	78	-
89	204	-	204/102	180/24	133/68	2.75	74	-
90	149 (Const.)	-	69/80	129/20	99/50	2.47	60	-
Construction of HOV Lanes ⁴								
92 ⁵	182	51	102/80	169/13	124/58	2.46	74	Unavailable ⁶
93 ⁵	201 (Const.)	59	94/107	181/20	142/59	2.46	82	Unavailable ⁶
94	234 (Const.)	68	102/132	219/15	151/83	2.28	103	Unavailable ⁶
95	270 (Const.)	-	159/111	247/23	187/83	2.28	118	-
96	276 (Const.)	-	153/123	255/21	194/82	2.41	115	-
97	232 (Const.)	-	124/111	221/11	156/76	2.67	87	-
98	192	63	91/101	180/12	131/61	2.61	74	63
99	222	76	104/118	200/22	153/69	2.61	84	83
00	230	78	118/112	213/17	154/76	2.66	86	73

Notes:
¹Nonserious = Possible or Non-incapacitating Injury. Serious = Incapacitating Injury or Fatality
²Yearly corridor VMT calculation for 1992-2000 includes HOV lane vehicles.
³HOV lane construction began 12/90 and ended 9/91
⁴Major roadway reconstruction occurred during five of the first six years of HOV lane operation.
⁵Reconstruction of Fair Park bridge began 5/93 and ended 2/96
⁶Due to construction, no peak period data were collected
⁷TTI collected traffic volumes used

Table 3 shows higher corridor crash rates between the years 1994-1996. Several major construction projects in the corridor would seem to explain this increase, as the crash rates declined in subsequent years. The injury crash rates prior to implementation of the HOV lane, with the exception of 1990, are generally similar to the crash rates after implementation. The research team could not determine the reason for the low injury crash rate in 1990.

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Note: Intermediate ingress/egress is possible at locations where the painted buffer changes to a single skip stripe as shown in the left side of the photo below.



Figure 2. IH-35E North (Stemmons) Freeway HOV Lane (Dallas, Texas).

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Table 4. IH-35E North (Stemmons) Freeway Corridor Injury Crash Rates.

IH-35E North with Concurrent Flow Buffer-Separated HOV Lanes IH-635 to Dallas County Line (Control Section 0196-03 from Milepoint 28.5 to 34.5)								
Injury Related Crashes								
Year	Total Crashes	Peak Period	NB/SB	Nonserious/ Serious ¹	Weekday/ Weekend	Vehicle Miles Traveled (100 Mil VMT) ²	Crash Rate (Crashes/100 Mil VMT)	Peak Period Crash Rate ³
90	74	-	38/36	69/5	54/20	2.57	29	-
91	75	-	40/35	67/8	50/25	2.55	29	-
92	64	-	35/29	52/12	53/11	2.64	24	-
93	104	37	57/47	95/9	70/34	2.64	38	45
94	110	35	61/49	94/16	78/32	2.7	40	53
Average Crash Rate							32	49
Construction of HOV Lanes ⁴								
97	157 (Const.)	-	85/72	150/7	117/40	2.98	53	-
98	162	54	87/74	145/17	119/43	3.49	46	67
99	162	65	85/77	155/7	123/39	3.43	47	78
00	197	73	96/101	185/12	157/40	3.59	55	100
Average Crash Rate							50	82

Notes

¹Nonserious = Possible or Non-incapacitating Injury, Serious = Incapacitating Injury or Fatality.

²Yearly Corridor VMT calculation for 1997-2000 includes HOV lane vehicles

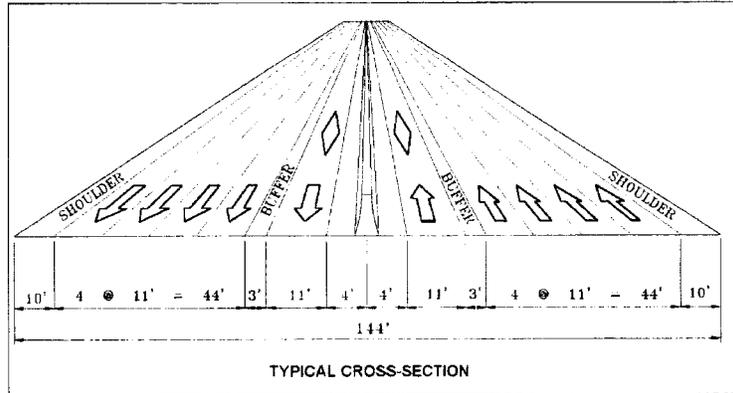
³HOV lane construction began 6/95 and ended 9/96.

⁴TTI collected traffic volumes used.

Table 4 shows higher corridor crash rates for the HOV lane operation period from 1997 to 2000. The injury crash rate average from 1997-2000 is 56 percent higher than the 1990-1994 average. Also, the injury crash rates in the "after" condition are higher for peak travel periods. When looking at individual years, the peak period crash rates in the IH-35E North corridor are shown to be higher than the daily crash rates.

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Note: Intermediate ingress/egress is possible at locations where the painted buffer changes to a single skip stripe.

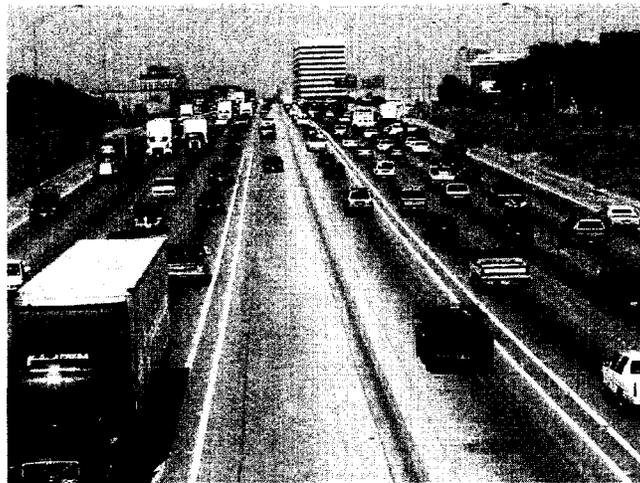


Figure 3. IH-635 (LBJ) Freeway HOV Lane (Dallas, Texas).

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Table 5. IH-635 (LBJ) Freeway Corridor Injury Crash Rates.

IH-635 with Concurrent Flow Buffer-Separated HOV Lanes US-75 to IH-35E North (Control Section: 2374-01 from Milepoint 6.5 to 14.5)									
Injury Related Crashes									
Year	Total Crashes	Peak Period	EB/WB	Nonserious/ Serious ¹	Weekday/ Weekend	Vehicle-Miles Traveled (100 Mil VMT) ²	Crash Rate (Crashes/100 Mil VMT)	Peak Period Crash Rate ³	
90	264	-	138/126	236/28	193/71	5.48	48	-	
91	282	-	152/130	256/26	186/96	5.95	47	-	
92	245	84	107/138	227/18	176/69	6.06	40	-	
93	241	78	131/110	228/13	181/60	6.06	40	-	
94	283	93	142/141	375/16	216/67	6.80	43	55	
Average Crash Rate							44		55
Construction of HOV Lanes ⁴									
97 ⁴	225	-	118/107	210/15	180/45	3.45	65	-	
98	476	184	242/234	451/25	375/101	7.53	63	94	
99	434	146	218/216	403/31	337/97	7.42	59	77	
00	450	162	223/227	422/28	355/95	7.37	61	88	
Average Crash Rate							62		86

Notes

¹Nonserious = Possible or Non-incapacitating Injury, Serious = Incapacitating Injury or Fatality

²Corridor VMT calculation for 1997-2000 includes HOV lane vehicles.

³HOV lane construction began 6/95 and ended 3/97.

⁴July-December.

⁵TTI collected traffic volumes used.

Table 5 shows higher corridor crash rates for the HOV lane operation period from 1997 to 2000. The injury crash rate average from 1997-2000 is 41 percent higher than the 1990-1994 average. Also, the crash rates in the "after" condition are higher for peak travel periods. When looking at individual years, the peak period crash rates are shown to be higher than the daily crash in this corridor.

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4.2.4 Higher Severity Injury Crash Rates

The most severe condition of individuals involved in the crash determines the overall crash severity. The injury severity is typically broken down into four categories:

- Type C - Possible Injury: A person complaining of a sore neck.
- Type B - Non-incapacitating Injury: Obvious scrapes and bruises that would not physically disable a person at the scene.
- Type A - Incapacitating injury: Broken limbs or obvious blood loss.
- Type K - Fatality: Highest severity level.

The injury crash rates that are presented in Section 4.2.3 included injuries of all severity levels. An increase in injury crash rate was shown for both of the buffer-separated HOV lane corridors. The research team is aware that many studies on crash data only focus on injury crashes of the higher severities, that is Types K, A, and B.

Tables 6 and 7 show the distribution of crash severity types as a percentage of the total. Also shown are the injury crash rates by year with the Type C injury crashes excluded from the calculation.

Table 6. IH-35E (Stemmons) Injury Crash Rates by Severity Percentage.

	IH-35E (Stemmons) Crash Injury Level of Severity (%)					Injury Crash Rate, Excluding Type C (Crashes/100 Mil VMT)		
	Fatal Type K	Incap. Type A	Nonincap Type B	Poss Inj Type C	Total	Crashes, without Type C	100 Mil VMT ¹	Crash Rate
1990	0%	6%	32%	63%	100%	27	2.57	11
1991	3%	7%	38%	52%	100%	35	2.55	14
1992	3%	16%	33%	48%	100%	33	2.64	13
1993	1%	8%	25%	66%	100%	35	2.64	13
1994	1%	12%	33%	53%	100%	49	2.70	18
Construction of HOV Lanes²						Average Crash Rate		14
1997	1%	3%	30%	67%	100%	51	2.98	17
1998	1%	9%	26%	64%	100%	57	3.49	16
1999	1%	3%	26%	71%	100%	46	3.43	13
2000	1%	5%	31%	62%	100%	74	3.59	21
Average Crash Rate								17

Notes
¹Yearly Corridor VMT calculation for 1997-2000 includes HOV lane vehicles.
²HOV lane construction began 6/95 and ended 9/96.

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Table 7. IH-635 (LBJ) Injury Crash Rates by Severity Percentage.

	IH-635 (LBJ) Crash Injury Level of Severity (%)					Injury Crash Rate, Excluding Type C (Crashes/100 Mil VMT)		
	Fatal Type K	Incap. Type A	Nonincap. Type B	Poss Inj. Type C	Total	Crashes, without Type C	100 Mil VMT ¹	Crash Rate
1990	3%	7%	30%	61%	100%	101	5.48	18
1991	0%	9%	35%	56%	100%	122	5.95	21
1992	2%	5%	26%	67%	100%	81	6.06	13
1993	1%	4%	24%	71%	100%	70	6.06	12
1994	2%	4%	23%	71%	100%	80	6.6	12
Average Crash Rate								15
Construction of HOV Lanes ²								
1997	0%	5%	17%	77%	100%	50 ^{off-Corridor} ³	3.45	14
1998	0%	5%	26%	69%	100%	144	7.53	19
1999	1%	6%	27%	66%	100%	145	7.42	20
2000	1%	5%	27%	67%	100%	150	7.37	20
Average Crash Rate								18

Notes
¹Corridor VMT calculation for 1997-2000 includes HOV lane vehicles
²HOV lane construction began 6/95 and ended 3/97
³July-December.

Tables 6 and 7 show that the difference in “before” and “after” injury crash rates is reduced when Type C crashes are excluded from the calculation; but, the injury crash rate average from 1997-2000 is still higher than the 1990-1994 average.

4.2.5 Crash Database Injury Crash Rates Results

A macroscopic look at crash occurrence using injury crash rates for the IH-30 corridor did not indicate anything noteworthy related to the barrier-separated HOV lane. However, both of the buffer-separated HOV lane corridors in Dallas did show higher corridor injury crash rates in the “after” years. The injury crash rate from IH-35E North increased 56 percent. The injury crash rate from IH-635 increased 41 percent. Also, crash rates were shown to be higher during the peak periods in the “after” years.

A microscopic examination of the location of crashes and reported reasons for crash occurrences was studied further to understand crash characteristics and will be discussed in more detail later in this report.

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4.2.6 Other Related Research

The research team previously discussed other related research in the literature findings section of this report. One research study mentioned is particularly interesting given the results of the analysis of injury crash rates for Dallas corridors with buffer-separated concurrent flow HOV lanes.

Research conducted by the Midwest Research Institute studied electronic crash data from California on freeways where the inside shoulder was converted to a travel lane and the other lanes were reduced in width. All of the freeways analyzed statistically are using the additional inside lane as an HOV lane. This type of conversion project is basically what has been done for the two corridors with buffer-separated concurrent flow lanes in the Dallas area.

MRI's analysis indicated that crash frequencies increased after the freeways were changed in this manner. However, the research did not attempt to explain the increase in the number of crashes. MRI's primary data source was the FHWA Highway Safety Information System (HSIS) database (2).

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4.3 INJURY CRASH OCCURRENCE BY LANE IN DALLAS, TEXAS

4.3.1 Daily Injury Crash Occurrence by Lane

Tables 8-10 show the particular lane where crashes occurred for each of the corridors with an HOV lane.

Table 8. IH-30 (ERLT) Freeway Corridor Injury Crashes by Lane.

IH-30 (ERLT) Injury Crashes by Lane Location ¹																
Year	Barrier-Separated HOV			Lane 1 (Inside Lane)			Lane 2			Lane 3			Lane 4			
	EB	WB	Total	EB	WB	Total	EB	WB	Total	EB	WB	Total	EB	WB	Total	
1985	N/A	N/A	N/A	21	22	43	27	26	53	29	21	50	N/A ⁴	N/A ⁴	N/A ⁴	
1986	N/A	N/A	N/A	33	25	58	23	28	51	33	36	39	N/A ⁴	N/A ⁴	N/A ⁴	
1987	N/A	N/A	N/A	18	18	36	23	17	40	18	25	43	12	9	21	
1988	N/A	N/A	N/A	21	17	38	26	14	40	13	11	23	13	6	19	
1989	N/A	N/A	N/A	16	20	36	18	13	21	15	15	30	14	6	22	
1990	N/A	N/A	N/A	10	11	21	11	14	25	14	13	27	11	13	24	
Construction of HOV Lanes ²																
1992	2	0	2	21	15	36	20	15	35	17	15	32	16	13	29	
1993 ³	1	2	3	23	25	52	18	25	43	15	29	44	10	7	17	
1994	5	5	10	22	26	46	17	29	46	16	27	43	15	8	23	
1995	2	1	3	47	35	82	31	16	47	34	22	56	13	15	28	
1996	1	0	1	42	38	79	31	27	57	22	19	41	25	12	37	
1997	3	1	4	24	20	44	20	16	31	22	21	43	16	17	33	
1998	1	0	1	26	26	46	13	19	32	13	16	29	18	14	32	
1999	1	4	5	19	20	39	23	27	50	12	15	27	22	9	31	
2000	1	2	3	18	22	40	20	21	41	35	24	59	17	15	32	

Notes:
¹HOV lane construction began 12/90 and ended 9/91
²Major roadway reconstruction occurred during five of the first six years of HOV lane operation
³Reconstruction of Fair Park bridge began 5/93 and ended 2/96.
⁴Database code for Lane 4 did not exist prior to 1987. Lanes 3 and 4 are summed together in 1985 and 1986.

Table 8 indicates relatively few crashes are occurring within the barrier-separated HOV lane on IH-30. The increase in injury crashes during the years 1994-1996 reflect the occurrence of several major construction projects in the IH-30 corridor. Lanes 1, 2, and 4 do not indicate anything noteworthy for the most recent years studied. However, the frequency of Lane 3 crashes in the year 2000 is the highest of all previous. As this increase is for only one year, it is unclear whether or not this is a trend. Also, it is not obvious that the increase in Lane 3 crashes effects the injury crash rate for the corridor as seen previously in Table 3.

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Table 9 below shows more crashes occurring within the IH-35E North buffer-separated HOV lane than Table 8 showed occurring in the IH-30 barrier-separated HOV lane. Also, there are more crashes occurring in Lane 1 (inside lane) immediately adjacent to the HOV lane. The average injury crash frequency in Lane 1 for the HOV operating period 1997-2000 is 153 percent higher than the 1990-1994 average prior to operation. Lanes 2 and 3 also show an increase but not as substantial.

Table 9. IH-35 (Stemmons) Freeway Corridor Injury Crashes by Lane.

IH-35E (Stemmons) Injury Crashes by Lane Location												
Year	Buffer-Separated HOV			Lane 1 (Inside Lane)			Lane 2			Lane 3		
	NB	SB	Total	NB	SB	Total	NB	SB	Total	NB	SB	Total
1990	N/A	N/A	N/A	7	10	17	9	11	20	6	4	10
1991	N/A	N/A	N/A	7	6	13	9	10	19	4	4	8
1992	N/A	N/A	N/A	5	6	11	6	8	14	6	4	10
1993	N/A	N/A	N/A	10	14	24	11	11	22	18	7	25
1994	N/A	N/A	N/A	9	12	21	17	9	26	15	16	31
Average	N/A	N/A	N/A	8	10	17	10	10	20	10	7	17
Construction of HOV Lanes												
1997	12	6	18	27	18	45	17	10	27	15	11	26
1998	10	12	22	16	15	31	22	12	34	10	15	25
1999	10	10	21	18	25	43	20	9	29	11	14	25
2000	10	8	18	26	28	54	32	13	45	28	12	40
Average	11	9	20	22	22	43	23	11	34	16	17	29

Notes:

¹HOV lane construction began 6/95 and ended 9/96.

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Table 10. IH-635 (LBJ) Freeway Corridor Injury Crashes by Lane.

IH-635 (LBJ) Injury Crashes by Lane Location																
Year	Buffer-Separated HOV			Lane 1 (Inside Lane)			Lane 2			Lane 3			Lane 4			
	EB	WB	Total	EB	WB	Total	EB	WB	Total	EB	WB	Total	EB	WB	Total	
1990	N/A	N/A	N/A	34	15	49	26	18	44	25	34	59	27	18	45	
1991	N/A	N/A	N/A	26	26	52	34	26	60	31	29	60	25	21	46	
1992	N/A	N/A	N/A	26	33	59	13	17	30	23	28	51	16	18	34	
1993	N/A	N/A	N/A	26	24	50	27	14	41	25	21	46	19	12	31	
1994	N/A	N/A	N/A	31	27	48	24	29	53	34	19	53	20	24	44	
Average	N/A	N/A	N/A	29	25	52	25	21	46	28	26	54	21	19	40	
Construction of HOV Lanes																
1997	19	22	41	84	66	150	29	29	58	24	22	46	32	39	71	
1998	26	28	54	81	78	159	29	37	66	31	17	48	31	32	63	
1999	26	29	55	73	84	157	22	16	38	32	23	55	31	26	57	
2000	33	24	57	57	76	133	23	41	64	26	21	47	35	21	56	
Average	26	26	52	74	76	150	26	31	56	28	21	49	32	30	62	

Notes
¹HOV lane construction began 6/95 and ended 3/97

Table 10 shows more crashes occurring with the IH-635 buffer-separated HOV lane. Also, there are more crashes occurring in Lane 1 (inside lane) immediately adjacent to the HOV lane. The average injury crash frequency in Lane 1 from 1997-2000 is 188 percent higher than the 1990-1994 average. Lanes 2 and 4 also show an increase, but not as substantial. The Lane 3 average has dropped.

4.3.2 Injury Crash Occurrence by Lane during Peak Periods in Dallas, Texas

Tables 11 and 12 show crashes occurring during the peak period for each of the buffer-separated HOV lane corridors. The crashes occurring during the peak periods show the same characteristics as the daily information presented in the previous tables. More crashes occurred in Lane 1 during the years since the HOV lanes were implemented.

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Table 11. IH-35E (Stemmons) Freeway Corridor Crashes by Lane During Peak Periods.

IH-35E (Stemmons) Injury Crashes by Lane Location (Peak Periods)												
Year	Buffer-Separated HOV			Lane 1 (Inside Lane)			Lane 2			Lane 3		
	NB	SB	Total	NB	SB	Total	NB	SB	Total	NB	SB	Total
1990	N/A	N/A	N/A	2	6	8	2	6	8	3	1	4
1991	N/A	N/A	N/A	1	4	5	0	4	4	2	2	4
1992	N/A	N/A	N/A	1	5	6	2	2	4	6	4	10
1993	N/A	N/A	N/A	4	8	12	2	6	8	4	4	8
1994	N/A	N/A	N/A	3	6	9	4	4	8	4	5	9
Average	N/A	N/A	N/A	2	6	8	2	4	6	4	3	7
Construction of HOV Lanes ¹												
1997	7	4	11	13	12	25	7	4	11	5	7	12
1998	4	7	11	8	8	16	4	2	6	1	6	7
1999	3	3	6	11	14	25	8	3	11	6	5	11
2000	3	3	6	9	19	26	5	8	13	5	7	12
Average	4	4	9	10	13	24	6	4	10	4	6	11

Notes:
¹HOV lane construction began 6/95 and ended 9/96.

Table 12. IH-635 (LBJ) Freeway Corridor Crashes by Lane During Peak Periods.

IH-635 (LBJ) Injury Crashes by Lane Location (Peak Periods)															
Year	Buffer-Separated HOV			Lane 1 (Inside Lane)			Lane 2			Lane 3			Lane 4		
	EB	WB	Total	EB	WB	Total	EB	WB	Total	EB	WB	Total	EB	WB	Total
1990	N/A	N/A	N/A	9	9	18	11	2	13	8	13	21	5	7	12
1991	N/A	N/A	N/A	5	7	12	6	9	15	13	8	21	9	6	15
1992	N/A	N/A	N/A	8	13	21	3	3	6	11	15	26	8	8	16
1993	N/A	N/A	N/A	13	8	21	8	3	11	8	7	15	5	2	7
1994	N/A	N/A	N/A	15	6	21	11	9	20	12	4	16	6	9	15
Average	N/A	N/A	N/A	10	9	19	8	5	13	10	9	20	7	6	13
Construction of HOV Lanes ¹															
1997	8	13	21	43	22	75	11	11	22	6	6	12	12	16	28
1998	12	11	23	35	32	67	10	10	20	9	6	15	12	4	16
1999	12	8	20	32	31	63	4	3	7	7	6	13	8	7	15
2000	15	9	24	28	33	61	10	8	18	7	4	11	10	5	15
Average	12	10	22	35	32	67	9	8	17	7	6	13	11	8	19

Notes:
¹HOV lane construction began 6/95 and ended 3/97.

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4.3.3 Database Injury Crash Occurrence by Lane Results

An increase in crash occurrence is specific to the HOV lane and Lane 1 for both corridors with buffer-separated HOV lanes in the Dallas area. The average number of injury crashes in Lane 1 of IH-35E from 1997-2000 is 153 percent higher than the 1990-1994 average. The average number of injury crashes number in Lane 1 of IH-635 from 1997-2000 is 188 percent higher than the 1990-1994 average. An increase in the other general-purpose lanes was noted for both corridors; but, the increase is not as substantial as the Lane 1 increase.

A more dramatic change in injury crashes has occurred in Lane 1 of the IH-635 (LBJ) corridor as compared to the IH-35E North corridor. Therefore, the research team focused on determining the concentration of crashes in the IH-635 corridor by examining injury crash occurrence by milepoint within the limits of the HOV lane. This analysis is discussed in the following section. The reader should be aware that two intermediate ingress/egress points are available for this corridor. The intermediate ingress/egress points are basically skip striping between the HOV lane and the general-purpose lanes. The remainder of the lane is designated with a "no crossing" paint stripe.

4.4 HOV LANE AND LANE 1 INJURY CRASHES BY MILEPOINT

4.4.1 IH-635 (LBJ) Injury Crashes by Milepoint for Years 1998-2000

The IH-635 (LBJ) corridor has experienced the more dramatic change in crash occurrence in Lane 1 of the two buffer-separated HOV lane corridors. Overall injury crash rate increase is mostly due to the increase in crashes which occurred in the HOV lane and Lane 1 immediately adjacent to the HOV lane. The research team analyzed the crashes by milepoint in the IH-635 (LBJ) corridor to identify specific locations of crash occurrence by direction.

Figures 4 and 5 show a concentration of crashes occurring in the area just prior to an enforcement location for the eastbound direction. This concentration is at a location of considerable congestion within the corridor during peak periods. Unstable traffic flow occasionally causes the operating speeds in the eastbound general-purpose lanes to drop to near zero in the area between Montfort Drive and Hillcrest Road based on available speed profile data

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within the corridor as shown in Figure 6. Montfort Drive and Hillcrest Road are indicated by arrows in each of the figures.

Figures 7 and 8 also show a concentration of crashes occurring in the area just prior to an enforcement location for the westbound direction. Congestion and the resulting unstable traffic flow occasionally causes the operating speeds in the westbound general-purpose lanes to drop to near zero in the area near Marsh Lane based on available speed profile data within the corridor as shown in Figure 9. Marsh Lane is indicated by an arrow in each of the figures. Table 13 shows average speed data developed from speed profiles in the corridor which indicates a substantial difference in the peak hour average speed of the HOV lane compared to the general-purpose lanes.

Table 13. I11-635 (LBJ) Freeways Peak Hour Average Speeds.

Corridor/Time/Direction	Peak Hour Average Speeds (MPH)						Avg. Speed Differential
	1998		1999		2000		
	HOV Lane	GP Lanes	HOV Lane	GP Lanes	HOV Lane	GP Lanes	
I11-635 (LBJ) AM WB	54	27	59	22	60	27	33 MPH
I11-635 (LBJ) AM EB	59	38	56	39	62	38	21 MPH
I11-635 (LBJ) PM WB	66	21	56	24	55	28	35 MPH
I11-635 (LBJ) PM EB	53	19	49	20	50	30	28 MPH

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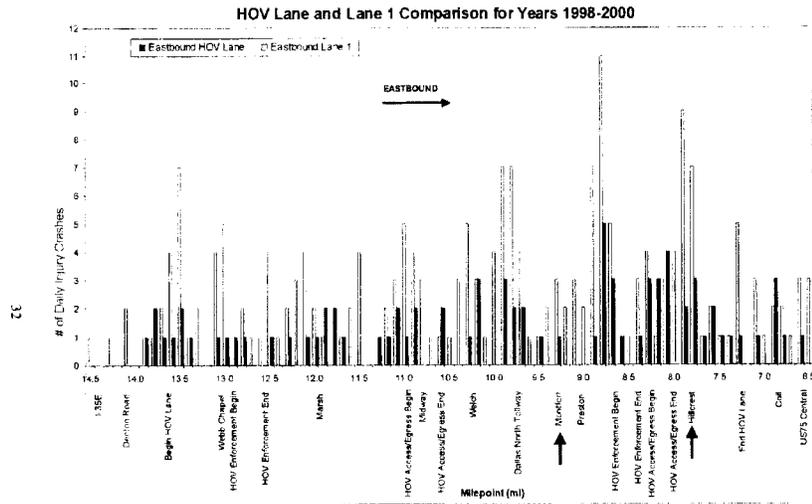


Figure 4. IH-635 (LBJ) Eastbound Injury Crashes by Milepoint – Daily.

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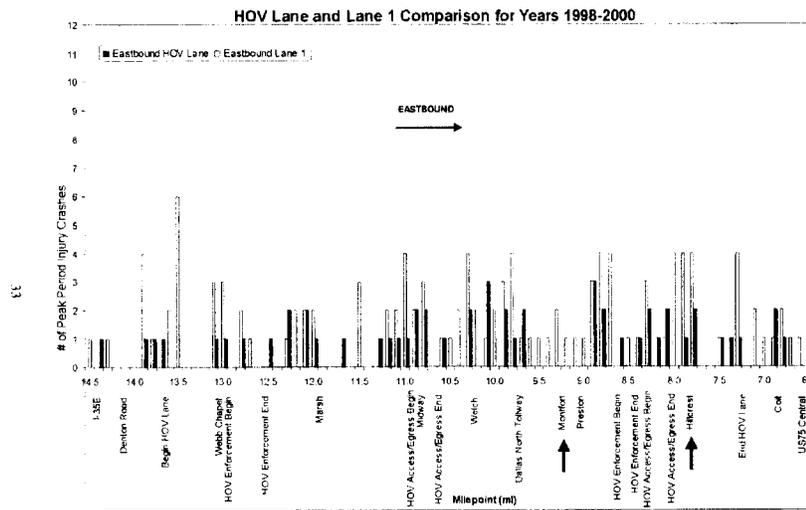
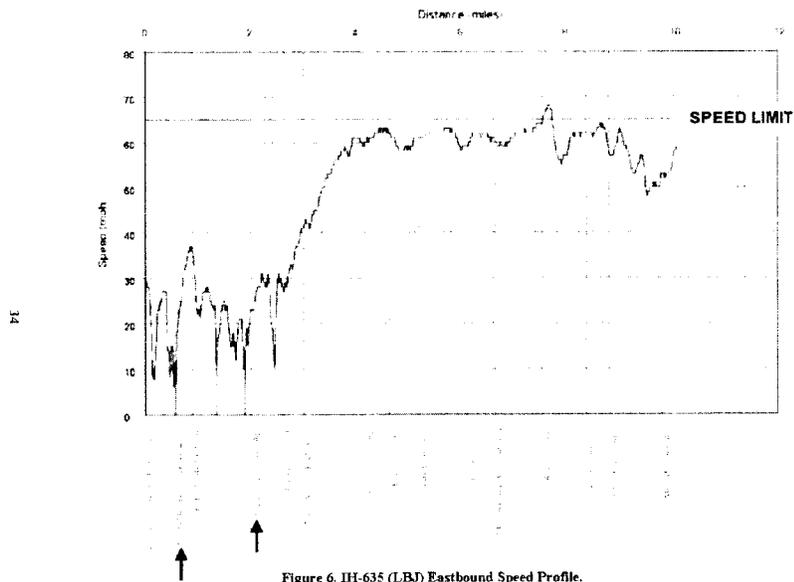


Figure 5. IH-635 (I.B.J) Eastbound Injury Crashes by Milepoint – Peak Period.

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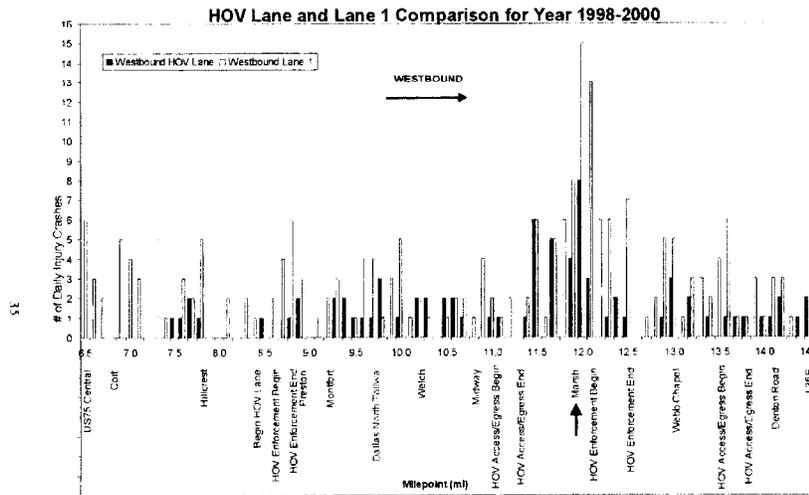


Figure 7. IH-635 (I.B.J) Westbound Injury Crashes by Milepoint - Daily.

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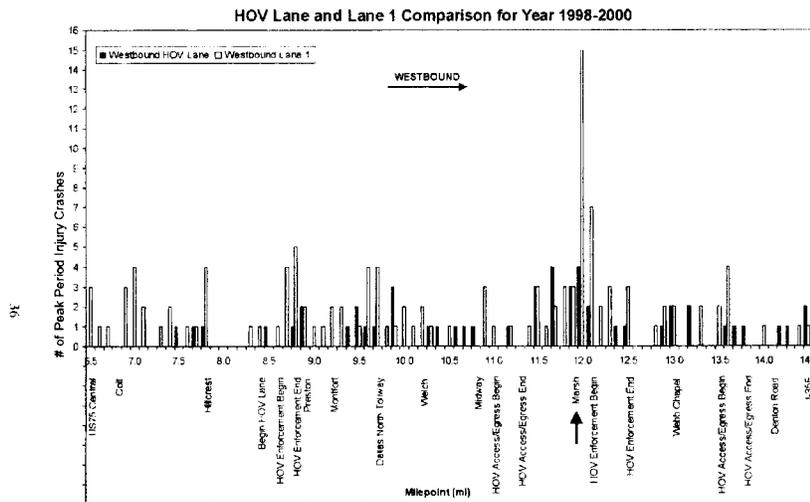


Figure 8. III-635 (LBJ) Westbound Injury Crashes by Milepoint - Peak Period.

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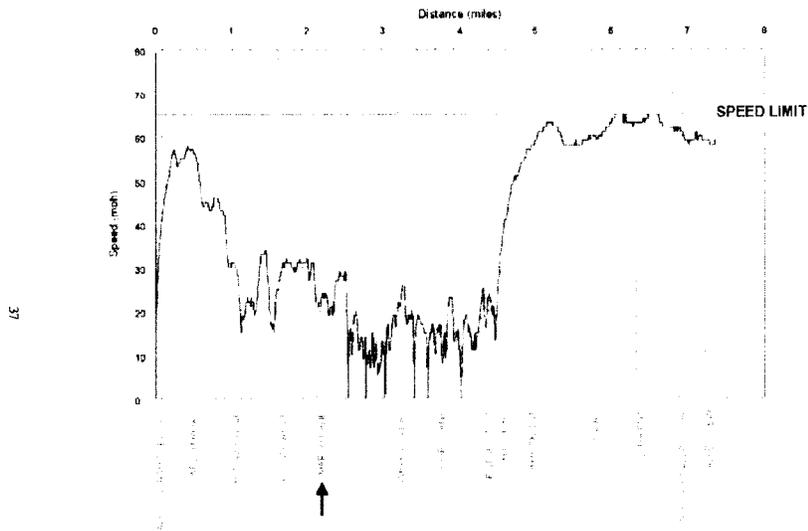


Figure 9. IH-635 (L.B.) Westbound Speed Profile.

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4.4.2 Database Injury Crash Occurrence by Milepoint Results

The analysis of injury crashes by milepoint in the IH-635 (LBJ) corridor showed crashes occurring throughout the length of the corridor in both the HOV lane and Lane 1. However, the research team noted a high concentration of injury crashes occurring in the area just prior to the HOV lane enforcement area for both directions of the freeway. These areas are locations of high traffic congestion. The speeds in the general-purpose lanes are known to drop very low during peak travel times. As a result, a speed differential exists between the HOV lane and the general-purpose lanes.

4.5 CRASH REPORTS FOR DALLAS, TEXAS

4.5.1 HOV Lane and Lane 1 (Inside General-Purpose Lane) Crash Reports

The crash data analysis noted an increase in the number of injury crashes occurring in the HOV lane and Lane 1. The research team obtained copies of approximately 1,150 crash reports for crashes in the HOV lane or Lane 1 covering the years 1997-2000 for both the IH-35E and IH-635 corridors. The research team conducted a thorough review of the crash reports to better understand the crash characteristics and determine if any recognizable trends existed.

4.5.2 Notable Trends in Crash Characteristics

The research team tried to understand driver intent by reviewing each individual crash report with particular attention given to the crash sketch and narrative. Although it is impossible to determine driver intent and crash causes with absolute certainty, the research team was able to get a general sense of typical crash characteristics.

The following items provide typical information as gathered from the crash reports on IH-35E and IH-635 involving the HOV lane or the adjacent Lane 1 (inside lane) general-purpose lane or both:

- Vehicles in Lane 1 are trying to avoid suddenly stopped general-purpose lane traffic by quickly moving into the HOV lane and are involved in a crash with a fast-moving HOV lane vehicle (See typical example in Figure 10).

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- Vehicles suddenly stopping in Lane 1 and being rear-ended by a following vehicle.
- Vehicles suddenly moving from the HOV lane to Lane 1 and being rear-ended by another vehicle in Lane 1 that is unable to stop.
- Illegal lane changes (i.e., crossing the double white line) from the HOV lane and Lane 1 at locations other than proper access points are causing both rear-end and sideswipe crashes.
- Vehicles in highly congested Lane 1 are attempting to move into the HOV lane while still traveling at low speeds and are involved in a crash with a faster moving vehicle in the HOV lane.
- Stopped traffic in the HOV lane due to a disabled vehicle (e.g., vehicle with flat tire) causes rear-end crashes because fast-moving vehicles in the HOV lane are not expecting to encounter the stopped traffic.

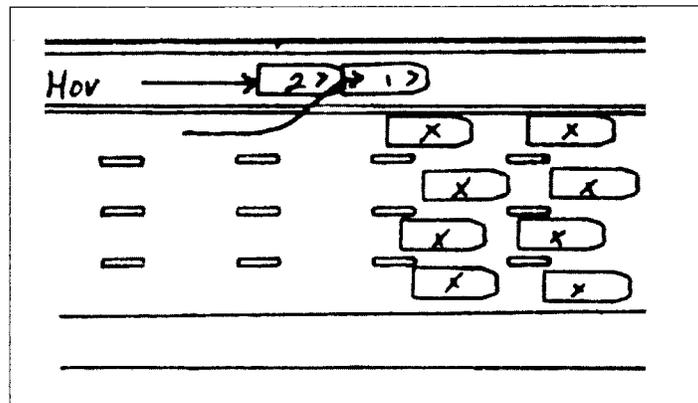


Figure 10. Example of Crash Investigator's Sketch on IH-635.

4.5.3 Results from Dallas Crash Reports Review

Although it is impossible to determine driver intent and crash causes with absolute certainty, the research team concluded that many of the crashes that occur in the HOV lane or the

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adjacent general-purpose lane are related to the substantial speed differential between the two lanes.

In Chapter 5, the research team offers suggestions for corridor characteristics and HOV lane cross-sections to lessen the effect of speed differential for future buffer-separated corridors in the Dallas area.

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CHAPTER 5: CONCLUSIONS AND RECOMMENDATIONS

5.1 INTRODUCTION

This report has presented both a macroscopic and a microscopic review of crash data for corridors with HOV lanes in the Dallas area. By using the crash data, the research team was able to draw some general conclusions and provide guidance for future design of freeways with HOV lanes in the Dallas area.

5.2 BARRIER-SEPARATED HOV LANES

The analysis of crash data from the IH-30 corridor indicates that the barrier-separated HOV lanes did not have an effect on injury crash rates. However, the research team has identified the following items for further research based on the analysis:

- A relatively small number of crashes are occurring within the HOV lane, with most occurring at or near access points. It would be of benefit to examine these crashes in more detail along with the access point design.
- Although there are a few crashes related to excessive speed, it would be of benefit to examine possible ways to reduce speed at critical locations.
- Examine whether crashes in the HOV lane may be averted if enough room is available between the median and the moveable barrier so that passing a stalled vehicle is possible.

5.2.1 Recommended Cross-Section for Contraflow Moveable Barrier HOV Lanes

The research team developed the following recommended cross-sections based on the review of electronic crash data for the IH-30 corridor. The corridor characteristics of IH-30 in the Dallas area include limited right-of-way and low traffic in the off-peak direction. Figure 11 shows the desirable cross-section for a contraflow moveable barrier HOV lane. Figure 12 shows the minimum recommended cross-section. The minimum cross-section is currently being used in the IH-30 corridor.

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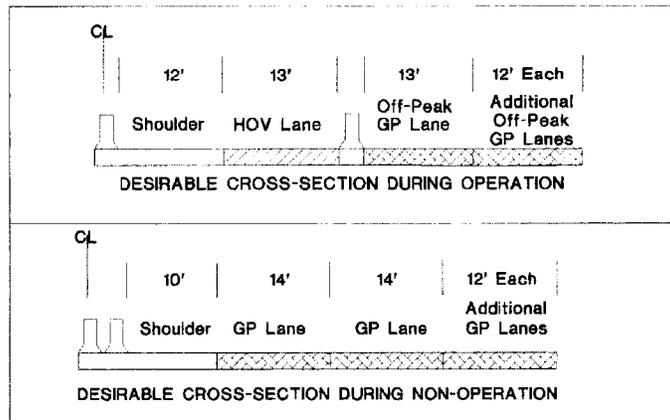


Figure 11. Desirable Cross-Section for Contraflow Moveable Barrier HOV Lanes.

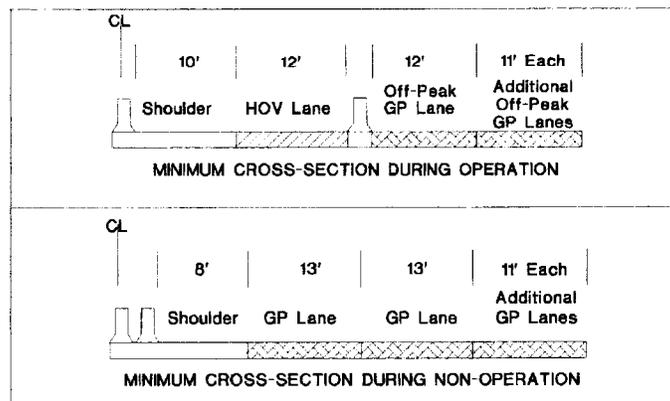


Figure 12. Minimum Cross-Section for Contraflow Moveable Barrier HOV Lanes.

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5.3 BUFFER-SEPARATED HOV LANES

A review of electronic crash data from the two corridors with buffer-separated HOV lanes indicated that the crash occurrence has increased since the HOV lanes became operational. Also, the increase is specific to the HOV lane and Lane 1 for both corridors.

With this information, the research team reviewed copies of crash reports from these corridors where crashes were identified as occurring in the HOV lane or in Lane 1. With the knowledge gained as a result of this research, the research team is able to offer the following statement concerning crash occurrence for corridors with buffer-separated HOV lanes in the Dallas area.

The increase in injury crash occurrences in Dallas corridors with buffer-separated HOV lanes is likely due to the speed differential between the HOV lane and the adjacent general-purpose lane.

Table 14, an extension of Table 13 shown previously, shows the average speed differential between the HOV lane and the general-purpose lanes for both of the corridors with buffer-separated HOV lanes.

Table 14. Peak Hour Average Speeds.

Corridor/Time/Direction	Peak Hour Average Speeds (MPH)						Avg. Speed Differential
	1998		1999		2000		
	HOV Lane	GP Lanes	HOV Lane	GP Lanes	HOV Lane	GP Lanes	
IH-35E North AM SB	57	18	59	19	57	32	35 MPH
IH-35E North PM NB	52	30	43	26	52	18	24 MPH
IH-635 (LBJ) AM WB	54	27	59	22	60	27	33 MPH
IH-635 (LBJ) AM EB	59	38	56	39	62	38	21 MPH
IH-635 (LBJ) PM WB	66	21	56	24	55	28	35 MPH
IH-635 (LBJ) PM EB	53	19	49	20	50	30	28 MPH

5.3.1 Recommended Cross-Section for Buffer-Separated HOV Lanes

IH-635 (LBJ) is a highly congested circumferential corridor around northern Dallas serving eastbound and westbound traffic. The traffic characteristics are known to be mostly short trips that cause a great deal of weaving of vehicles from lane to lane. Numerous freeway ramps

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and ramp spacing are thought to contribute to the weaving in the corridor. Many of the corridor's freeway ramp-pair combinations have spacing that is at or near the minimum ramp terminal spacing as recommended by AASHTO (11). A lane change between the HOV lane and the general-purpose lane appears to be relatively difficult when the general-purpose lanes are highly congested, as is the case with IH-635 (LBJ) during peak-periods.

IH-35E North is a highly congested radial corridor serving northbound and southbound traffic. Although the corridor is radial, the level of congestion is similar to that of IH-635, particularly in the area north of the IH-635 interchange. The congestion causes a great deal of weaving of vehicles from lane to lane. Numerous freeway ramps and their ramp spacing are thought to contribute to the weaving. This corridor also has a few freeway ramp-pair combinations with spacing at or near the minimum ramp terminal spacing as recommended by AASHTO (11).

Based on the freeway characteristics and a review of crash data within each corridor, it appears that the excessive congestion in the general-purpose lanes (i.e., bumper-to-bumper traffic) makes it difficult for vehicles in the HOV lane to find gaps in Lane 1 to easily change lanes. Also, vehicles in the slow moving general-purpose lanes wishing to enter the HOV lane must first change lanes into the HOV lane and then accelerate up to speed. In either situation, the speed differential between the HOV lane and Lane 1 appears to be a factor in crash occurrence. The research team kept these key findings in mind in developing suggested cross-sections for buffer-separated HOV lanes.

Figure 13 shows recommendations for desirable and minimum cross-sections for future buffer-separated HOV lanes in the Dallas area. The minimum cross-section provides enough room for two 8 feet wide vehicles to be in the HOV lane area (inside shoulder, HOV lane, and painted buffer) of the freeway without encroaching on the general-purpose lanes. This is important because it allows two vehicles with a large speed differential to avoid a collision. As mentioned earlier in the report, vehicles in the Dallas buffer-separated HOV lanes experience difficulties moving to the general-purpose lanes due to the high level of congestion. The gaps simply are not available to do this maneuver at high speeds. With at least the minimum cross-section shown below, HOV lane vehicles can slow or stop if necessary to wait for gaps in the general-purpose lanes and enough room remains for another HOV vehicle to pass.

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The minimum cross-section also provides enough room for a slow moving vehicle in the general-purpose lanes to move into the HOV lane and accelerate without completely obstructing the HOV lane or Lane 1. Again, a faster moving vehicle in the HOV lane has a better chance of moving past a slower moving vehicle that has not yet gotten up to speed.

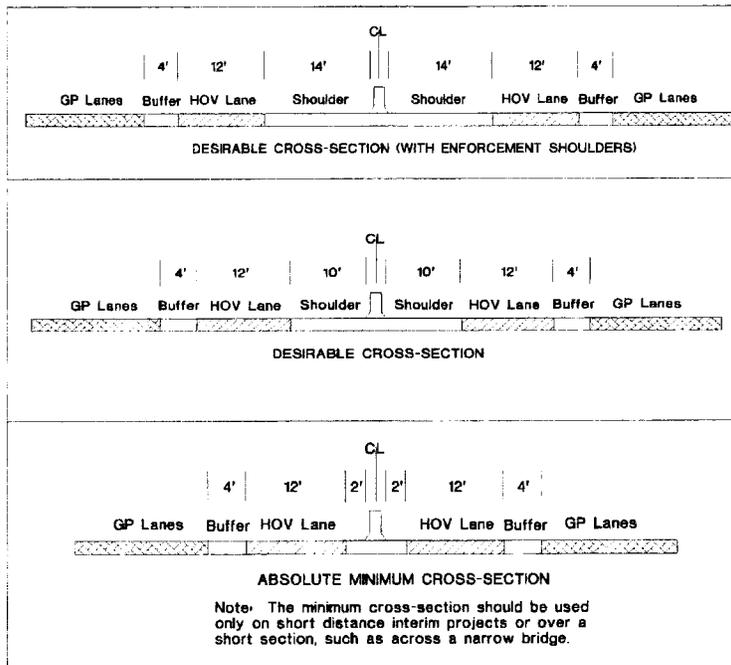


Figure 13. Desirable/Minimum Cross-Section for Buffer-Separated HOV Lanes.

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5.4 FUTURE RESEARCH DIRECTION

A comparison of corridor injury crash rates before and after the HOV lanes were implemented showed an increase in both of the buffer-separated corridors in Dallas. The injury crash rates increased by 56 percent in the IH-35E corridor and by 41 percent in the IH-635 corridor.

Higher vehicle speeds and trip reliability in the HOV lane compared to the general-purpose lanes are goals of implementing HOV facilities. However, in the case of buffer-separated HOV lanes, the speed differential also contributes to crash potential. Further research is needed to evaluate innovative safety countermeasures that address this operational issue, while still maintaining the mobility benefits of HOV lanes.

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**APPENDIX A:
HOV LANE SAFETY SURVEY FORM
AND SURVEY RESULTS**

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HOV Lane Safety Survey

The Texas Transportation Institute (TTI) is conducting a research project sponsored by the Texas Department of Transportation (TxDOT) concerning the safety of two types of High Occupancy Vehicle (HOV) lanes operating in Texas. These are:

• BUFFER-SEPARATED - buffers of varying widths, with or without delineators, and/or channelizers separating adjacent traffic flow;

and.

• BARRIER-SEPARATED - fixed or moveable concrete barriers separating adjacent traffic flow.

We are seeking information on HOV lane safety issues in your region/state. Any information obtained from this survey is for research purposes only. All individual responses are kept confidential. We are requesting your contact information in the event we need to ask for follow-up questions.

Thank you for participating.

1. Please provide respondent ID information (for internal use only):

Name:

Title:

Agency:

Address:

City:

State:

Phone:

E-mail (required):

A. BUFFER-SEPARATED HOV LANES

Based on your experience, please indicate if your region/state has any of the following safety issues for BUFFER-SEPARATED HOV lanes. Rate the relative concern for each type of safety issue as either "High", "Medium", "Low", "No" concern, or "Not Applicable".

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2. Vehicles illegally crossing buffer (e.g. double-white stripe):

- High
- Medium
- Low
- No
- Not Applicable

2a. Comments on illegally crossing buffer:

	2
--	---

3. Vehicle merges at access/egress locations:

- High
- Medium
- Low
- No
- Not Applicable

3a. Comments on merges at access/egress:

	2
--	---

4. Lack of, or reduced, inside shoulder width:

- High
- Medium
- Low
- No
- Not Applicable

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4a. Comments on inside shoulder width:

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5. Reduced HOV lane widths and /or main lane widths:

- High
- Medium
- Low
- No
- Not Applicable

5a. Comments on reduced HOV lane widths:

--	--

6. HOV lane used for disabled vehicles:

- High
- Medium
- Low
- No
- Not Applicable

6a. Comments on HOV lane used for disabled vehicles:

--	--

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7. HOV lane used for evasive action:

- High
- Medium
- Low
- No
- Not Applicable

7a. Comments on HOV lane used for evasive action:

	}
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8. Explain the safety issue that concerns you the most from Questions 2 -7. Why does it concern you?

	}
--	---

9. Provide any OTHER safety issues or concerns in your region/state related to BUFFER-SEPARATED HOV lanes.

	}
--	---

10. Based on your experience, please rank the top three most important safety issues associated with BUFFER-SEPARATED HOV lanes. (Use those mentioned in Questions 2-7, or issues you have added)

First	_____
Second	_____
Third	_____

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11. Have any measures or policy changes been implemented in your area or state to address these BUFFER-SEPARATED HOV lane safety issues or concerns (e.g. adding delineators, modifying pavement markings, etc.)?

- Yes
- No
- Not Applicable

12. If Yes to Question 11, please explain.

B. BARRIER-SEPARATED HOV LANES

Based on your experience, please indicate if your region/state has any of the following safety issues for BARRIER-SEPARATED HOV lanes. Rate the relative concern for each type of safety issue as either a "High", "Medium", "Low", "No" concern, or "Not Applicable".

13. Operational issues at access/egress locations to/from HOV lane:

- High
- Medium
- Low
- No
- Not Applicable

13a. Comments on operational issues at access/egress locations:

14. Lack of, or reduced, inside shoulder width:

- High
- Medium
- Low
- No
- Not Applicable

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14a. Comments on lack of, or reduced, inside shoulder width:

	↑
	↓

15. Reduced HOV lane widths:

- High
- Medium
- Low
- No
- Not Applicable

15a. Comments on reduced HOV lane widths:

	↑
	↓

16. Disabled vehicles in HOV lane:

- High
- Medium
- Low
- No
- Not Applicable

16a. Comments on disabled vehicles in HOV lane:

	↑
	↓

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17. Wrong way movements on HOV lanes:

- High
- Medium
- Low
- No
- Not Applicable

17a. Comments on wrong way movements on HOV lanes:

	-
	-

18. Explain the safety issue that concerns you the most from Questions 13 -17. Why does it concern you?

	-
	-

19. Please provide ANY OTHER safety issues or concerns in your region/state related to BARRIER-SEPARATED HOV lanes.

	-
	-

20. Based on your experience, please rank the top three most important safety issues associated with BARRIER-SEPARATED HOV lanes. (Use the those mentioned in Questions 13-17, or issues you have added.)

First	
Second	
Third	

21. Have any measures or policy changes been implemented in your region/state to address these BARRIER-SEPARATED safety issues or concerns? (e.g. modified signing, changes in operating hours, etc.)

- Yes
- No
- Not Applicable

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22. If Yes to Question 21, please explain.

	↑
	↓

C. Final Comments

23. Have there been any studies or analysis in your region/state regarding these or any other safety issues or concerns?

- Yes
- No
- Not Applicable

24. If Yes to Question 23, please list and/or explain.

	↑
	↓

25. Please provide any additional comments or concerns that may be related to HOV lane safety, or this survey.

	↑
	↓

Thank you for your time and cooperation in this research effort.

Revised 12/18/2002

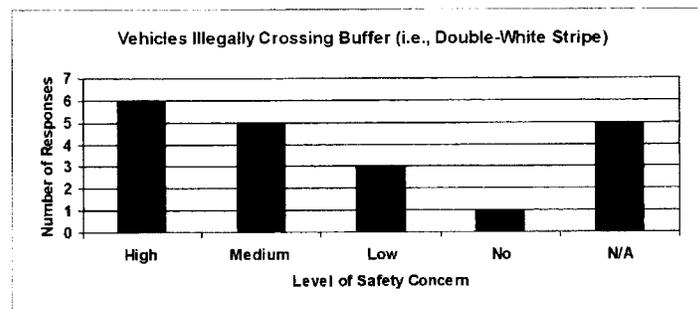
[Submit Survey](#)

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Buffer-Separated HOV Lanes

Based on your experience, please indicate if your region/state has any of the following issues for BUFFER-SEPARATED HOV lanes. Rate the relative concern for each type of safety issue as either "High," "Medium," "Low," "No concern," or "Not Applicable."

**Comments on illegally crossing buffer (10 responses):**

- [Our DOT] uses single white stripe.
- This really hurts entrance of our concurrent-flow HOV lanes. Especially if the non-HOV lanes are severely congested.
- Moderate violation rate.
- In 1995, a study on accident rates from more than a dozen HOV facilities found that in most cases, instead of lowering accident rates (the addition of conventional lanes lowers accident rates by an average of 29 percent), the addition of HOV lanes increased accident rates significantly.
- Buffer violations are not rampant in California and controlled by a steep minimum violation fine of \$271 including a moving violation point on the motorist's insurance.
- Addressed by rigorous enforcement.
- Highest on those portions of the HOV system where there is inadequate enforcement areas.
- Buffer area collects debris. This debris is launched by cars illegally crossing causing problems to vehicles in the left lane of the highway. They have to take evasive action that at times causes crashes.

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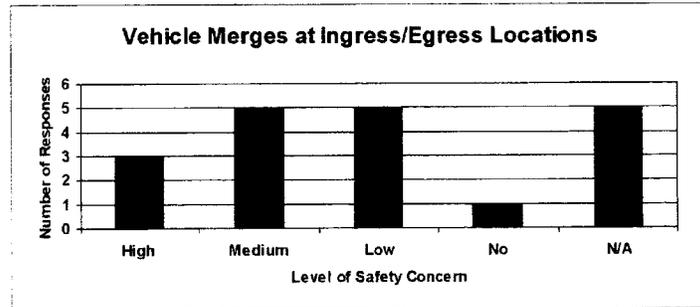
- We use a narrow buffer. less than 3 to 4 feet.
- Buffers are very narrow and not easily distinguishable from standard pavement markings. Drivers are not routinely stopped and cited for crossing over the buffer, and no significant safety hazard has been presented as a result of these violations.

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Comments on merges at ingress/egress (9 responses):

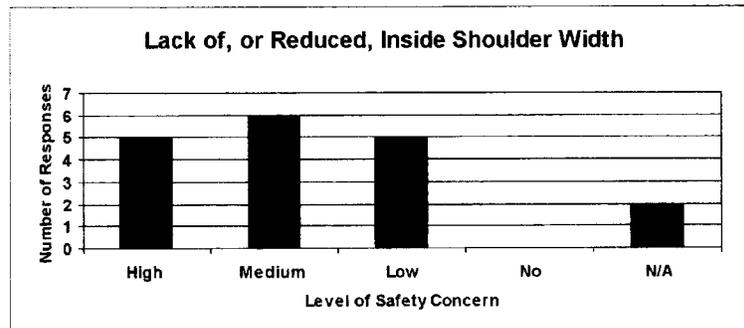
- Speeding at the HOV ingress and egress locations may pose a safety hazard for HOV and mainline traffic.
- Buses must weave across two GP lanes to access the HOV lane.
- There tends to be more conflicts at egress points when lanes are open to all traffic.
- There has not been conclusive evidence that heightened crash rates occur at HOV ingress/egress.
- We allow unlimited access into and out of the concurrent flow HOV lanes so the access and egress is spread out. Concentrating the merge and diverge maneuvers makes it more difficult for drivers to make the maneuvers and forces unsafe behavior during congested operation -- especially if the mainlanes are congested and the HOV is not, or vice versa.
- Not a problem. Design provides for access areas separate from egress areas, both also have speed-change lanes.
- Drivers in the HOV lane have a blind spot when merging into the general-purpose lanes. They must rely on vehicles to move over to the right to allow them to enter.
- HOVs are on high-volume freeways.
- Access zones are typically long enough to allow for adequate merging. Some lane terminations are too abrupt and need to be lengthened to promote smoother flow. Higher crash incidences are evidenced at lane transitions/terminations.

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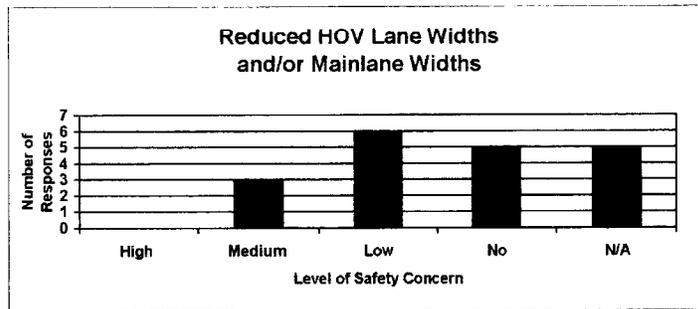


Comments on inside shoulder width (8 responses):

- Incident management is difficult with the lack of shoulders in the HOV lane.
- Only 2 feet in older section. Reconstructed section has 10 feet.
- In general, our concurrent-flow HOV lanes have a decent left-side shoulder. However, not wide enough for shelter. Wide enough for HOV enforcement by state police.
- No place to store disabled vehicles.... hence they block the HOV lane.
- Not of particular high risk although we always try to accommodate full inside shoulder width whenever we can.
- Where there is lack of a full-width inside shoulder, it is an issue for enforcement. However, there is no evidence that reduced inside shoulder width has caused crashes.
- One third of the crashes on the HOV lanes result in a vehicle striking the median barrier.
- If the shy distance to barrier is less than 18 inches, there is reluctance in trucks using inside lanes and there may be a higher incidence of drivers feeling uncomfortable driving next to the barrier. There does not appear to be as much problem in observed traffic flow when the inside lane has at least 2, and preferably 4 ft. separation from median barrier. There is negligible difference in accidents between buffer-separated and barrier-separated designs.

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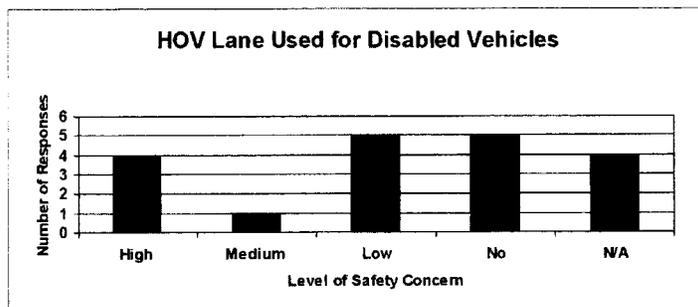


Comments on reduced HOV lane widths (4 responses):

- Incident management is difficult because of the reduced lane width inside the HOV lane.
- Although 10-foot lane widths are rare, evidence of heightened crash rates at these locations is not evident.
- No problem identified.
- No real issue with reduced lane widths so long as 1) there is no reduction below 11 feet, and 2) there are at least one or more outside lanes reserved at 12 feet width for large trucks. Some HOV lanes are 11 feet, but include a 2-4 ft. buffer that is constructed as part of the HOV lane "envelope." This reduces the overall driver perception that the HOV lane is narrower.

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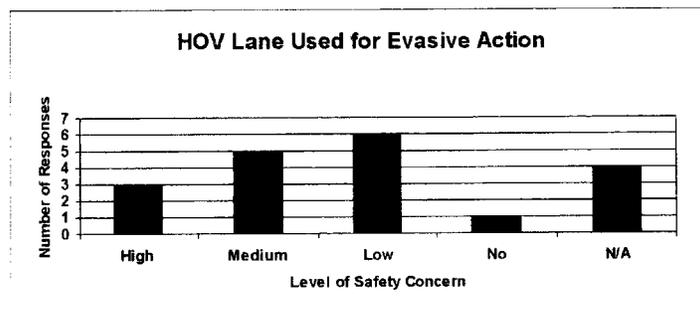


Comments on HOV lane used for disabled vehicles (5 responses):

- Disabled vehicles often make their way off the traveled way and into a shoulder or refuge before becoming fully disabled. The only time this issue became of significant concern was twenty or more years ago when part-time HOV shoulders were used.
- Rarely used for disabled vehicles.
- Not a problem. Most cars pull into the buffer area.
- In most cases, inside shoulder has been removed to implement HOV and some drivers do not understand and park in the lane.
- Experience dating from the 70s shows that if an HOV lane is used as a breakdown shoulder in off-peak periods, drivers confuse its function in the peak hours when it is supposed to be operational.

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Comments on HOV lane used for evasive action (4 responses):

- Highway Patrol through the TMC has the authority to open the HOV lane to everyone in the event of a "major" crash, hazardous spill or other emergencies. The public has accepted this rare practice because the benefits of getting around the hazard are very clear.
- Such use occurs rarely when general-use traffic is backed up; however, potential exists for severe crashes.
- Concern at accident sites where mainline traffic merges with faster moving HOV traffic.
- May cause more crashes, but no definitive evidence. Certainly, the potential for this event when GP lanes are stop-and-go is one reason why HOV lane speed differential in most areas seldom exceeds 20-25 mph over adjacent GP traffic speed. The presence (or lack of) and adjacent median breakdown shoulder can perhaps influence the likelihood that such incidents can be averted by HOVs.

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Explain the safety issue that concerns you the most from the above questions concerning BUFFER-SEPARATED HOV lanes. Why does it concern you? (15 responses)

- Speeding in the HOV lane may create a safety hazard for vehicles using the HOV lane and for vehicles traveling in the general-purpose lanes. Violation of the speed limit in the HOV lane can be dangerous due to reduced inside lane width and the potential for sudden queuing at the merge locations.
- (1) There are crashes that result when violators (and to a lesser extent, non-violators) illegally change lane into concurrent-flow HOV. (2) In general, we do not limit ingress/egress to concurrent-flow HOV and maybe we should.
- Vehicles illegally/suddenly crossing buffer.
- Decades ago, the dangers of placing two traffic streams, one high-speed and one low-speed, next to each other led to the construction of acceleration and deceleration lanes on every interstate highway. In the 1990s using HOV lanes to place high-speed traffic next to low-speed conventional lane traffic was shown to be significantly less safe than the addition of conventional lanes (see Question 2a).
- Two are inter-related-- substandard inside shoulder widths which cause use of HOV lane for disabled vehicles. Using the HOV lane for disabled vehicles is a concern because of the items listed. It is not only a safety concern, but operationally it reduces the effectiveness of the HOV lane. This is primarily a result of reduced inside shoulder widths.
- Perhaps ingress/egress location and length. Weaving is of concern and reducing the potential for safety related concerns in making the best choices in location, etc.
- Shoulder width or (lack of) seems like the most important issue since vehicles will pull off on the inside shoulder, and with free-flow and high-speed conditions along HOV, there have been and will be dangerous conflicts.
- Biggest concern is over disabled vehicles stopped in the HOV lane, especially during uncontested time periods. Traffic is moving fast and not expecting a disabled vehicle.
- Potential for buffer crossing to cause a serious crash. Enforcement is key to reduced crash potential.
- Vehicles crossing buffer (in or out) at illegal locations pose safety hazard.
- Speed differentials between HOV and general-purpose lanes make illegal crossing a concern.
- Cross over from mainline to HOV and HOV to mainline. Concerned because debris is kicked up and move to mainline causes panic/evasive action.
- HOV lanes used by disabled vehicles.

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- Experience suggests that the highest accident locations for GP traffic (heavy merge and weave areas close to major interchanges) are also the locations where most HOV lane crashes occur. So access transitions, and particularly lane drops and project terminations) cause the greatest potential for safety concerns. Where HOV lanes overload, this problem can manifest itself in a high incidence of rear-end accidents upstream of the lane drop. Also, lane drops caused by two HOV lanes coming together (found at the termini of fwy/to/fwy connectors) are similar locations where this problem is evidenced. As HOV lane volumes have grown, the same types of problems experienced on congested freeways manifest themselves on HOV facilities.

- Differential in speed and lateral offset.

Provide any OTHER safety issues or concerns in your region/state related to BUFFER-SEPARATED HOV lanes (7 responses).

- Differential speed between HOV and adjacent GP lane separated only by a single white stripe. Vehicles stopped in GP lanes attempt to enter the HOV lane.

- Impatient HOV drivers cross buffer or illegally use ingress and egress areas to pass other HOVs.

- Safety issues regarding buffer-separated lanes are not well understood. Several lanes have caused accident rates to increase following installation, while others have not. Reasons for these differences have not been explored adequately.

- Effective enforcement is also an issue.

- When buffer area is used for enforcement/maintenance traffic backs up. Also, illegal users (15 percent) and aggressive drivers.

- Need to more clearly delineate the buffer area. [The state] is not currently in compliance with the desired wider pavement markings recommended in the latest MUTCD. A higher and more visible marking would help delineate the HOV lane as a different part of the roadway reserved and managed for HOVs.

- Signage placement and overload-with narrow shoulders and median barrier, the placement of signs for informational and regulatory purposes can infringe on the needed area for operations. Signs alerting drivers to exit in the skip areas to get to the proper SOV exit are also an issue- are they far enough in advance for the HOV vehicle to exit the lane and weave over to the gore/exit ramp while fighting for position.

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Based on your own experience, please rank the top three most important safety issues associated with BUFFER-SEPARATED HOV lanes. (Use those mentioned above, or issues you have added.)

Ranked First (16 responses):

- Speeding
- Speed differential with no buffer
- Illegal access
- Illegally crossing buffer
- Differential speeds (see Questions 2a and 8)
- Use of HOV lane for disabled vehicles
- Weave distance per lane
- Shoulder
- Use by disabled vehicles
- Crossing buffer
- Lane changes (legal or illegal) from slow moving lane to fast moving lane, or vice versa
- Speed differentials
- Cross-overs
- Use by disabled vehicles
- Design treatment at lane drops and designated access locations
- Shoulder-width sight distances

Ranked Second (15 responses):

- Merge locations
- Buses weaving to enter
- Mainline merge points

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- Reduced inside shoulder width
- Sub-standard inside shoulder width
- Ingress/egress length & location
- Merges
- Reduced inside shoulders
- Reduced inside shoulder width
- Lack of adequate inside shoulder width
- Weaving
- Maintenance - road debris
- Ingress/egress points
- Good horizontal sight distance for design speed
- Crossing buffer

Ranked Third (13 responses):

- Queuing at the HOV merge with general-purpose lanes
- Increased speed differential
- Reduced HOV lane widths
- Inside shoulder width
- Crossing buffer
- Concentrated ingress/egress points
- Aggressive driving/speeding/tailgating in HOV lanes
- HOV lane used for evasive action
- Weaving and bottlenecks where the barrier-separated lanes and diamond lanes converge as well as where the diamond lanes begin/end
- Speed disparity

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- Vehicles crossing buffer
- Availability of median breakdown shoulder
- Disabled vehicle usage

Have any measures of policy changes been implemented in your area or state to address these buffer-separated HOV lane safety issues or concerns (e.g., adding delineators or modifying pavement markings)?

YES: 7 responses

NO: 6 responses

N/A: 5 responses

If Yes to the above question, please explain (7 responses):

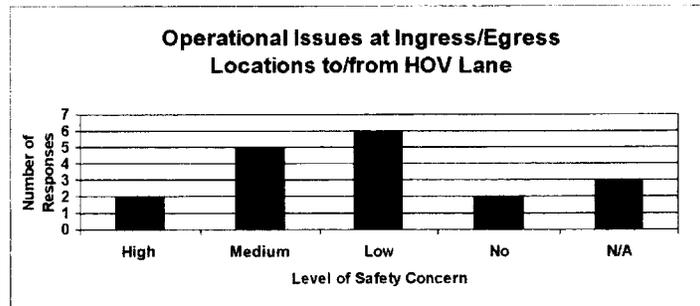
- [Our DOT] has striped the southbound concurrent-flow HOV with a double white line for about 1 or 2 miles.
- [The DOT] is revising the HOV Guidelines for Planning, Design and Operation to include a greater weave distance per lane.
- We have no part-time HOV, part-time shoulder facilities. Policy is that we have a minimum 7 feet inside shoulder, and preferably a full 12 feet shoulder to facilitate enforcement.
- A rigorous enforcement program funded entirely by DOT has been part of the operation of the HOV lanes since they were first opened.
- Enforcement by marked and unmarked police units.
- We do not have buffer-separated HOV lanes. We do have concurrent HOV lanes separated by pavement markings. Our safety record with those lanes has been good. The most common safety issues that have been associated with these lanes have been at bottlenecks, at significant weaving sections and where roadway geometry has varied from our usual desirable level of construction. We have developed some countermeasures to address these problems including use of rumble strips, enhanced signing, incident response measures, use of Traveler Information Systems and improved roadside design.
- Signage addition and striping changes from a continuous double skip to a skip/solid pattern restricting HOV ingress/egress locations - need further coordination with vertical alignment.

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Barrier-Separated HOV Lanes

Based on your experience, please indicate if your region/state has any of the following safety issues for BARRIER-SEPARATED HOV lanes. Rate the relative concern for each type of safety issue as either "High," "Medium," "Low," "No concern," or "Not Applicable."

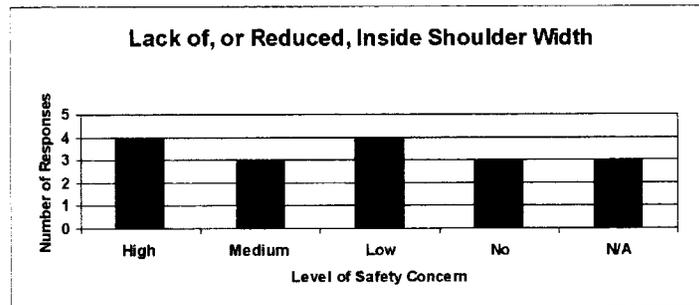


Comments on operational issues at ingress/egress locations (9 responses):

- Speeding at the ingress and egress locations may create a safety hazard for HOV and mainline traffic.
- Dual HOV reversible lanes narrow to accommodate entry/exit slip ramps. Transition to GP at end of HOV lacks sufficient transition length.
- Generally no problems if signed appropriately.
- The HOV lanes operate as mixed use lanes outside HOV hours. Many drivers will queue up just before HOV expires.
- There tends to be slow downs at merge points when lanes are open to all traffic.
- [The state] has very few barrier-separated HOV lanes due to the amount of right-of-way required for full standard geometric elements.
- Weaving and bottlenecks where the barrier-separated lanes and diamond lanes converge (one-lane entry and exit constraints of the two-lane reversible facility).
- Sight distance is often restricted, weave distances are substandard for the intended volumes of vehicles using the access area, and illumination and signing/markings are poor in some cases.
- Access points are one of the more likely places for conflict, bottleneck and collisions.

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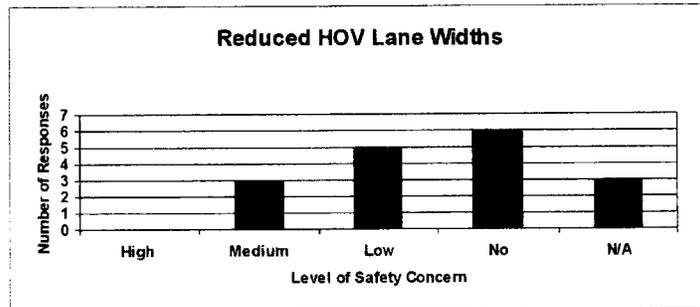


Comments on lack of, or reduced, inside shoulder width (6 responses):

- Incident management can be difficult with the lack of shoulders in the HOV lane. However, four breakdown areas are located along the lane so disabled vehicles can avoid blocking the lane.
- All barrier-separated HOV lanes in [the state] have full standard inside shoulder widths.
- Motorists do not drive within striped lanes (i.e., drive within barriers on both sides).
- If a typical incident like a stalled vehicle cannot be negotiated, the traffic stream is trapped, making incident response difficult and operational reliability jeopardized. This is potential fatal flaw if the lack of a breakdown area exists for more than about 1000 feet. This is perhaps the most critical fatal flaw in some reversible HOV facilities.
- Shoulders narrower than 4 feet typically have more run off the road accidents.
- Sight distances, esp. at horizon curves.

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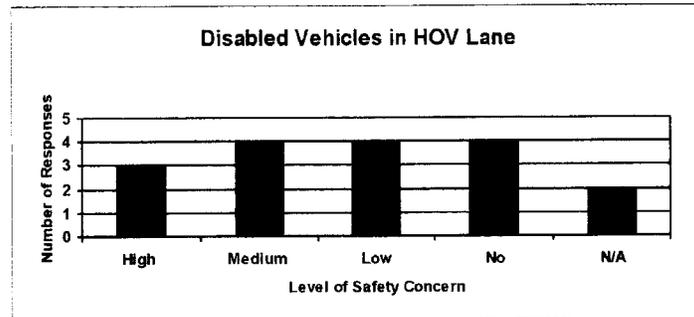


Comments on reduced HOV lane widths (3 responses):

- Incident management can be difficult with reduced lane width inside the HOV lane.
- All have full standard if not greater than standard lane widths.
- Not critical if the entire HOV envelope allows for bypassing stalled vehicles.

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**Comments on disabled vehicles in HOV lane (7 responses):**

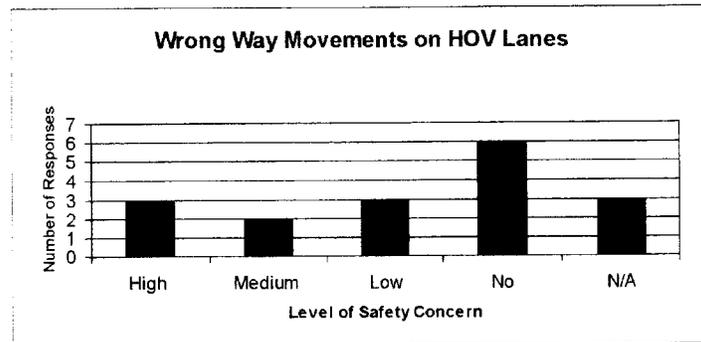
- Disabled vehicles can temporarily disrupt traffic operations in the HOV lane. Queuing sometimes occurs in the HOV lane until the disabled vehicle is cleared. [The DOT] maintains an integrated system to detect and respond to accidents and breakdowns in the HOV lane. Traffic detectors, pole-mounted video cameras, and roving patrols of State Police officers relay information to the lane's operation center. TMC personnel monitor traffic and dispatch tow trucks, police, fire, and ambulance as needed. Two radio-dispatched trucks are stationed in the lane during the entire operation period. Four breakdown areas are located along the lane so that disabled vehicles can avoid blocking the lane. In addition, if an incident occurs in the lane, variable message signs approaching the entrance to the lane will alert drivers of a problem. The HOV lane will be closed temporarily if a serious incident creates major congestion and re-opened as soon as the lane is cleared.
- Our one facility is a two lane reversible, so not an issue. The one section with single lane (19 feet envelope) has potential for problems, but the volumes are relatively low and few incidents reported.
- With barrier-separated facilities, we always have space for disabled vehicles on one side or the other, if not both.
- Ongoing need to make certain that disabled vehicles are removed from the barrier-separated segment when changing directions.
- Potentially high if occurring in combination with issue above. If ample shoulder exists to bypass a stalled vehicle, then this is not an issue.
- Our database shows more vehicles moving to the right because largely the shoulder is more likely to be full on the right and that is typical motorist behavior.
- Accident management required.

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Comments on wrong way movements on HOV lanes (7 responses):

- The contraflow design of the HOV lane essentially eliminates the potential for wrong way movements on the HOV lane. The contraflow approach involves converting an off-peak general-purpose lane to a peak-direction HOV lane.
- Gates are effective.
- Potential for this to occur without good signing and positive lane controls.
- We had troubles with rare wrong-way movements in our Express Lanes (not exclusive HOV). The results of wrong way movements can be tragic. Nets, like those used to "catch" jets on aircraft carriers are used at the mainline access.
- The gate system virtually eliminates this problem but always a concern.
- Again, this is ONLY an issue typically encountered on a reversible HOV lane. Redundancy in the design of barriers, gates and signs are absolutely required, and there is no compromising on this traffic control feature. Some of the most serious crashes involved multiple fatalities on any HOV lanes have occurred due to wrong way movements on reversible lanes.
- Low experience but high level of concern. State Patrol provides some special emphasis patrols. We have special procedures for [state DOT] staff working in the lanes when they are closed to traffic to improve safety if there are illegal entries and we have used unique equipment to stop wrong way vehicles.

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Explain the safety issue that concerns you the most from the above questions. Why does it concern you (10 responses)?

- Speeding in the HOV lane may create a safety hazard for vehicles using the HOV lane and for vehicles traveling in the general-purpose lanes. Violation of the speed limit in the HOV lane can be dangerous due to reduced inside lane width and the potential for sudden queuing at the merge locations.
- Transition to GP and short weave from a northbound entrance ramp, forcing unsafe weaving.
- Making sure the facility ingress and egress points are well signed.
- Access to accidents or disabled vehicles is difficult due to limited shoulder widths in the contraflow express lane (one side is a fixed concrete barrier and the other is a movable barrier). Also, movable barrier is hit often from the opposite direction due to reduced shoulder widths.
- Wrong way movements, although rare, cause tragic results.
- Wrong-way traffic: Usually fatal and almost always high-profile, even though they occur rarely. (As compared with much more frequent accidents on barrier-separated lanes.)
- Restrictions and entry/exit points and the problems associated with accidents that can occur inside the barrier-separated segment.
- Inadequate total space in a barriered facility to pass a stalled vehicle, not because this is the most serious from a safety standpoint (wrong way movements win this title but rarely happen), but because this shortcoming keeps the HOV facility from ever being able to be a reliable alternative, and unnecessarily exposes incident management personnel to more likelihood of being victims in secondary events.
- Access point design can have the highest number of accidents.
- Inside shoulder width/sight distances.

Please provide ANY OTHER safety issues or concerns in your region/state related to BARRIER-SEPARATED HOV lanes (3 responses):

- Excessive speed--55 mph limit is largely ignored.
- Lack of adequate weave/merge distances at ingress/egress zones, both for at-grade and grade-separated designs. The existing treatments were not designed for the level of use they are getting.
- Access for emergency vehicles and provision of incident response.

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Based on your own experience, please rank the top three most important safety issues associated with BARRIER-SEPARATED HOV lanes. (Use those mentioned above, or issues you have added)

Ranked First (12 responses):

- Speeding
- Inadequate transitions
- Signing
- Lane width
- Reduced shoulders
- Wrong way
- Reduced shoulder widths
- Wrong way travel
- Crashes/incidents on barrier-separated HOV lanes
- Lack of bypass capability (breakdown shoulder)
- Roadway geometry
- Shoulder width

Ranked Second (11 responses):

- Reduced HOV lane width
- Excessive speed
- Shoulder availability
- Shoulder width
- Disabled vehicles
- Disabled
- Wrong way movements

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- Restrictions at the entrance/exit points
- Wrong way movements (primarily reversible lanes)
- Bottleneck/operation design
- Wrong way movements

Ranked Third (10 responses):

- Merge locations
- Sight distance
- Ingress/egress
- Ingress/egress
- Shoulders
- Disabled vehicles in HOV lanes
- Clearing accidents
- Adequate sight and merge distance at exits
- Incident response
- Stalled vehicles-removal

Have any measures of policy changes been implemented in your area or state to address these barrier-separated HOV lane safety issues or concerns (e.g., modified signing or changes in operating hours)?

YES: 5 responses

NO: 6 responses

N/A: 3 responses

If Yes to Question 21, please explain (5 responses):

- It is difficult to construct a barrier-separated HOV lane in [our state] without meeting full standard geometric criteria. In fact, all barrier-separated HOV lanes are to full standard.
- Policy to have full shoulder widths. Must request a design deviation if full width can't be designed. Systems to reduce wrong way movements.

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- Improved signing and entry/exit barriers
- Ongoing monitoring and a new gate system is planned.
- Our safety record with those lanes has been good. The most common safety issues that have been associated with these lanes have been at bottlenecks, at significant weaving sections and where roadway geometry has varied from our usual desirable level of construction. We have developed some countermeasures to address these problems including use of rumble strips, enhanced signing, incident response measures, use of Traveler Information Systems and improved roadside design.

Have there been any studies or analysis in your region/state regarding these or any other safety issues or concerns?

YES: 9 responses

NO: 7 responses

N/A: 1 response

If Yes to Question 23, please list and/or explain (8 responses):

- Several years ago the [state DOT] conducted studies in the past on whether to buffer-separate with designated ingress/egress, or operate a continuous access lane separated by a paint stripe only (which is what they have).
- A number of studies were done in the past; however, there is a need to revisit the issues. The FHWA administered HOV Pooled Fund Study proposes to investigate various safety issues.
- The on-going evaluation includes safety. Also, any high accident locations are determined every two years and steps are taken to reduce the collisions.
- 1976: Study of Santa Monica Diamond Lanes by John Billheimer of SYSTAN. Early 1990s: Study of Safety Issue on HOV Lanes by Ed Sullivan of Cal Poly.
- Mn/DOT completed a study titled the "Twin Cities HOV Study" in February 2002. This study contained safety related information concerning the possible impacts to opening the HOV lanes to all traffic. Mn/DOT is currently preparing an operations management plan for the region's HOV system. This plan will include changes for making the HOV system safer and more efficient.
- In the past there have been studies undertaken, particularly to address wrong way movements, and changes in designs were made.
- An in-depth study of off peak hours of operation and safety. An in-depth study of the effects of varied roadway cross-section on accident experience.

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- Striping and access needs for buffer separated.

Please provide any additional comments or concerns that may be related to HOV lane safety, or this survey (5 responses):

- Do 4 feet buffers have a better safety record than narrow paint stripes?
- Orange County Transportation Authority contracted with Parsons Brinckerhoff last summer (2002) to conduct an evaluation comparing buffer-separated HOV lanes with designated ingress/egress locations with HOV lanes with continuous access operations. Safety was one of the factors considered in the evaluation.
- Issue is one of the most serious facing HOV planners, and it is one of the least well understood. As such, it is worthy of a serious research effort.
- There is an overall lack of consistent crash data for HOV facilities, and because accident forms do not tabulate accidents related to HOV lanes, no easy ability to get such data. Recommendations are needed nationwide on how accidents are recorded, and forms developed to allow coding by type of facility/lane.
- We need to have more work on implementing safety measures on urban roadways with reduced design standards.

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