



City of Alameda • California

November 3, 2003

FILE COPY

Ms. Claudia Cappio
Development Director, City of Oakland
250 Frank H. Ogawa Plaza, Suite 3330
Oakland, CA 94612

Subject: Comments on Uptown Mixed Use Project Draft EIR

Dear Ms. Cappio:

Thank you for the opportunity to comment on the Uptown Mixed Use Project Draft EIR Draft EIR ("Uptown EIR"). Over the course of the last few years, the City of Alameda has received numerous requests from the City of Oakland to conduct detailed and comprehensive traffic analyses of traffic conditions in Downtown Oakland and the potential effects of development on existing conditions in Downtown Oakland. In response to these requests, the City of Alameda has accumulated an extensive database of existing and projected traffic conditions throughout downtown Oakland. This database is continually updated using City of Oakland traffic studies, the Alameda County Congestion Management Agency (CMA) regional traffic model, and ongoing in-field observations.

In recent months, the City of Alameda and the City of Oakland have had extensive discussions about the existing and projected traffic problems at the "gateways" to Oakland, which are also used by Alameda residents and businesses. We received written communications from both former City Manager Robert Bobb and former Planning Director Leslie Gould claiming that the City of Alameda underreported potential impacts at these critical locations. In contrast to the City of Oakland's stated concerns to the City of Alameda about these future traffic conditions and the impact of traffic on Oakland Chinatown, the City of Oakland's Uptown EIR future year ("baseline") projections (which includes full build out of Alameda Point) fails to recognize most of these well-known problems, fails to evaluate the project's contribution to these problems, fails to take any responsibility for the additional traffic that the proposed project's approximately one thousand residential units will contribute to these well-know problem areas, and utterly fails to acknowledge or even consider the impact of the development on the Chinatown community. It appears that the Uptown EIR includes a number of faulty assumptions, which have resulted in a underreporting of significant impacts to the transportation system that is shared by all of the cities in Alameda County.

In the interest of providing the public with consistent information about the state of our shared transportation system, please provide written clarification on the following specific concerns about the Uptown EIR.

Planning and Building Department

2263 Santa Clara Avenue, Room 190
Alameda, CA 94501
510 748.4530 • Fax 510 748.4593 • TDD 510 522.7538

1. **Adequacy of Projected Traffic, Air, and Noise Impact Analysis.** The Alameda County Congestion Management Agency recently informed the City of Alameda that the land use data provided for the CMA Model 2002 update by ABAG is flawed. Without a valid data base, all of the future year traffic, air and noise projections for 2005 and 2025 in the Uptown EIR are flawed. Even if the City of Oakland, corrected the inaccuracies for the TAZs within Oakland, all of the inaccuracies for all of the neighboring jurisdictions must also be corrected to ensure valid traffic model results for the shared, regional roadway system. Without valid traffic model results for 2005 and 2025, none of the EIR conclusions regarding 2005 and 2025 traffic, air quality, or noise impacts can be considered adequate or valid because they all depend upon valid traffic data from the CMA model.

1

2. **Land Use and Transportation Element EIR:** According to page 39 of the Draft EIR, the Uptown EIR tiers off of the Land Use and Transportation Element EIR (LUTE EIR). The LUTE EIR identifies a number of impacts that result from the "downtown showcase" projects, which include the Uptown Mixed Use Project site. Specifically, the LUTE EIR correctly identifies impacts from Oakland development at the intersection of 12th and Brush. (This intersection currently backs up onto I-24 on a regular basis in the AM peak hour, as predicted in the 1996 LUTE EIR.) The LUTE EIR, the City of Oakland City Center EIR, and the City of Oakland Housewives Market EIR commit the City of Oakland to mitigations to eliminate this significant impact to a level of less than significant. To date, the City of Oakland has ignored its responsibilities and commitments adopted in these Mitigation Monitoring Program for these Oakland EIRs and allowed this significant impact to occur. As described in the LUTE EIR, the Uptown Mixed Use project is partially responsible for this impact. Therefore, the Uptown EIR must acknowledge this impact and include a mitigation to rectify the ongoing problems at 12th and Brush.

2

It should be noted, that the continuing congestion at this gateway to Oakland, causes traffic headed to Jack London Square and Alameda to use alternative routes to access the Tubes and the Jack London Square. Many of these alternative routes require driving through Oakland Chinatown, which could be avoided if Oakland had met its commitments to mitigate this impact from past developments.

3. **Significant Unavoidable Impacts associated with the LUTE EIR.** The LUTE EIR identifies a series of significant unavoidable transportation impacts associated with downtown development, which specifically includes the Uptown Project. Significant unavoidable impacts were identified for a number of locations. The two most important to Alameda include:

- o SR 24 in the AM and PM peak hour, which is major regional freeway used by Oakland and Alameda residents and business, and

- o SR 260 (Webster-Posey Tubes).

Although the Uptown EIR tiers off of the LUTE EIR, it fails to acknowledge these significant unavoidable impacts associated with Uptown development. These impacts must be acknowledged in the Uptown EIR and new, the current Oakland City Council must make updated statements of overriding consideration for the Uptown Project. The Uptown EIR must therefore be revised and recirculated to include these significant unavoidable impacts.

The court stated in *Communities for a Better Environment v. California Resources Agency (2002)* 103 Cal. App. 4th 98 122-125 that:

"The requirement of a statement of overriding considerations is central to CEQA's role as a public accountability statute; it requires public officials, in approving environmentally detrimental projects, to justify their decisions based on counterbalancing social, economic or other benefits, and to point to substantial evidence..."

"Even though a prior EIR's analysis of environmental effects may be subject to being incorporated in a later EIR for a later, more specific project, the responsible public officials must still go on record and explain specifically why they are approving the later project despite its significant unavoidable impacts."

State of California Public Resource Code Section 21159.25 (commonly referred to as Assembly Bill 436) does not allow the City of Oakland to bypass this fundamental principle of the California Environmental Quality Act. If the City of Oakland wishes to tier off of the LUTE EIR, it must also acknowledge the significant unavoidable impacts associated with development consistent with the LUTE EIR and must make new statements of overriding considerations for each of these projects, including the Uptown Mixed Use Project. These significant impacts must be acknowledged in a revised and recirculated Uptown EIR, so that the public has a complete understanding of the full range of impacts associated with the City of Oakland development plans.

Thank you for your consideration of our concerns. We look forward to working cooperatively with the City of Oakland to identify solutions, funding mechanisms, and shared responsibility for improving our shared transportation system.

Sincerely,


Gregory Fuz, (A7)
Planning and Development Director

xc: City Manager

Uptown EIR Comments
November 4, 2003

Page 4

Deputy City Manager, Alameda Point
City Attorney
Mayor and City Council