

# Section 3

## Comments and Responses

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### 3.1 INTRODUCTION

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Written comment letters on the Draft Environmental Impact Report (Draft EIR) are reproduced in their entirety in this section, followed immediately by responses. Discrete comments on the significant environmental points raised during the public review period are denoted in the margin by a vertical line and numbered. Responses follow each comment letter and are enumerated to correspond with the comment number. Response 9-1, for example, refers to the response for the first comment in Comment Letter #9. Comment letters and responses begin on the following page.

0. Governor's Office of Planning and Research, State Clearinghouse and Planning Unit, Scott Morgan, Acting Director (letter dated March 11, 2010)



ARNOLD SCHWARZENEGGER  
GOVERNOR

March 11, 2010

STATE OF CALIFORNIA  
GOVERNOR'S OFFICE of PLANNING AND RESEARCH  
STATE CLEARINGHOUSE AND PLANNING UNIT

Letter 0



CYNTHIA BRYANT  
DIRECTOR

Kathleen Livermore  
City of San Leandro Community Development Department  
835 East 14th Street  
San Leandro, CA 94577

COMM. DEVEL. DEPT.

MAR 24 2010

SAN LEANDRO

RECEIVED

Subject: Kaiser Permanente San Leandro Medical Center Mixed-Use Retail Development Project  
SCH#: 2008012056

Dear Kathleen Livermore:

The State Clearinghouse submitted the above named Draft EIR to selected state agencies for review. On the enclosed Document Details Report please note that the Clearinghouse has listed the state agencies that reviewed your document. The review period closed on March 10, 2010, and the comments from the responding agency (ies) is (are) enclosed. If this comment package is not in order, please notify the State Clearinghouse immediately. Please refer to the project's ten-digit State Clearinghouse number in future correspondence so that we may respond promptly.

Please note that Section 21104(c) of the California Public Resources Code states that:

0-1 "A responsible or other public agency shall only make substantive comments regarding those activities involved in a project which are within an area of expertise of the agency or which are required to be carried out or approved by the agency. Those comments shall be supported by specific documentation."

These comments are forwarded for use in preparing your final environmental document. Should you need more information or clarification of the enclosed comments, we recommend that you contact the commenting agency directly.

This letter acknowledges that you have complied with the State Clearinghouse review requirements for draft environmental documents, pursuant to the California Environmental Quality Act. Please contact the State Clearinghouse at (916) 445-0613 if you have any questions regarding the environmental review process.

Sincerely,

Scott Morgan  
Acting Director, State Clearinghouse

Enclosures  
cc: Resources Agency

1400 10th Street P.O. Box 3044 Sacramento, California 95812-3044  
(916) 445-0613 FAX (916) 323-3018 www.opr.ca.gov

**0. Governor's Office of Planning and Research, State Clearinghouse and Planning Unit, Scott Morgan, Acting Director (letter dated March 11, 2010)**

0-1 The City acknowledges receipt of the State Clearinghouse comment letter indicating that the Kaiser Medical Center/Mixed-Use Retail Development Draft EIR has been distributed to State agencies and departments for review and that the City has complied with the State Clearinghouse review requirements. No further response is warranted to this commentor.

1. California Department of Transportation, Local Development – Intergovernmental Review, Lisa Carboni, District Branch Chief (letter dated March 10, 2010)

DEPARTMENT OF TRANSPORTATION

111 GRAND AVENUE  
P. O. BOX 23660  
OAKLAND, CA 94623-0660  
PHONE (510) 622-5491  
FAX (510) 286-5559  
TTY 711

Letter 1



*Flex your power!  
Be energy efficient!*

March 10, 2010

ALA880683  
ALA-880-22.84  
SCH 2008012056

Ms. Kathleen Livermore  
Community Development Department  
City of San Leandro  
Planning Services Division  
835 East 14<sup>th</sup> Street  
San Leandro, CA 94577

Dear Ms. Livermore:

**Kaiser Permanente San Leandro Medical Center Mixed-Use Retail Development Project – Draft Environmental Impact Report**

Thank you for including the California Department of Transportation (Department) in the environmental review process for the Kaiser Permanente San Leandro Medical Center Mixed-Use Retail Development project. The following comments are based on the Draft Environmental Impact Report (DEIR).

As the lead agency, the City of San Leandro is responsible for all project mitigation, including any needed improvements to State highways. The project's fair share contribution, financing, scheduling, and implementation responsibilities as well as lead agency monitoring should be fully discussed for all proposed mitigation measures and the project's traffic mitigation fees should be specifically identified. Any required roadway improvements should be completed prior to issuance of project occupancy permits. An encroachment permit is required when the project involves work in the State's right of way (ROW). The Department will not issue an encroachment permit until our concerns are adequately addressed. Therefore, we strongly recommend that the lead agency ensure resolution of the Department's California Environmental Quality Act (CEQA) concerns prior to submittal of the encroachment permit application; see the end of this letter for more information regarding the encroachment permit process.

1-1

**Highway Operations**

The DEIR did not study the queue lengths formed at the studied intersections. Given the high traffic volumes generated by the proposed project and the close proximities of the intersections to each other, a queue longer than its storage capacity could jeopardize the operation of the nearby intersections. Without adequate queue storage, the level of service (LOS) of the intersections becomes irrelevant. Please provide the queue lengths to verify that there are sufficient storage capacities.

1-2

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On page 3.9-90, TR-9.6, the project proposes to modify the cycle length at the Marina Boulevard/Interstate (I) 880 southbound ramps intersection and add an additional lane along the I-880 southbound off-ramp. Furthermore, in Table 3.9-23, the DEIR indicates that the LOS for the same intersection will deteriorate from D, C, and C for Cumulative No-Project AM, PM and Saturday conditions to E, F, and F for Cumulative plus Kaiser Medical Center Phase 1 plus Mixed-Use Retail Development, respectively. Please provide mitigation measures to reduce these significant impacts.

**Traffic Safety**

On pages 3.9-59 and 3.9-60, TR-1.3, the DEIR states that the project will construct a new signalized driveway along Marina Boulevard into the mixed-use retail development. The second paragraph on page 3.9-60 states the queue for new Marina Access driveway could be accommodated with a 400-foot long left-turn lane. However, there is insufficient storage for this lane since the distance between the southbound I-880 ramps intersection and the proposed intersection is less than 300 feet. The queue will interfere with the operation of the southbound ramp intersection.

In addition, the left-turn only signalized intersection can raise safety concerns since motorists might find it confusing to understand. How would this signal be timed with eastbound Marina Boulevard traffic?

Furthermore, due to the close proximity of the new left-turn only signalized intersection to the southbound I-880 off-ramp, it can be dangerous as motorists exiting the I-880 southbound off-ramp attempt to weave across four lanes of traffic to get to the left-turn only lane.

The Department recommends additional analysis including a detailed methodology of the forecasted demand for the new signalized Marina Access driveway. Inadequate queue storage at the left-turn only signalized intersection would deteriorate operations on other travel lanes on Marina Boulevard. Until the forecast demand and the estimated queue are justified, the left-turn intersection should not be considered as a mitigation measure.

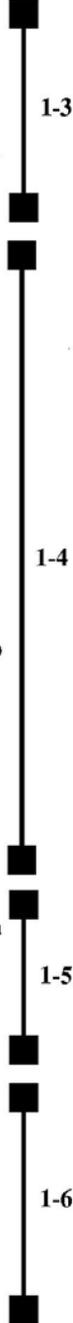
**Department's Projects**

There are two proposed projects by the Department in the vicinity of the proposed project; the High Occupancy Vehicle project with widening of Davis Street (State Route 61) and Marina Boulevard overcrossings; and the San Leandro Signal project which signalizes the Marina Boulevard/I-880 ramps. Please provide a discussion of the potential impact of the Kaiser project in relation to these projects.

**Community Planning**

To lessen potential traffic impacts on the state highways, please consider various measures for reducing the motorized vehicle trip generation from this project. These measures could include improving public transit, bicycling, and pedestrian facilities; instituting a Transportation Demand Management (TDM) Program in which employees at the project site can receive transit passes at a reduced rate in lieu of free parking; and reducing the parking requirements. Create better connectivity pathway facilities for pedestrian and bicyclists between the Medical Center and Mixed-use Retail developments.

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Please consider developing and applying pedestrian, bicycling and transit performance or quality of service measures and modeling pedestrian, bicycle and transit trips that your project will generate so that impacts and mitigation measures can be quantified. In addition, please analyze secondary impacts on pedestrians and bicyclists that may result from any traffic impact mitigation measures. Please describe any pedestrian and bicycle mitigation measures and safety countermeasures that would therefore be needed as a means of maintaining and improving access to transit facilities and reducing traffic impacts on state highways.

1-7

***Regional Impact Fees***

I-880 is critical to regional and interregional traffic in the San Francisco Bay region. It is vital to commuting, freight, and recreational traffic and is one of the most congested regional freeway facilities. Given the significant and unavoidable impacts of the proposed project to the I-880 mainline and ramps, the Department encourages the City of San Leandro to develop a regional transportation fee program to mitigate and plan for the impact of future growth on the regional transportation system. The fees would be used to help fund regional transportation programs that improve efficiency or add capacity increasing improvements to the transportation system to lessen future traffic congestion.

1-8

The purpose of the regional impact fee program would improve mobility by reducing time delays and maintaining reliability on major roadways.

Should you have any questions regarding this letter, please call Yatman Kwan of my staff at (510) 622-1670.

Sincerely,



LISA CARBONI  
District Branch Chief  
Local Development - Intergovernmental Review

c: State Clearinghouse

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**1. California Department of Transportation, Local Development – Intergovernmental Review, Lisa Carboni, District Branch Chief (letter dated March 10, 2010)**

- 1-1 The comment has been noted by City staff. The City confirms that all feasible mitigation has been specifically identified and mitigation will be required prior to the issuance of occupancy permits. Implementation of the identified mitigation measures, including the fair share contribution, scheduling, implementing responsibilities, and monitoring requirements will be documented in the Mitigation Monitoring and Reporting Program. The City will continue to work with Caltrans on the appropriate resolution of transportation concerns prior to the submittal of an application for an encroachment permit by the applicant. The commentor did not raise questions as to the adequacy of the Draft EIR and, as such, no further response is required.
- 1-2 The *Traffic Study for San Leandro Kaiser Medical Center plus Mixed-Use Retail Development* (Dowling Associates, January 22, 2010) included tables containing the queue analyses for selected intersections on the key corridors of Marina Boulevard and Merced Street including at the I-880 ramps on Marina Boulevard. The queuing analysis in the traffic study included information on queue lengths and storage capacities and highlighted locations with potential queuing issues. The results of the queuing analysis were included in the text of the Draft EIR in Section 3.9, Transportation, as appropriate. Where applicable, mitigation measures to reduce queuing were also described. The traffic study is available for public review on the City's website, a copy of the traffic report was also sent to Caltrans for their review. In addition, revised queuing tables are provided in Section 2, Summary of Revisions to the Traffic Analysis, as well as the *Revised Traffic Study for San Leandro Kaiser Medical Center plus Mixed-Use Retail Development* (Dowling Associates, April 6, 2010).
- 1-3 As described in Table 3.9-23 on page 3.9-81, in the Draft EIR, the Marina Boulevard/I-880 Southbound Ramps intersection would deteriorate from LOS D, LOS C, and LOS C during the AM, PM, and Saturday peak hours, respectively, under Cumulative No Project conditions to LOS E, LOS F, LOS F, respectively, under Cumulative plus Kaiser Medical Center Phase 1 plus Mixed-Use Retail Development conditions. Mitigation Measure TR-9.6 was included in the Draft EIR to reduce this impact. As noted on page 3.9-90, implementation of the traffic signal coordination plan for the Marina Boulevard and Merced Street corridors (Mitigation Measure TR-1.1) would reduce impacts to acceptable levels for the AM and PM peak hours. However, under Saturday peak hour conditions, an additional third lane would need to be added to the southbound I-880 off-ramp to mitigate Saturday peak hour conditions to acceptable levels. As also noted on page 3.9-90, this improvement could require additional right-of-way as well as an encroachment permit from Caltrans, and therefore implementation of the mitigation cannot be guaranteed. Thus, the impact is identified as significant and unavoidable. As shown in Table 3.9-27 on page 3.9-101, the implementation of mitigation measures would improve intersection operations to acceptable LOS D, LOS C, and LOS D during the AM, PM, and Saturday peak hours, respectively.

1-4 As described in Section 2, Summary of Revisions to the Traffic Analysis, the queuing analysis for the westbound left-turn lane at the proposed Marina Boulevard access driveway has been revised to reflect the corrected storage capacity of 252 feet. As described in Section 2, the reported storage capacity of 400 feet was associated with a previously proposed alternative for the reconfiguration of the I-880/Marina Boulevard interchange (an L-9 configuration). However, as new information became available from the Project Study Report (PSR), the interchange design alternative being considered for study was revised. The new configuration for the I-880/Marina Boulevard reduced the available storage distance at the new signalized driveway from 400 feet to 252 feet. The revised results are included in Section 2, Summary of Revisions to the Traffic Analysis, as well as the revised traffic study. As shown in revised Tables 50 through 55 in Section 2, Summary of Revisions to the Traffic Analysis, the maximum queues for the westbound left-turn under various scenarios would not exceed the 252 feet of storage and therefore would spillback to the adjacent intersection at the I-880 southbound off-ramp or interfere with westbound through traffic on Marina Boulevard.

The new signalized driveway proposed on Marina Boulevard for access to the Mixed-Use Retail Development project site would allow for all possible movements except for northbound left-turns from the project site on to westbound Marina Boulevard. The signal would be a part of the adaptive traffic control signal system (Mitigation Measure TR-1.1) and would be coordinated with other signals along the Marina Boulevard corridor. The westbound left turn lane would be channelized for safety and the intersection would be appropriately phased and signed to minimize safety issues.

As discussed in Section 2, Summary of Revisions to the Traffic Analysis, to reduce safety concerns for the motorists exiting the I-880 southbound off-ramp, Mitigation Measure TR-1.3 has been revised to include a no right turn on red for the I-880 southbound off-ramp onto Marina Boulevard. The prohibition would minimize conflicts between off-ramp vehicles turning right onto Marina Boulevard and desiring to enter the new left-turn lane at the new signalized Marina Boulevard intersection and westbound through vehicles on Marina Boulevard. With this no right-turn on red condition, the southbound right-turn movement would be prohibited from moving while the westbound through traffic on Marina Boulevard proceeds, minimizing any potential conflict during this signal phase. Mitigation Measure TR 1.3 has been revised to address these concerns. The correction to the mitigated analysis did not impact the results substantially nor did it introduce any new impacts. Revised tables and text related to the mitigated conditions under all scenarios are provided in the revised traffic report and calculation sheets are provided in the amended technical appendix. Revised tables and text in the Draft EIR related to these changes are shown in Section 4, Revisions to the Draft EIR.

The forecasted demand for both the westbound left turn inbound project traffic and northbound right turn outbound project traffic at the new Marina Boulevard project access were obtained from the travel forecasting model. The travel forecasting model takes into consideration all possible access points to the project site in assigning project traffic to the new Marina Boulevard project access. Therefore, the trip assignment used for the mitigated conditions is

consistent with other study conditions presented in the Draft EIR, and is a reasonable assumption.

- 1-5 As described on pages 3.9-29 and 3.9-72 in Section 3.9, Transportation, of the Draft EIR, the projects listed in the comment (the I-880 High Occupancy Vehicle (HOV) lane project and the reconfiguration and signalization of the I-880/Marina Boulevard interchange) were included in the roadway improvements assumptions for the 2015 Baseline, as these roadway improvement projects are expected to be completed by 2013, prior to the opening of the proposed project. The Draft EIR also assumed widening of Davis Street in the 2030 Cumulative conditions. Therefore, any impacts to these projects are included in the baseline analysis for these horizon years and their impacts were adequately discussed and accounted for in the Draft EIR. Although the Project Study Report (PSR) for the listed projects had not been finalized at the initiation of the study, the projections were based on best available information at the time of the analysis. To the extent feasible, the Draft EIR is consistent with the land use and roadway configuration assumptions and methodologies for analysis. In addition, the traffic operations completed for the PSR accounted for the proposed project in its land use assumptions.
- 1-6 The City of San Leandro and Kaiser are committed to reducing the number of motorized vehicle trips generated by the project. As described in the Draft EIR (see Section 2, Project Description), the objectives for the Mixed-Use Retail Development include providing an environment that is easy to negotiate for pedestrians, bicyclists, and vehicles, including persons with disabilities. In addition, the site plan for the Kaiser Medical Center includes vehicular and pedestrian connections linking the Kaiser Medical Center with the Mixed-Use Retail Development. In addition, as further described in Section 2 of the Draft EIR, off-site roadway improvements include the construction of Class II bike lanes and new, wider sidewalks with buffers along Merced Street between Fairway Drive and Republic Avenue. Traffic signals, crosswalks, pedestrian signal count-down heads, accessible pedestrian signals, and curb ramps with detectable warnings would be installed at the Merced Street/Republic Avenue intersection, the West Driveway/Fairway Drive intersection, and the Miller Street/Fairway Drive intersection.

As described in Mitigation Measure AQ-2.1 on pages 3.2-21 through 3.2-26 of the Draft EIR, the project proponents will be required to implement a Transportation Demand Management (TDM) program that reduces vehicle trips by approximately 10 to 15 percent. In order to be conservative in its analysis, the project trip generation did not include a 10 to 15 percent credit; therefore, the TDM program would further reduce the proposed project's impacts beyond what is forecasted in the Draft EIR. The TDM program must include, at a minimum, a Transportation Coordinator, a Commute Assistance Center, a Shuttle Service between the San Leandro BART Station transit center and the project site, a Guaranteed Rides Home Program, a Commuter Check Program, preferential parking space for carpools and vanpools, car/vanpool ride matching services, bicycle storage and racks, combined shower and changing facilities, and periodic employee surveys to determine the effectiveness of the program (see pages 3.2-21 through 3.2-26 of the Draft EIR and Response 7-5 of this document for more

information about measures to be included as part of the TDM mitigation program). The Mixed-Use Retail Development will also include a TDM program with similar requirements. Because the specific components of the Mixed-Use Retail Development are unknown at this time, a trip reduction rate will be established at the time a specific project is proposed.

- 1-7 As described in the Draft EIR (see Section 3.9, Transportation), bicyclists and pedestrians were counted during the AM, PM, and Saturday peak hours at five study intersections in December, 2007. Bicyclist and pedestrian volumes were found to be lower near the project site than at other locations. As further described in the Draft EIR, implementation of the proposed project would support the goals of the *San Leandro Bicycle and Pedestrian Master Plan*. As described above (see Response 1-6) the project includes a number of features to provide for safe and convenient bicycle and pedestrian access to the project site. The City will ensure that all transportation mitigation measures to be implemented would be consistent with applicable design standards, designed to accommodate bicyclists and pedestrians in a safe manner, and consistent with the City's Master Plan; therefore, there would not be any secondary impacts to bicyclists or pedestrians as a result of the proposed transportation mitigation measures.
- 1-8 The City generally agrees with the use of impact fees to fund needed improvements in the regional transportation system. However, the City also believes that the County's current sales tax for transportation adequately addresses most of the regional needs, and that the addition of a Vehicle License Fee that is currently being proposed by the Alameda County Congestion Management Agency (ACCMA) and Alameda County Transportation Improvement Authority (ACTIA) would probably meet any remaining need. Additionally these methods for fee collection allow for more consistent implementation across all jurisdictions. The City also routinely imposes a DFSI (Development Fee for Street Improvements) on most development projects in San Leandro. Kaiser will be paying an equivalent fee in lieu of the DFSI through its Development Agreement with the City.

2. California Department of Transportation, Division of Aeronautics, Sandy Hesnard, Aviation Environmental Specialist (letter dated March 2, 2010)

DEPARTMENT OF TRANSPORTATION  
DIVISION OF AERONAUTICS – M.S.#40  
1120 N STREET  
P. O. BOX 942874  
SACRAMENTO, CA 94274-0001  
PHONE (916) 654-4959  
FAX (916) 653-9531  
TTY 711

File: State Clearinghouse  
Metro Oakland Int Airport  
(Alameda County)



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Letter 2

COMM. DEVEL. DEPT.  
MAR 10 2010  
SAN LEANDRO  
RECEIVED

March 2, 2010

Ms. Kathleen Livermore  
City of San Leandro  
835 East 14<sup>th</sup> Street  
San Leandro, CA 94577

Dear Ms. Livermore:

Re: City of San Leandro's Draft Environmental Impact Report for the Kaiser Permanente San Leandro Medical Center Mixed-Use Retail Development Project; SCH# 2008012056

The California Department of Transportation (Caltrans), Division of Aeronautics (Division), reviewed the above-referenced document with respect to airport-related noise and safety impacts and regional aviation land use planning issues pursuant to the California Environmental Quality Act (CEQA). The Division has technical expertise in the areas of airport operations safety, noise and airport land use compatibility. We are a funding agency for airport projects and we have permit authority for public-use and special-use airports and heliports.

Kaiser Foundation Hospitals Corporation is proposing to develop a Kaiser Permanente Medical Center and Mixed-Use Retail Development project on an approximately 63-acre site west of I-880, south of Marina Boulevard and north of Fairway Drive in the City of San Leandro. The medical center will be developed on the southerly 38-acre portion of the site and the retail center will be on the northern approximately 25-acre portion of the site.

The project site is located approximately two miles southeast of the Metropolitan Oakland International Airport (OAK). As discussed in the Draft Environmental Impact Report (DEIR), the proposal will be referred to the Alameda County Airport Land Use Commission (ALUC) for a consistency determination with the Airport Land Use Policy Plan.

California Public Utilities Code Section 21659 prohibits structural hazards near airports. The DEIR discusses the need to comply with Federal Aviation Regulation (FAR), Part 77 "Objects Affecting Navigable Airspace" criteria. We concur. Depending on structural heights and in accordance with FAR Part 77, a Notice of Proposed Construction or Alteration (Form 7460-1) may be required by the Federal Aviation Administration (FAA). Form 7460-1 is available on-line at <https://oeaaa.faa.gov/oeaaa/external/portal.jsp> and should be submitted electronically to the FAA.

The protection of airports from incompatible land use encroachment is vital to California's economic future. OAK is an economic asset that should be protected through effective airport land use compatibility planning and awareness. Although the need for compatible and safe land uses near airports is both a local and State issue, airport staff, airport land use commissions and airport land use compatibility plans are key to protecting an airport and the people residing and working in the vicinity of an airport. Consideration given to the issue of compatible land uses in the vicinity of an airport should help to relieve future conflicts between airports and their neighbors.

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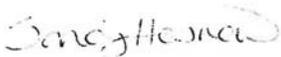
2-1

Ms. Kathleen Livermore  
March 2, 2010  
Page 2

These comments reflect the areas of concern to the Division of Aeronautics with respect to airport-related noise, safety, and regional land use planning issues. We advise you to contact our District 4 office concerning surface transportation issues.

Thank you for the opportunity to review and comment on this proposal. If you have any questions, please call me at (916) 654-5314 or by email at [sandy.hesnard@dot.ca.gov](mailto:sandy.hesnard@dot.ca.gov).

Sincerely,



SANDY HESNARD  
Aviation Environmental Specialist

c: State Clearinghouse, OAK, Alameda County ALUC

*"Caltrans improves mobility across California"*

**2. California Department of Transportation, Division of Aeronautics, Sandy Hesnard, Aviation Environmental Specialist (letter dated March 2, 2010)**

2-1 Kaiser has met with the responsible agencies with jurisdiction over aviation safety and the proposed Kaiser Medical Center has been designed to meet the height restrictions imposed by law. As noted on pages 3.3-29 and 3.5-20 of the Draft EIR, the proposed project would be consistent with the Airport Land Use Policy Plan. The City has directed Kaiser to further review their development plans with the Alameda County Airport Land Use Commission (ALUC), Federal Aviation Administration (FAA), the Division of Aeronautics, and any other responsible agency. The project sponsors and the City of San Leandro will comply with all applicable FAA regulations. The commentor did not raise questions as to the adequacy of the Draft EIR and, as such, no further response is required.

3. **Alameda County Transit (AC Transit), Nancy Skowbo, Deputy General Manager for Service Development (letter dated March 10, 2010)**



Letter 3

1600 Franklin Street, Oakland, CA 94612 - Ph. 510/891-4716 - Fax. 510/891-7157

**Nancy Skowbo**  
Deputy General Manager - Service Development

March 10, 2010

Ms. Kathleen Livermore  
Planning Manager  
City of San Leandro  
835 E. 14<sup>th</sup> Street  
San Leandro, CA 94577

Subject: Kaiser Permanente San Leandro Medical Center/Mixed Use Retail  
Development Project

Dear Kathleen,

Thank you for the opportunity to comment on the Environmental Impact Report (EIR) for the Kaiser Permanente San Leandro Medical Center/Mixed Use Retail Development Project.

**The Project**

The site is 63 acres, west of Interstate 880 in a former distribution facility, near the intersection of Merced Street and Fairway Drive, approximately 1.5 miles southwest of the San Leandro BART station. Phase I of the project is proposed to include a new 436,000 square foot (264 bed) acute care hospital. There would also be a 275,000 square foot Hospital Support Building, including outpatient services, physicians' offices, and administrative offices. The site is also projected to include approximately 400,000 square feet of retail space, and either 250 apartments or a 210 room hotel.

The Kaiser/mixed use project would introduce higher intensity land uses into an area that previously has been characterized by low intensity industrial uses. The new uses will generate many more trips to the site than the previous ones. However, the site is not located within walking distance of a BART station or other high frequency transit, so the amount of auto trips generated will probably be high. The level of transit to the site has been based on the lower intensity industrial uses.

**Transportation Demand Management (TDM) Plan**

In order to improve transit to the site and reduce auto trips, the EIR mandates an extensive program of Transportation Demand Management (TDM) elements. AC Transit commends the city for preparing those programs and including them in the EIR. The TDM Program would provide a useful combination of staffing, substantive programs, and evaluation. AC Transit staff hopes to have the opportunity to work with the city to refine and facilitate implementation of the Plan, and has a few comments related to the TDM approach.

**Shuttle Service**

The TDM Program provides for all day (and evening shift change) "shuttle" service between San Leandro BART and Kaiser. Staff believes that AC Transit is the agency that can best deliver that service. If AC Transit operates the service, it can be coordinated with other bus routes in the area, and not become a separate, disjointed service. Shuttle riders could more easily get the benefit of access to AC Transit services overall. Staff hopes to work on this service with Kaiser and the City at the appropriate time.

3-1

**EasyPass Program**

AC Transit staff strongly urges Kaiser to consider enrolling its San Leandro employees in the AC Transit EasyPass program. There are three EasyPass programs, tailored to employers, residential communities and colleges. The programs offer a discounted group rate for the participants. Under EasyPass, bus pass rates are discounted over 90% when an employer purchases passes for all its employees. In this way, over 2,000 projected employees could get bus passes for the cost that otherwise would be paid by 150-200 employees. The EasyPass would also be applicable to the residential project.

3-2

**Parking Cash-Out and Parking Charges**

The TDM Program requires Kaiser to investigate the feasibility of a parking cash-out program. A cash-out program would charge for parking on site, and offer compensating transportation funding to all employees. Those who wished to drive could use their funds to pay for parking. But, those using transit or another means could apply their funding to those costs. At most workplaces, employees who drive are subsidized with free parking, while other employees get no benefit, which is clearly an incentive to drive.

3-3

Parking Cash-Out is an important and equitable approach. Another approach might be to charge for parking and use the revenues to support other modes of transportation. Free parking is both a large subsidy to drivers and an inefficient use of land in a community that is seeking to become more compact and transit-oriented.

**Site Plan and Transit Service**

Staff is disappointed in the site plan for the medical project. The plan surrounds Kaiser's buildings with hundreds of surface parking spaces. This approach makes it more difficult and unpleasant for people to walk to the building. It does not represent "best practices" for "green", health-promoting buildings. While AC Transit recognizes that the area is currently not pedestrian-oriented, other properties may redevelop after Kaiser. If the Kaiser project sets this kind of template for future redevelopment in the area, important opportunities would be lost.

3-4

The design also makes it makes it more difficult to provide efficient, effective transit service. If the building fronted on Merced Street, AC Transit could operate service on Merced that stopped immediately adjacent to a building entrance. Under the current plan, the District is faced with the choice of stopping along Merced, separate from the

Ms. Kathleen Livermore  
March 10, 2010  
Page 3 of 3

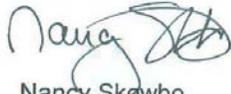
building, or bringing the bus adjacent to the building, requiring increased travel time, which in turn, increases costs for providing the service.

**Retail in the Project**

The project calls for construction of some 400,000 square feet of retail space, almost the amount contained in a regional shopping center. Some of this retail space would serve Kaiser employees and projected residents at the site. However, AC Transit is concerned that this large-scale retail development could undermine the city's nascent efforts to encourage expanded and improved retailing in Downtown San Leandro. The District urges the city to formulate a strategy for developing the Kaiser area that will be complementary to, rather than competitive with, Downtown San Leandro.

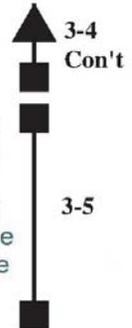
AC Transit looks forward to continuing its productive collaboration with the City of San Leandro. If you have any questions about this letter, please contact Nathan Landau at 891-4792.

Yours Truly,



Nancy Skowbo  
Deputy General Manager for Service Development

Cc: Tina Spencer  
Tony Divito  
Nathan Landau



**3. Alameda County Transit (AC Transit), Nancy Skowbo, Deputy General Manager for Service Development (letter dated March 10, 2010)**

- 3-1 The comment has been noted by City staff. The City will work with the project proponents and AC Transit on the selection of an appropriate operator for the shuttle service to be implemented by Kaiser.
- 3-2 The comment has been noted by City staff. As noted in pages 3.2-21 through 3.2-26 of the Draft EIR, Mitigation Measure AQ-2.1 would require the project proponents to develop a TDM Program to reduce vehicle trips by approximately 10 to 15 percent. Specific measures that must at a minimum be included in the TDM Program are detailed in the Draft EIR, but are not fully inclusive of all measures that could be included in the TDM Program. The project proponents and the City will consider the AC Transit EasyPass program as an option when finalizing the terms of the TDM Program.
- 3-3 The comment has been noted by City staff. As described in the Draft EIR (see Mitigation Measure AQ-2), Kaiser will be required to investigate the feasibility of implementing a parking cash-out subsidies program. If feasible, Kaiser will be required to implement the parking cash-out subsidies program as part of their TDM program. A fee for parking is not under consideration at this time.
- 3-4 The site plan for the Kaiser Medical Center has been developed to best meet the healthcare needs of Kaiser employees and members, and to ensure the future efficient operation of the Medical Center. Kaiser has had conversations with AC Transit staff on appropriate locations for bus stops and will continue to work with AC Transit on the appropriate location of stops within the Medical Center.
- 3-5 At this time, the project proponents are only proposing to modify the General Plan and zoning designations for the project site. There is no specific application for development of retail uses on the northern portion of the project site; therefore, it would be premature to address whether these uses would compete with the downtown area retail. However, the issue of potential competition with other retail uses within the City, in particular the Bayfair Center, is addressed in Response 7-1. Similar to the Bayfair Center, the downtown area is well served by transit, and as such, opportunities would exist for a variety of productive uses in the future, even in light of potential mixed-use retail development uses on the northern parcel.

4. Alameda County Congestion Management Agency (ACCMA), Diane Stark, Senior Transportation Planner (letter dated March 10, 2010)

Letter 4

March 10, 2010

Ms. Kathleen Livermore  
Planning Director  
Community Development Department  
Planning Services Division  
835 East 14<sup>th</sup> Street,  
San Leandro, CA 94577  
[klivermore@ci.san-leandro.ca.us](mailto:klivermore@ci.san-leandro.ca.us)

SUBJECT: Comments on the Draft Environmental Impact Report for the Kaiser Permanente San Leandro Medical Center/Marina Point Mixed-Use Development Project

Dear Ms. Livermore:

Thank you for the opportunity to comment on the City of San Leandro's Draft of the Environmental Impact Report for the Kaiser Permanente San Leandro Medical Center/Marina Point Mixed-Use Development Project. The project site is located on a 65-acre site at 1701 Marina Boulevard, San Leandro, California. It is bounded by I-880, Marina Boulevard, Fairway Drive and Merced Street. The project would develop:

Mixed Use, Northern 25 acres (up to 387,000 square feet of retail and 250 one- and two- bedroom apartments or a hotel of up to 210 rooms

Kaiser's medical uses, 865,000 square feet, southern 35 acres (434,000 square foot, six story, 264-bed hospital, a 436,000 square foot, six-story hospital support building, a 31,000 square foot central utility plant, 20,000 square foot outdoor service yard), (Phase 1), Build Out could include expansion of the Kaiser Medical Center by an additional 375,000 square feet, including a 120-bed expansion of the hospital, construction of 2 100,000 square foot medical office buildings, and

Parking: Up to 2,510 parking stalls, including surface parking and an 800-stall, five-story parking structure.

Street improvements (widening Merced Street along the project site frontage, an eastern extension of Republic Avenue in the project site and the signalization of the Republic Avenue/Merced Street intersection and a new signalized intersection at the main entrance to the mixed use development proposed along Merced Street.

The ACCMA respectfully submits the following comments:

- p. 3.9-12, line 4. If this is referring to Alameda County's Guaranteed Ride Home Program, Please delete "There is a Guaranteed Ride Home Program for emergency mid-day travel needs." Instead, to be accurate, please replace with "Alameda County Congestion Management Agency administers a Guaranteed Ride Home Program, funded by the Bay Area Air Quality Management District, which provides rides home to registered employees who do not drive alone to work and have a medical emergency or unplanned overtime."

4-1

- Add "LINKS shuttle is also partially funded through MTC's Lifeline Transportation Program, which is administered Alameda County Congestion Management Agency."

4-2

- For Mitigation Measures 17.1 or other significant, unavoidable adverse impacts, if there is a possibility to obtain a Caltrans encroachment permit or obtain right-of-way, or both, in the future, to complete the mitigation measure, a mitigation measure could be added that the project sponsor contributes their fair share of funds to hold in escrow for a set period of time, such as five years, to be used towards the construction of that measure. If the permits and right-of-way are not obtained at that time, the funds could be returned.

4-3

Thank you for the opportunity to comment on this Draft EIR. Please do not hesitate to contact me at 510/836-2560 if you require additional information.

Sincerely,

Diane Stark  
Senior Transportation Planner

cc: Beth Walukas, Manager of Planning  
file: CMP- Environmental Review Opinions - Responses - 2010

**4. Alameda County Congestion Management Agency (ACCMA), Diane Stark, Senior Transportation Planner (letter dated March 10, 2010)**

- 4-1 As noted in Section 4, Revisions to the Draft EIR, of this document, the description of Alameda County's Guaranteed Ride Home Program has been revised in Section 3.9, Transportation, to reflect the text in the comment.
- 4-2 As noted in Section 4, Revisions to the Draft EIR, of this document, the description of LINKS shuttle has been revised in Section 3.9, Transportation, to reflect the text in the comment.
- 4-3 The Mitigation Monitoring and Reporting Plan will identify mitigation measures that are determined to be feasible in the best judgment of the City of San Leandro as lead agency, in accordance with CEQA and the case law interpreting CEQA and the CEQA Guidelines. In certain instances, it may be possible to require the applicant to contribute funds into an escrow account if feasible mitigations can be identified, quantified, and implemented.

5. East Bay Municipal Utility District (EBMUD), William R. Kirkpatrick, Manager of Water Distribution Planning Division (letter dated February 25, 2010)



February 25, 2010

Letter 5

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Kathleen Livermore, Planning Manager  
City of San Leandro  
835 East 14th Street  
San Leandro, CA 94577

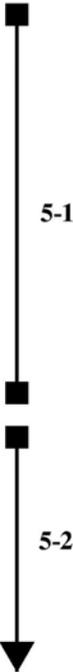
Re: Notice of Availability of a Draft Environmental Impact Report – ICI Mixed-Use Development/Kaiser Medical Center Project, San Leandro

Dear Ms. Livermore:

East Bay Municipal Utility District (EBMUD) appreciates the opportunity to comment on the Draft Environmental Impact Report (EIR) for the ICI Mixed-Use Development/ Kaiser Medical Center Project located in the City of San Leandro (City). EBMUD has the following comments.

**WATER SERVICE**

EBMUD's Central Pressure Zone, with a service elevation between 0 and 100 feet, will serve the proposed development. Main extensions, at the project sponsor's expense, may be required to serve the proposed development depending on EBMUD's metering requirements and fire flow requirements set by the local fire department. Off-site pipeline improvements, also at the project sponsor's expense, may be required to meet domestic demands and fire flow requirements set by the local fire department. Off-site pipeline improvements include, but are not limited to, replacement of existing water mains to the project site. When the development plans are finalized, the project sponsor should contact EBMUD's New Business Office and request a water service estimate to determine costs and conditions for providing water service to the proposed development. Engineering and installation of water mains and services requires substantial lead-time, which should be provided for in the project sponsor's development schedule.



The project sponsor should be aware that EBMUD will not inspect, install or maintain pipeline in contaminated soil or groundwater (if groundwater is present at any time during the year at the depth piping is to be installed) that must be handled as a hazardous waste or that may pose a health and safety risk to construction or maintenance personnel wearing Level D personal protective equipment. Nor will EBMUD install piping in areas where groundwater contaminant concentrations exceed specified limits for discharge to sanitary sewer systems or sewage treatment plants.

375 ELEVENTH STREET . OAKLAND . CA 94607-4240 . TOLL FREE 1-866-40-EBMUD

Applicants for EBMUD services requiring excavation in contaminated areas must submit copies of existing information regarding soil and groundwater quality within or adjacent to the project boundary. In addition, the applicant must provide a legally sufficient, complete and specific written remedial plan establishing the methodology, planning and design of all necessary systems for the removal, treatment, and disposal of all identified contaminated soil and/or groundwater. EBMUD will not design the installation of pipelines until such time as soil and groundwater quality data and remediation plans are received and reviewed and will not install pipelines until remediation has been carried out and documentation of the effectiveness of the remediation has been received and reviewed. If no soil or groundwater quality data exists or the information supplied by the applicant is insufficient EBMUD may require the applicant to perform sampling and analysis to characterize the soil being excavated and groundwater that may be encountered during excavation or perform such sampling and analysis itself at the applicant's expense.

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5-2  
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#### **WATER CONSERVATION**

The proposed project presents an opportunity to incorporate water conservation measures. EBMUD would request that City include in its conditions of approval a requirement that the project sponsor comply with Assembly Bill 325, Model Water Efficient Landscape Ordinance (Division 2, Title 23, California Code of Regulations, Chapter 2.7, Sections 490 through 495). The project sponsor should be aware that Section 31 of EBMUD's Water Service Regulations requires that water service shall not be furnished for new or expanded service unless all the applicable water-efficiency measures described in the regulation are installed at the project sponsor's expense.

↑  
5-3

The project sponsor should contact David J. Rehnstrom, Senior Civil Engineer, at (510) 287-1365 for further information.

Sincerely,



William R. Kirkpatrick  
Manager of Water Distribution Planning Division

WRK:ELE:sb  
sb10\_041.doc

cc: N. Mick Meldrum, Jr.  
ICI Development Company  
2222 East 17<sup>th</sup> Street  
Santa Ana, CA 92705

**5. East Bay Municipal Utility District (EBMUD), William R. Kirkpatrick, Manager of Water Distribution Planning Division (letter dated February 25, 2010)**

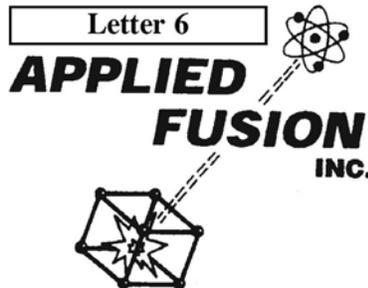
5-1 The commentor notes that the proposed project may require on-site and off-site improvements to meet domestic demands and fire flow requirements. The Draft EIR identifies on page 3.10-28 that new infrastructure may be required and that the construction of this new infrastructure would be funded by the project proponent and subject to EBMUD and City standards regarding design and operation. In addition, the project proponent intends to meet with EBMUD's New Business Office to request a water service estimate.

5-2 The commentor notes that EBMUD will not perform work in an area with contaminated soil. Mitigation Measures HAZ-1.1 and HAZ-1.2 identify remediation requirements to regulatory standards for construction workers prior to construction activities. These mitigation requirements would also apply to construction and maintenance of utilities.

5-3 The commentor requests that the City require, through a condition of approval, that the project sponsor comply with Assembly Bill 325, Model Water Efficient Landscaping Ordinance. The commentor also notes that per EBMUD's regulations, water service shall not be provided to projects that do not implement all applicable water efficiency measures. As of January 1, 2010, State law requires that all local jurisdictions adopt a water efficient landscaping ordinance in compliance with Assembly Bill 325. On March 3, 2010, the City of San Leandro's Zoning Code Article 10 to adopt a Water Efficient Landscaping Ordinance, which establishes water conservation standards for certain new and existing landscape installation, in compliance with the requirements of AB 325, became effective. The proposed project would be subject to the City's ordinance and would be in compliance with the water efficiency measures included in the State regulation.

6. Ron Musgrove, CEO and Jeff Musgrove, President, Applied Fusion, Inc. (letter dated February 18, 2010)

Engineering, CNC Fabrication  
Electron Beam & LASER Services  
Micro-Welding & Drilling



1915 Republic Avenue  
San Leandro, CA 94577  
"A" Division: (510) 351-8314  
Fax: (510) 351-0692  
"E" Division: (510) 351-4511  
Fax: (510) 297-0363

February 18, 2010

To: Kathleen Livermore  
City of San Leandro  
Community Development Department

From: Ron Musgrove, CEO and Jeff Musgrove, President  
Applied Fusion Inc.  
1925 Republic Ave.  
San Leandro

Now it is time to address our concerns about the Kaiser Hospital facilities and the as yet unknown developments for the remaining 32 acres. On the issue of economic benefits to San Leandro's coffers I am mostly in the dark. My question is, Kaiser, being a non-profit entity meaning few if any tax returns to the City. Who will pay for the extra police patrols and emergency services that will be demanded by a 24/7 emergency and hospital facilities?

6-1

AFI is immediately across Merced Blvd., a 50 MPH speed zone in both directions and the major avenue to our industrial area and even beyond to many residential communities. A major short cut for truck traffic is to turn from Merced onto Republic Ave. and then left on Nicholson St. to avoid the very tight right hand turn onto Fairway Dr. The S.E. corner parking lot of the La Pinata Restaurant must be converted to a wider turn for semi's to discourage the Republic/Nicholson short cut.

6-2

Finally and our most serious concerns are for the safety of our employees and our company properties. We are weekly being cased by ill intentioned folks to see if there is a hole in our security efforts. Foot traffic wanders into our facilities on a regular basis pretending to look for a job. Does a welder or a machinist ever give out application blanks from their workplace? Kaiser will be a 24/7 operation which means many folks will be relegated to wait and wait and wait some more. With all this idle time we anticipate the risks in this area will increase ten fold both in autos and foot traffic. We have always operated a swing shift in two buildings and we feel that their safety will be unjustly compromised. Will we need armed guards?

6-3

The City may get some financial concessions from Kaiser for some temporary mitigations and perhaps even from staid EIR's and other calls. But these are only short term and short lived help. What we need is some long term guarantees that the City can afford these extra long term burdens and taxes the originators and not the existing taxed out businesses and homeowners in the area. Question is: Can we afford Kaiser?

Precision Mechanical Fabricators

**6. Ron Musgrove, CEO and Jeff Musgrove, President, Applied Fusion, Inc. (letter dated February 18, 2010)**

6-1 Section 3.8, Public Services, of the Draft EIR included an analysis of project impacts on emergency service providers in the City of San Leandro. As described in the section, construction of the Mixed-Use Retail Development could result in the addition of approximately 650 residents to the project area. These additional residents would generate the need for one additional officer. The San Leandro Police Department (SLPD) has confirmed that there is existing capacity for the additional officer needed to serve the Mixed-Use Retail Development and the hiring of an extra officer would not require the construction of additional police facilities. Any future residential development at the Mixed-Use Retail Development would be subject to review by the SLPD and mitigation. Further, Kaiser and the City intend to enter into a Development Agreement that will provide significant fiscal benefits to the City to offset these anticipated costs. The cost of essential services and the financial contributions by Kaiser are further outlined in the Development Agreement and in the Staff Report produced for the Planning Commission and the City Council. The commentor is directed to review these documents.

The addition of the Kaiser Medical Center would increase the demand on the Alameda County Fire Department (ACFD). Historically the project site was developed with light industrial uses that involved materials and activities that posed potential structural and hazardous materials-related fire hazards. The proposed medical uses would pose largely similar fire hazards as previous conditions. While the nature of chemicals and flammable materials used for industrial and medical uses differ, the Kaiser Medical Center would not result in a substantially greater fire risk that would necessitate additional staff. According to the Deputy Chief of Operations, the additional demands from new residential and commercial development at the project area are not expected to decrease response times or require additional staffing. In addition, new development would be required to comply with the California Building Code, the Fire Code, and the City Municipal Code. The Kaiser Medical Center would also comply with the California Office of Statewide Health Planning and Development (OSHPD) fire safety requirements for hospitals.

In addition, the Development Agreement with Kaiser to address some of the economic needs of the City, such as a significant contribution towards the acquisition of additional fire fighting apparatus that will allow the City to improve its fire suppression capacity in taller buildings.

6-2 According to the City's latest engineering and traffic survey, 85 percent of vehicles on Merced Street, which has a posted speed limit of 35 mph, are travelling at a speed of 42 mph or less. The cut-through issue raised by the commentor represents an existing condition and is not a result of the proposed project. Furthermore, truck traffic generated by the proposed project would not use the Republic Avenue/Nicholson Street short-cut. It may be possible that the proposed project would exacerbate the existing condition at this intersection, as the additional

traffic along Merced Street may make this cut-through route more desirable. However, the analysis shows that there would be a maximum of three additional westbound trips on Republic Avenue with the project over Baseline No Project or Cumulative No Project conditions. Therefore, the increase in cut-through traffic would most likely be slight.

- 6-3 As described in the Draft EIR (see Section 3.8, Public Service), the Kaiser Medical Center would attract a large visitor population, which could lead to increased criminal activity, such as thefts and vandalism, at the project site and surrounding areas. In recognition of this safety concern, the proposed project would include 24-hour operations, on-site security, and a lighting program to help deter such problems and provide a safe environment for employees and visitors. The on-site security and lighting program would reduce the need for a substantial increase in demand for police services due to the Kaiser Medical Center. In addition, there is little actual evidence from other Kaiser facilities to suggest that the presence of this visitor population would lead to increased criminal activity. Also, please see Response 6-1.

7. Cedric Young, Vice President, Bayfair Center (letter dated March 10, 2010)

**BAYFAIR**  
center

**Letter 7**

March 10, 2010

HAND DELIVERED

Kathleen Livermore, Planning Manager  
City of San Leandro  
835 East 14<sup>th</sup> Street  
San Leandro, CA 94577

Re: Comments on DEIR for Kaiser Medical Center/Retail Project

Dear Ms Livermore:

As you are aware, Bayfair Shopping Center historically has been one of the largest generators of sales tax revenue for the City of San Leandro, and is the largest shopping center in the City. When we purchased Bayfair in 2003, it was struggling. Since then, the ownership has made very substantial investments in refurbishing and improving Bayfair. These improvements include a new food court, parking lot improvements, new out-parcel tenants, new exterior-facing anchor tenants and major building code upgrades. However, because of the current recession, which has substantially reduced consumers' buying power, Bayfair continues to struggle, despite proximity to the Bayfair Bart station and AC Transit, which allow many of our customers to access Bayfair without use of the automobile, and so minimizes Bayfair's impact on City street traffic as well as climate change.

Our on-going struggle to maintain Bayfair as a vibrant shopping venue provides important background for many of our comments on the Draft EIR ("DEIR") for the Kaiser Medical Center and Mixed Use Retail Development Project. ("Project")

I. Introduction

We have carefully reviewed the Draft EIR. Based on that analysis, we have identified several ways in which the DEIR falls far short of the requirements of CEQA:

- The DEIR completely ignores the fact that, as proposed, the substantial retail component of the Project is almost certain to draw significant business away from Bayfair (and other nearby retail areas). As is established by the enclosed economic analysis, the resulting loss of business, potentially triggering retail vacancies, including possibly loss of anchor tenants, is likely to result in urban blight at Bayfair and perhaps elsewhere in the City and nearby. Urban blight is a physical impact required to be evaluated under CEQA and discussed in the EIR. The EIR must be revised to include this analysis.

7-0

1555 East 14<sup>th</sup> Street, Suite 350 • San Leandro, CA • 510.357-6000 Tel • 510.276.5928 Fax • www.shopbayfair.com

- The transportation analysis fails to consider the impacts of the worst-case option for the "Mixed Use" portion, which is the development of 432,000 sf square feet of retail on the Mixed Use Retail portion of the Project site. For this reason, the DEIR significantly understates both the transportation impacts of the Project (by significantly understating the vehicle trips) and also understates the Project's impacts with regard to air pollutants and greenhouse gas ("GHG") emissions. The DEIR concludes that the Project's impacts on transportation, air quality, and climate change are significant and unavoidable. Thus, the error in the transportation analysis results in an understatement of the Project's most significant impacts.

- The DEIR's climate change analysis is fatally flawed on multiple levels.

- As noted above, the analysis understates GHG emissions for the Mixed Use Retail component, and thus for the entire Project.

- Because the Project's climate change impacts are significant and unavoidable (exceeding the currently proposed Bay Area Air Quality Management District ("BAAQMD") per capita threshold by 3 times even after mitigation), CEQA requires the DEIR to consider additional feasible mitigations, such as

- Additional Transportation Demand Management ("TDM") measures to reduce vehicle trips, including for example transit subsidies (the reference to transit subsidies in the DEIR is so vague as to be meaningless since it neither specifies a trip reduction or a dollar figure.)

- Purchase of offsets/carbon credits

- Increased use of renewable energy (the roofs of the proposed large retail buildings would be an ideal location for solar power installation, which would substantially reduce the Project's carbon emissions)

- The DEIR fails to include an adequate range of alternatives. Of the four alternatives assessed, two are essentially "No Project" alternatives that achieve none of the Project goals, and the other two do not eliminate any of the Project's significant unavoidable impacts. Additional feasible alternatives are clearly available, and must be included, that both achieve most of the Project's objectives, while at the same time significantly lessening the Project's significant environmental impacts.

- With the addition of an analysis of the retail component's blight impacts, an adequate, corrected analysis of transportation and climate change impacts, the discussion of additional climate change mitigations, and the additional Project alternatives, CEQA requires that the EIR be recirculated for additional public comment, before any project can be approved.

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**II. The DEIR is deficient under CEQA because it fails to assess the potential for the Project to cause urban blight at other retail areas in or near the City.**

According to the DEIR, the northern part of Project site (adjacent to Marina Boulevard) is proposed to be developed for a “Mixed-Use Retail Development. The DEIR, says that the Mixed Use Retail portion could be developed in any of three alternative scenarios:

- All retail – up to 432,000 sf (“All Retail Option”)
- 387,000 sf of retail, with 250 residential units
- 387,000 sf of retail, with a 210 room hotel

According to the DEIR, the retail uses proposed would include large format department stores, home improvement stores, electronics stores as well as smaller retail, services, café and restaurant. All these uses would compete directly with stores at Bayfair, and others retail areas in San Leandro.

Based on its size and mix of retail uses, it is clear that the Project’s proposed retail uses will compete significantly with existing retail uses in the City. Therefore, the DEIR is inadequate under CEQA because it fails to assess the potential that the Project’s proposed retail development will severely impact existing retail centers in San Leandro and the vicinity, and result in blight and urban decay due to store closures, empty storefronts and vacant spaces. The case law under CEQA is clear that when evidence is introduced that a retail development at one site is expected to contribute to blight and urban decay due to stores closures, etc at other locations, then the EIR must evaluate that issue. Bakersfield Citizens for Local Control v. City of Bakersfield, 124 Cal App. 4<sup>th</sup> 1184 (2004). While the Bakersfield decision dealt with a proposed “big box” store, the principle is equally applicable to the proposed new retail center. We are surprised and disappointed that this issue was not addressed in the DEIR. We are enclosing as part of these comments an economic analysis prepared by Retail Focus/Jeff Green Partners that reviews the likely impacts of the proposed retail development on Bayfair and other retail areas nearby, and concludes that due to the substantial overlap in primary market areas, it is reasonably anticipated that the Project’s substantial new retail will cause multiple store closures and long term vacancies, resulting in potential blight and deterioration.

7-1

More specifically the Retail Focus/Jeff Green report concludes

- There is a 70% overlap between Bayfair’s primary trade area and that of the proposed new Kaiser retail center
- The Kaiser Center at a minimum would result in a 25% sales loss at Bayfair.
- This sales loss would result in significant store closures at Bayfair, a resulting high vacancy rate and resulting blight for Bayfair and its surrounding area.
- Other retail areas of the City are likely to be negatively affected as well.

Bayfair, despite substantial investments/upgrades, is struggling in the current economy. While the economy may recover somewhat by the time the new retail center opens, the new regional center will inevitably draw stores, including potential anchor stores such as large department stores, away from existing retail centers. A new retail center, with up to 432,000 sf of retail, including possible department stores and other stores serving regional market, can take away enough major retail to severely impact remaining stores at Bayfair (and perhaps other nearby areas). Without major anchor tenants, additional stores may decline or close. Owners may inevitably cut back on maintenance/improvements.

While CEQA does not require analysis of socio-economic effects per se, court decisions (see above) have held that if there is reason to believe those socio-economic effects, including drawing business from existing retail, will result directly or indirectly in physical effects, such as urban blight, then CEQA requires such effects to be analyzed in the EIR.

The DEIR completely fails to consider the effect of the Project's substantial new retail in causing potential blight at existing retail areas such as Bayfair. We believe the City should have been aware of this potential impact so as to address this serious issue in the DEIR. In any event, taking into account the report from Retail Focus/Jeff Green Partners, sufficient information has now been introduced into the record to compel the City to undertake such analysis in the EIR. The DEIR must be revised, including analysis of the potential of the Project's retail component to cause blight to existing retail areas, and discussion of mitigations or new alternative(s) that will address retail sales cannibalization and related effects of urban blight.

In addition, because the DEIR already identifies a host of significant unavoidable impacts, if the City decides to approve the Project as proposed, it will need to make findings of overriding considerations. Findings based on the benefits of the medical center will have no weight for approval of the large retail uses. It appears the only potential overriding consideration for such a large new retail center would be the City's desire for new sales tax revenue (as well as employment). However, to the extent that the record shows that the new retail would be likely to just pull revenue from other retail centers in the City, resulting in little or no net tax revenue increase, any overriding consideration based on new retail sales tax would be fatally deficient. Therefore, in addition to evaluating the potential for urban blight, the City should also require an independent fiscal impact report so that the City's citizenry and decision makers have the information needed to determine if the new center would generate any net additional tax revenue, or merely shift tax revenue from one retail center to another. This critical information would ensure that the Project will not have a negative impact on the City's precarious financial condition.

**III. DEIR Significantly Understates the potential vehicle trips by basing the transportation analysis on the Mixed Use Retail versus the All -Retail sub option.**

The transportation impacts of the overall Project, including the Mixed Use Retail component, were based on the mixed use sub-option that included 387,000 sf of retail plus 250 housing units. However, according to the DEIR, the retail/mixed use area could instead be developed with no housing and 432,000 sf of retail. Our review of the traffic analysis suggests

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that using the trip generation numbers provided, **the 432,000 sf All Retail option would generate more vehicle trips than the retail/housing option.** Also, the DEIR indicates that vehicle trips (and perhaps GHG emissions) were reduced based on the possible mix of uses under the residential/retail sub option. (See p 3.9-41) With the larger “all retail” option, such a trip reduction from inclusion of housing would not occur. Therefore, the DEIR’s transportation analysis significantly understates the transportation impacts of the retail component, as well as the related impacts on air quality and climate change- all impacts that were already significant and unavoidable. Moreover, because the Project encompasses both the retail and medical components, this defect in the traffic analysis of the mixed use/retail component taints and renders inadequate and inaccurate the entire transportation analysis.

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Therefore, before any Project can be approved, the transportation analysis must be corrected so that there is accurate information on the severity of the Project’s already significant and unavoidable impacts.

**IV. The Project’s Climate Change Analysis is Fatally Flawed because it significantly understates the Project’s greenhouse gas emissions and fails to include additional feasible mitigations that would reduce the Project’s significant unavoidable Climate Change Impacts.**

The DEIR states that the Project would have **significant unavoidable** impacts on climate change. The **DEIR violates CEQA** because it fails to adequately assess impacts and identify mitigations for climate change impacts. The DEIR utilizes the recently-proposed BAAQMD “per capita” standard of 4.6 tonnes CO<sub>2</sub>e/service population. This criteria may be appropriate. What’s notable, however, is not just that the Project exceeds this standard, but **the extraordinary margin by which it exceeds this threshold.** According to the DEIR, even with the proposed mitigations, the Project would exceed the BAAQMD 4.6 tonnes threshold **by a factor of 3 or more.**

In addition, as noted above, the DEIR understates the Project’s greenhouse gas emissions and thus its climate change impact. Although it is difficult to determine from the text, the contribution of mobile sources (cars etc.) to greenhouse gases (“GHG”) was based on analysis of the option for the retail site with 387,000 sf of retail plus 250 residential units. (See Appendix D) However, as noted above, it is clear that the option of 432,000 sf retail (the “All Retail” option) could be implemented, and that such All Retail option would have an **even greater impact** on climate change than 387,000 sf of retail and 250 units, because it would generate more vehicle trips and thus more greenhouse gas emissions. (See for example the discussion on p. 3.11-21, which identifies the inclusion of residential use as a factor that would reduce GHG emissions.) Moreover, some of the mitigation measures proposed for incorporation in the Project apparently may not actually be included. Although various green building features are identified, the DEIR says only that these “may be” included (see p. 3.11-21). If these green building features were included in the emissions analysis but are not required to be included in the Project itself, this represents another misleading aspect of the analysis that must be corrected.

7-4

Therefore, as an initial matter, the DEIR violates CEQA by significantly understating the Project’s climate change impacts. The greenhouse gas emissions analysis must be redone based

on the “All Retail” option that the DEIR identifies as a possible development scenario for the retail part of the Project site.

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In addition to significantly understating the Project’s climate change impacts, the DEIR also fails to include adequate mitigation measures. Because the climate change impact is found to be “significant unavoidable”, and even **after the identified mitigations, GHGs are still three times the draft BAAQMD per capita standard**, the EIR must consider additional feasible mitigations that would reduce the impacts. Instead, the DEIR merely states that the Project would have significant unavoidable impacts on climate changes, and fails to look at the **full range** of potential mitigation measures. There is no discussion of additional mitigation measures, and whether additional mitigations might be feasible.

In fact, there are a number of additional mitigations that must be considered, for both the medical and mixed use retail components of the Project. Among potential GHG mitigations that are very likely to be feasible, and which should have been included in DEIR, are

- additional Transportation Demand Management (TDM) measures to reduce vehicle trips (including but not limited to subsidies to encourage public transit use)
- the Project’s payment of mitigation fees e.g. carbon credits
- additional increases in energy efficiency of buildings
- substantial use of renewable energy, including for example photovoltaic solar power (The large, flat-roofed retail buildings would be ideal sites for solar power installations)

7-5

Thus, the DEIR fails to identify clearly-feasible mitigations that would at the very least reduce and possibly eliminate the Project’s “unavoidable” impacts. This is clearly a violation of CEQA. The DEIR must be revised to discuss additional mitigation measures, and include additional mitigation measures that clearly are feasible.

**V. The Range of Alternatives Evaluated is Deficient**

CEQA requires that an EIR analyze a reasonable range of alternatives that would accomplish most of the Project objectives, and that would reduce, ideally to less than significant, the Project’s significant impacts. A “No Project” alternative is also required. The DEIR’s alternatives analysis essentially includes two “No Project” alternatives (both the “no project” and existing zoning alternatives would preclude the medical center use) and two other alternatives. One is a slightly reduced project, and the other “alternative” only varies the vehicular access to the mixed use retail component. Neither of these last two alternatives eliminates, or apparently even significantly reduces, the Project’s significant and unavoidable impacts. Furthermore, the so called “reduced project” alternative does not eliminate the Project’s significant unavoidable impacts, and also, by reducing the medical portion of the Project, fails to accomplish what is presumably one of the key objectives of Kaiser. Thus this “alternative” accomplishes none of the purposes of a CEQA alternative analysis. Therefore, the perfunctory “alternatives” analysis

7-6

included in the DEIR fails to satisfy the letter or spirit of CEQA, and additional alternatives must be presented and analyzed. Inclusion of more legitimate range of alternatives is particularly important because of the broad range of significant unavoidable impacts that are identified by the DEIR. The range of alternatives presented seems deliberately designed to give the City no real choices except to approve the Project exactly as proposed.

Based on our review of the DEIR, CEQA requires the analysis of at least two additional alternatives:

New Alternative 1:

Full Development of the Medical Center portion and No Project/Existing Zoning for the proposed Mixed Use Retail portion.

This alternative would accomplish all of the Project Sponsor's medical center objectives, which presumably are the Sponsor's most significant objectives. It would also substantially reduce the overall Project's impact on transportation, air quality and climate change, since the mixed use retail component provides a substantial portion of such impacts.

New Alternative 2:

Full Development of the Medical Center portion and true mixed use development of the Mixed Use Retail site with neighborhood – serving retail and additional residential units.

The project description states that the Mixed Use Retail component would include department stores and other large retail stores to serve a regional market. These regional – serving stores are responsible for much of the Project's transportation impacts and climate change impacts, as well as the potential urban blight impacts discussed above. Full build out of the medical portion, combined with development of the mixed use site with a reduced amount of retail, and changing the retail to more of the character of "neighborhood serving" retail, plus including residential and perhaps a hotel, would accomplish all of the Sponsor's medical center objectives as well as most of the DEIR's stated objectives for the Mixed Use portion of the site. Also, a reduced retail component, for example 200,000 sf or less, would provide more than sufficient retail to serve both the medical center's employees and visitors, as well the portion of San Leandro west of I-880, while reducing or eliminating the likely blight impacts on existing retail areas.

**VI. The EIR Must Be Recirculated**

CEQA Guideline 15088.5 sets forth the circumstances when **recirculation of an EIR is required** prior to the certification. To summarize, if there is significant new information, recirculation is required if there would be significant new impacts, a significant increase in the severity of a significant impact, if there a feasible alternative considerably different than those discussed in the DEIR which would significantly lessen the impact, and/or additional feasible mitigation(s) that would significantly lessen impacts, but the proponents fail to adopt such alternative or mitigation.

7-6  
Con't

7-7

All of these possible bases for recirculation exist in this case:

- based on the information submitted in this letter, the DEIR's analysis will show that the Project will have a significant urban blight impact due to its impact on existing retail areas, including but not limited to Bayfair.

- A re-analysis of the Project's transportation, air quality and climate change impacts, that correctly focuses on the worst-case suboption (all retail, 432,000 sf) will show a substantial increase in the severity of these significant unavoidable impacts.

- The alternatives analysis in its present form fails to meet CEQA requirements and must be revised. As discussed above, there are at least two alternatives that are at least as feasible as the ones discussed in the EIR, better meet the Project sponsor's objectives, and which unlike the DEIR's alternatives, would substantially lessen the Project's otherwise unavoidable impacts.

- The Climate Change section must be revised to include additional feasible mitigations, which would require recirculation unless all the additional feasible mitigations are adopted.

Therefore, for each of these independent reasons, the DEIR must be recirculated for additional public comment.

7-7  
Con't

## VII. Conclusion

Consistent with our comments at the February 18, 2010 Planning Commission meeting, Bayfair Center fully supports the proposed Kaiser Medical Center. However, the proposal to use that medical center project as a "Trojan Horse" for a major regional shopping center is troubling. Not only is a new regional shopping center likely to result in urban blight to existing retail areas of the City, but the EIR persistently ignores or significantly understates the impacts of such large amounts of additional retail space, and fails to properly consider alternatives and mitigations which might allow the Project to proceed in a way which accomplishes the Project's critical objectives (for a medical facility) while significantly mitigating the environmental impacts that the DEIR claims are "unavoidable". We respectfully request that the City comply with CEQA by revising the DEIR to correct its critical flaws, and recirculating the DEIR as CEQA requires. We regret that such action may delay the Kaiser Medical Center construction, but the critical flaws in the EIR must be corrected because CEQA requires it. Finally, the additional

information in the recirculated DEIR is critical for the City to be able to make decisions about the Project that will best accomplish the City's long-term objectives. We look forward to working with the City and Kaiser on this effort.

Very truly yours,



Cedric Young  
Vice President



## Summary Primary Trade Area Comparisons and Potential Sales Impact of the Proposed Kaiser Marina Boulevard Retail Site on Bayfair Center in San Leandro, CA

### Conclusions

1. Over 70% of the Bayfair Center's trade area is also in the proposed Kaiser Retail's trade area (see attached map for a visual depiction). That is, there are 169,500 persons in the Kaiser trade area that are also part of the Bayfair trade area (169,500 out of a total of 240,100 persons). That is a significant overlap.
2. As such, we estimate the sales impact of a 400,000+ sf competitive center at Kaiser would be, at minimum 25%, on Bayfair Center.
3. A 25% sales loss at Bayfair Center, in our professional opinion, would result in a significant number of store closures at Bayfair. The result of these store closures would be a high tenant vacancy rate that would be difficult if not impossible to correct, as well as a significant loss of jobs. (Of course, there would also be a very substantial loss of sales tax revenue)
4. Despite the best efforts of Madison Marquette to prevent it, ongoing results of the 25% sales reduction impact likely could include a physical deterioration of the center, and a nearby area that could likely decay to the point of blight, similar to what has happened at and surrounding Eastmont Mall in Oakland and Baldwin Hills Crenshaw Plaza in Los Angeles (described in further detail below).
5. Not only would the proposed Kaiser retail center significantly impact sales at Bayfair Center, it would also have a negative affect on the sales of other retail areas of San Leandro including the nearby downtown area, Westgate Center and to a lesser extent Marina Square Center . Each would likely experience a significant loss of sales and an increase in retail vacancy (and the resulting physical and sales deterioration that goes along with areas of high retail vacancy) as a result of a new competing 400,000+ sf retail center at the Kaiser site.
6. Competitive changes *outside* of San Leandro will continue to put pressure on the existing San Leandro retail centers. This includes

the continued upgrading of Stoneridge Mall (Pleasanton) and Southland Mall (Hayward). Approving an additional retail center at the Kaiser site would put unneeded additional competitive pressure on the existing retail concentrations in San Leandro (Bayfair, downtown, Westgate and Marina Square).

7. The Kaiser site's location on a regional interstate, I-880, allows it to pull from a greater distance; thus resulting in a larger trade area population and a greater sales impact on Bayfair.
8. Given the fact that so much of the trade area population overlaps between the Bayfair and the proposed Kaiser retail center the demographic characteristics are similar between both areas.

Rationale for the conclusions noted above follow:

**Primary Trade Area Comparisons Between Bayfair Center and the Proposed Kaiser Retail Center.**

*Primary Trade Area Definitions*

1. The Bayfair Center primary trade area was defined during 403 actual customer intercept interviews throughout the center conducted in 2007.
2. The proposed Kaiser retail center's trade area was defined based on our 25 years of experience in defining over 10,000 trade areas for shopping centers and retailers.
3. Each primary trade area represents the geographic area in which each center achieves (or will achieve in the Kaiser center case) 60%-75% of its sales.
4. Trade areas were defined by US Census Tract, as US postal Zip Codes were too large a geography and would have over-defined both trade areas.
5. The "Overlap" trade area is that area that is in both centers' trade areas.

*Population & Demographic Characteristics*

Bayfair Center

1. Bayfair Center has a primary trade area population of 240,100 persons. This population is expected to increase 1.4% to 243,600 persons over the next five years. This is an adequate population to support a center the

size of Bayfair, but not large enough to support a center at the Kaiser site with competitive uses.

2. Incomes are better than the US average, with average household incomes of \$74,363.
3. The median age of the Bayfair Center trade area is 37.4 years
4. Most (60%) of working adults are employed in white collar occupations.
5. The trade area has a melting pot of different racial characteristics, with large percentages of White, African American and Hispanic households, as well as a smaller percentage of Asian households.

#### Kaiser Site

1. The Kaiser site's primary trade area has a population of 279,300 persons. This population is expected to increase 1.7% to 284,200 persons over the next five years. This is not an adequate population to support both the Kaiser site and the existing Bayfair Center, assuming competitive uses.
2. The median age of the Kaiser site is younger than that Bayfair Center (37.4 years at Bayfair compared to 35.6 years at Kaiser).
3. Trade area household income at the Kaiser site, \$71,229, is about 5% lower than that found in the Bayfair Center trade area.

#### Overlapping Area

1. Over 70% of Bayfair's trade area is also in Kaiser's trade area. That is a significant overlap.
2. Given the fact that so much of the trade area population overlaps between the centers, demographic characteristics are similar in the overlap area, as in sites noted above.

#### **An Analog of a Nearby Retail Center that is Now an Example of Urban Decay and Blight: Eastmont Mall in Oakland and Baldwin Hills Crenshaw Plaza in Los Angeles.**

##### Eastmont Mall - Oakland

1. Located at Bancroft and 73<sup>rd</sup> Ave in Oakland, Eastmont Mall (now called Eastmont Town Center) used to be anchored by JC Penney, Mervyn's, Safeway, Woolworth, a Movie Theater and a Food Court.

2. New competitive alternatives approved by the city of Oakland as well as in the surrounding communities of Emeryville, Berkeley and San Leandro in the 1980's and 1990's resulted in numerous store closures at Eastmont over the last two decades.
3. The only large retailers currently in the center include an independent supermarket and a dd Discount store. Interior space is mostly vacant except for welfare and Planned Parenthood offices, Oakland Police Department, a Senior Center, and a Merritt College Science Academy.
4. The area around Eastmont has declined along with the mall. In fact on March 21, 2009 in the neighborhood directly adjacent to the Eastmont Mall three Oakland police officers were killed in a pair of related shooting incidents considered, as the Oakland Tribune noted "among the deadliest attacks on law enforcement in California history".
5. Adding additional retail in San Leandro may result in Bayfair Center suffering some of the same long-term negative impacts as have been experienced at Eastmont.

#### Baldwin Hills Crenshaw Plaza – Los Angeles

1. Baldwin Hills Crenshaw Plaza is similarly sized, tenanted and has similar trade area demographics to Bayfair Center.
2. Westfield Fox Hills Mall, 5 miles from Baldwin Hills Crenshaw Plaza (as compared to the Kaiser site that is only 2.8 miles from Bayfair) has been expanded, remodeled and upgraded over the last several years with many of the same tenants that could have opened at Baldwin Hills.
3. Since then sales have declined and vacancy has increased at Baldwin Hills Crenshaw Plaza. The physical condition of the center and its surrounding commercial area has deteriorated and continues to do so.
4. It is our professional opinion that a similar scenario may also play out at Bayfair Center should a 400,000+ sf competitive center open at the Kaiser site.

#### Corporate Biographies

Bruce Katz – Retail Focus. Bruce F. Katz is founder and president of San Francisco-based Retail Focus, Inc., a shopping center advisory firm, which provides market analysis and real estate strategies to assist owners, developers, investors and managers of retail properties identify market opportunities and position their businesses for competitive advantage.

Mr. Katz brings a unique combination of expertise from over thirty years experience in both the retail and shopping center industries. He has held executive positions at major department and specialty stores, as well as at The Taubman Company, a leading shopping center development firm.

The combination of retail merchandising expertise and real estate experience gives Mr. Katz a unique perspective in the retail real estate industry. Through Retail Focus, he continues to offer insightful market analysis and hands-on knowledge of the shopping center industry. The firm specializes in market and trade area analysis, identifying viable tenants and retail trends, project feasibility and site and lease plan analysis. It offers customized and innovative market strategies and tenant mix planning for initial development, redevelopment, expansion and repositioning. The firm also provides due diligence for shopping center acquisitions and sales and advises in retail real estate investment.

Mr. Katz works with clients coast-to-coast, as well as internationally. Recent clients include Macerich, Madison Marquette, Taubman, Pennsylvania Real Estate Investment Trust (PREIT), Disney Imagineering, Panattoni Development, SunCal Development, Investcorp, ING/Clarion, Babson Capital, Buchanan Street Partners and IDB Group (Israel).

Mr. Katz is a graduate of New York University. He has taught Shopping Center Management at the Fashion Institute of Design and Merchandising in San Francisco. He is also an ongoing contributor to industry trade publications and is a member of the International Council of Shopping Centers.

Additional information about Retail Focus, Inc. can be found at [www.retailfocus.com](http://www.retailfocus.com)

Jeff Green – Jeff Green Partners. Jeff Green is a nationally recognized retail development expert whose strategic analysis, penetrating insights and visionary perspective have made him one of the most respected figures in the industry. His innovative approach to retail development is shaped by a keen grasp of emerging national and global development trends and an ability to incorporate market- and site-specific details into a broader contextual portrait. In a dynamic, rapidly evolving industry, Green's demonstrated commitment to examining the intersection of retail and *lifestyle* has led him to challenge fundamental assumptions about how and where we live, work, play and shop.

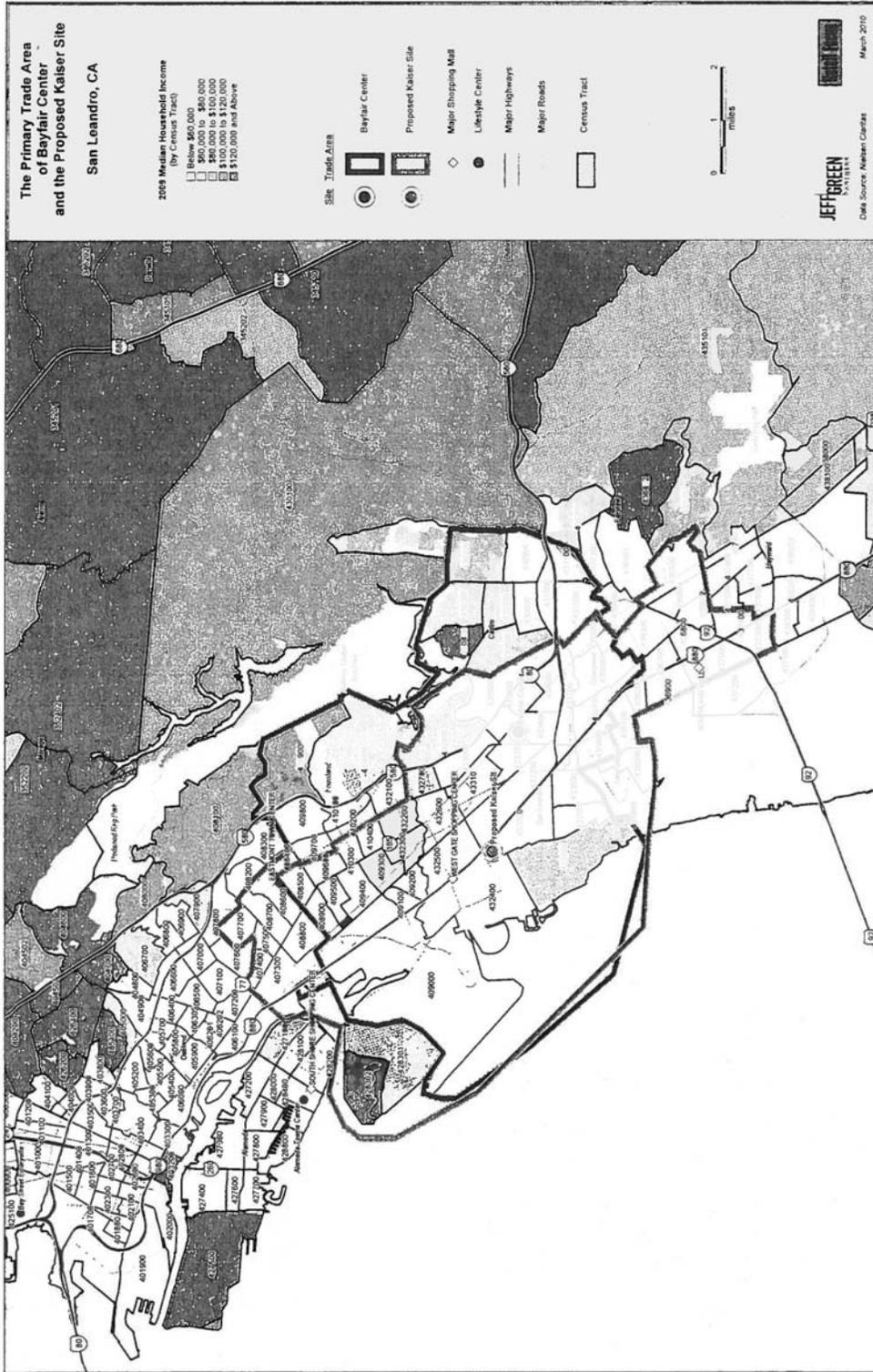
As the founding principal, President and CEO of Jeff Green Partners, Green's professional philosophy is readily apparent in the firm's comprehensive portfolio of services. Jeff Green Partners is an agile, assignment-focused retail consulting

firm that provides prominent retail clients, municipalities, and a number of leading commercial and retail real estate developers with the in-depth analysis and comprehensive strategic support needed to succeed in today's climate. The firm consults with clients nationally and internationally in all phases of retail center development, project feasibility, site selection, redevelopment, planning and long-term viability. Clients like Lucy, LL Bean, Macerich, PREIT and RED Development all look to Jeff Green Partners for a better understanding of how diverse factors such as changing design priorities, shifting usage patterns, and evolving consumer social and lifestyle trends will impact the industry. These firms rely on Jeff Green's proven ability to translate that knowledge into cohesive strategy.

Green's more than two decades of industry experience includes time as the President of Sausalito, CA-based Market Insite Group, as well as the President and Owner of The Green Group, a firm with a 35-year history of providing consulting services to retail, restaurant and entertainment tenants. Green currently serves on the Real Estate Committees of LL Bean and Lucy Activewear, Inc.

A graduate of Michigan State University, Green is a frequent public speaker and author. The nation's leading real estate and retail industry trade publications and major national media outlets, including Fox Business News, look to him for insights and observations on industry trends and new developments. A frequent, well-received contributor to industry panels and continuing education programs, Green's ability to express complex ideas with clarity and force has made him a valuable resource for investors, national and local tenants, consumers and communities. For many years, he taught market research techniques with the International Council of Shopping Center's (ICSC) School of Professional Development, and his professional engagements include presentations before regional and national ICSC conventions, the Food Marketing Institute and the Urban Land Institute.

Additional information about Jeff Green Partners can be found at [www.jeffgreenpartners.com](http://www.jeffgreenpartners.com)





The Primary Trade Area of Bayfair Center  
and the Proposed Kaiser Site  
San Leandro, CA



	<u>Bayfair Mall</u>		<u>Proposed Kaiser Site</u>		<u>Overlap Area</u>	
<b>Population</b>						
2009 Estimate	240,147		279,286		169,525	
2014 Projection	243,601		284,155		172,599	
Growth 2009-2014	1.44%		1.74%		1.81%	
<b>Population by Race</b>	<b>240,147</b>		<b>279,286</b>		<b>169,525</b>	
White	96,251	40.1%	101,065	36.2%	60,479	35.7%
African American	49,384	20.6%	51,905	18.6%	32,629	19.3%
Asian / Pacific Islander	40,910	17.0%	53,371	19.1%	33,274	19.6%
<b>Population by Ethnicity</b>	<b>240,147</b>		<b>279,286</b>		<b>169,525</b>	
Hispanic or Latino	73,958	30.8%	104,703	37.5%	60,538	35.7%
<b>Population by Age</b>	<b>240,147</b>		<b>279,286</b>		<b>169,525</b>	
Below 5 Years	17,861	7.4%	22,344	8.0%	13,165	7.8%
Age 5 to 9	16,456	6.9%	20,122	7.2%	12,011	7.1%
Age 10 to 14	16,229	6.8%	19,736	7.1%	11,841	7.0%
Age 15 to 17	10,180	4.2%	12,038	4.3%	7,166	4.2%
Age 18 to 20	9,336	3.9%	11,433	4.1%	6,691	4.0%
Age 21 to 24	11,724	4.9%	14,438	5.2%	8,191	4.8%
Age 25 to 34	29,736	12.4%	36,783	13.2%	21,690	12.8%
Age 35 to 44	36,012	15.0%	42,784	15.3%	26,536	15.7%
Age 45 to 49	17,957	7.5%	20,623	7.4%	12,373	7.3%
Age 50 to 54	16,804	7.0%	18,278	6.5%	11,120	6.6%
Age 55 to 59	14,649	6.1%	15,597	5.6%	9,583	5.7%
Age 60 to 64	11,867	4.9%	12,672	4.5%	7,947	4.7%
Age 65 and over	31,336	13.1%	32,438	11.6%	21,211	12.5%
Estimated Median Age	37.38		35.64		36.5	
<b>Population by Marital Status</b>	<b>189,601</b>		<b>217,084</b>		<b>132,508</b>	
Single	56,687	29.9%	67,519	31.1%	40,654	30.7%
Married	97,983	51.7%	112,295	51.7%	67,536	51.0%
Widowed / Divorced	34,931	18.4%	37,270	17.2%	24,318	18.4%
<b>Educational Attainment (25 Yrs+)</b>	<b>158,361</b>		<b>179,175</b>		<b>110,460</b>	
Associate Degree	10,342	6.5%	10,803	6.0%	6,662	6.0%
Bachelor's/College Degree	21,375	13.5%	22,593	12.6%	13,122	11.9%
Master's Degree	6,506	4.1%	6,106	3.4%	3,473	3.1%
Professional School Degree	2,091	1.3%	2,136	1.2%	1,127	1.0%
Doctorate Degree	932	0.6%	1,010	0.6%	503	0.5%
<b>Households</b>						
2009 Estimate	82,804		91,201		56,807	
2014 Projection	82,996		91,557		57,030	
Growth 2009-2014	0.23%		0.39%		0.39%	
Estimated Group Quarters	3,534		3,569		2,551	

Data Source: Nielson Claritas

March 2010



The Primary Trade Area of Bayfair Center  
and the Proposed Kaiser Site  
San Leandro, CA



	Bayfair Mall		Proposed Kaiser Site		Overlap Area	
<b>Households by Income</b>	<b>82,804</b>		<b>91,201</b>		<b>56,807</b>	
Less than \$15,000	8,491	10.3%	9,921	10.9%	6,137	10.8%
\$15,000 to \$24,999	6,737	8.1%	7,579	8.3%	4,843	8.5%
\$25,000 to \$34,999	7,463	9.0%	8,501	9.3%	5,602	9.9%
\$35,000 to \$49,999	11,827	14.3%	13,576	14.9%	8,742	15.4%
\$50,000 to \$74,999	17,240	20.8%	19,253	21.1%	12,219	21.5%
\$75,000 and Above	31,046	37.5%	32,368	35.5%	19,264	33.9%
\$100,000 and Above	19,338	23.4%	19,707	21.6%	11,479	20.2%
\$150,000 and Above	7,042	8.5%	6,826	7.5%	3,800	6.7%
<b>Average Household Income</b>	<b>\$74,363</b>		<b>\$71,229</b>		<b>\$68,907</b>	
<b>Median Household Income</b>	<b>\$59,983</b>		<b>\$57,820</b>		<b>\$56,301</b>	
<b>Per Capita Income</b>	<b>\$25,987</b>		<b>\$23,491</b>		<b>\$23,367</b>	
<b>Household Size</b>	<b>2.86</b>		<b>3.02</b>		<b>2.94</b>	
<b>Number of Vehicles per Household</b>	<b>1.71</b>		<b>1.67</b>		<b>1.65</b>	
<b>Population by Employment</b>	<b>186,211</b>		<b>213,026</b>		<b>130,097</b>	
In Armed Forces	196	0.1%	155	0.1%	103	0.1%
Civilian - Employed	105,914	56.9%	119,368	56.0%	72,262	55.5%
Civilian - Unemployed	7,620	4.1%	9,667	4.5%	5,768	4.4%
Not in Labor Force	72,481	38.9%	83,836	39.4%	51,964	39.9%
<b>Population by Class of Worker</b>	<b>105,914</b>		<b>119,368</b>		<b>72,262</b>	
Private Workers	83,367	78.7%	96,359	80.7%	58,194	80.5%
Government Workers	15,604	14.7%	16,438	13.8%	9,955	13.8%
Self-Employed Workers	6,569	6.2%	6,222	5.2%	3,835	5.3%
<b>Population by Occupation</b>	<b>105,914</b>		<b>119,368</b>		<b>72,262</b>	
Management, Business, and Financial	14,137	13.4%	14,116	11.8%	8,393	11.6%
Professional and Related Occupations	17,544	16.6%	18,483	15.5%	10,699	14.8%
Service	15,101	14.3%	18,296	15.3%	10,706	14.8%
Sales and Office	32,014	30.2%	34,940	29.3%	22,005	30.5%
Farming, Fishing, and Forestry	260	0.3%	276	0.2%	201	0.3%
Construction, Extraction, and Maint.	10,758	10.2%	12,763	10.7%	7,774	10.8%
Production, Transportation & Moving	16,100	15.2%	20,494	17.2%	12,484	17.3%
<b>Blue Collar</b>	<b>26,858</b>	<b>60.1%</b>	<b>33,257</b>	<b>56.6%</b>	<b>20,258</b>	<b>56.8%</b>
<b>White Collar</b>	<b>63,651</b>	<b>14.5%</b>	<b>67,510</b>	<b>15.6%</b>	<b>41,069</b>	<b>15.1%</b>
<b>Housing Unit Tenure</b>	<b>82,804</b>		<b>91,201</b>		<b>56,807</b>	
Owner Occupied	47,435	57.3%	49,490	54.3%	30,569	53.8%
Renter Occupied	35,369	42.7%	41,711	45.7%	26,238	46.2%
<b>Owner Occupied Housing Value</b>	<b>\$405,540</b>		<b>\$389,299</b>		<b>\$375,602</b>	
<b>Daytime Population</b>						
0.5 Miles	3,694		6,168			
1 Mile	12,351		16,124			
3 Miles	66,481		73,823			
<b>Top 5 PrizmNE Segments</b>						
American Dreams	15.3%	American Dreams	17.0%	American Dreams	18.2%	
Bohemian Mix	10.58%	Money & Brains	13.3%	Bohemian Mix	12.7%	
Money & Brains	9.76%	Bohemian Mix	11.8%	The Cosmopolitans	10.9%	
The Cosmopolitans	9.43%	The Cosmopolitans	9.9%	Money & Brains	9.8%	
Multi-Culti Mosaic	8.50%	Multi-Culti Mosaic	8.9%	Multi-Culti Mosaic	9.3%	

Data Source: Nielson Claritas

March 2010

**7. Cedric Young, Vice President, Bayfair Center (letter dated March 10, 2010)**

7-0 Please refer to Responses 7-1 through 7-7.

7-1 The Draft EIR did not consider urban decay impacts because, as the comment acknowledges, CEQA does not require analysis of socio-economic impacts. In addition, it was determined during scoping that there was no credible evidence to support the argument that a mixed-use retail development project of 387,000 to 432,000 square feet would result in secondary urban decay impacts in San Leandro. The proposed project does not identify a specific development concept or retail users that could occupy the proposed retail space. A variety of retail uses could occupy the proposed retail space and each use and/or mix of uses could have markedly different effects on existing retail uses. As stated on the Draft EIR page 2-1, “The Mixed-Use Retail Development would consist of large format stores, multi-tenant retail uses, restaurants, soft goods, and service-oriented retailers.” Therefore, it is premature to evaluate and identify potential urban decay impacts. In addition, the Draft EIR evaluates the impacts of the Mixed-Use Retail Development on a programmatic level. As stated on Draft EIR page 2-3, “The project sponsor and lead agency anticipate additional confirmatory environmental analyses and approvals subsequent to certification of this EIR at such time that applications for the Mixed-Use Retail Development and/or future Build-Out of the Kaiser Medical Center are submitted to the City.”

CEQA is concerned with impacts on the environment, not socio-economic impacts. Urban decay can result from land use decisions that cause a chain reaction of store closures and long-term commercial vacancies, ultimately destroying existing neighborhoods and leaving decaying shells in their wake.<sup>1</sup> Economic and social changes are not in themselves significant impacts on the environment; however, a physical change in the environment caused by economic and social factors attributable to a development could sometimes result in a reasonably foreseeable indirect environmental impact, such as urban decay or deterioration. Court cases have determined that “CEQA is not a fair competition statutory scheme.” *Waste Management of Alameda County, Inc. v. County of Alameda*, 79 Cal.App.4th 1223, 1235 (2000). However, if the economic or social impacts cause a physical change in the environment, that physical change may be regarded as a significant effect (CEQA Guidelines §§ 15064(e), 15131(a)). Based on this indirect impact, recent case law involving proposed “supercenters” has found that where a proposed project may potentially cause other businesses to go out of business, which could in turn lead to deterioration and blight conditions as a result of the vacant buildings, neglect, and vandalism, that “urban decay” impacts should be analyzed in the EIR. *See Bakersfield Citizens for Local Control v. City of Bakersfield*, 124 Cal.App.4th 1184 (2004); *Anderson First Coalition v. City of Anderson*, 130 Cal.App.4th 1173 (2005); *Gilroy Citizens for Responsible Planning v. City of Gilroy*, 140 Cal.App.4th 911 (2006). The mere fact that

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<sup>1</sup> *Bakersfield Citizens for Local Control v. City of Bakersfield, et al.*, 124 Cal. App. 4th 1184; 22. Cal. Rptr. 3d 203; 2004 Cal. Daily Op. Service 10918; 2004 Daily Journal DAR 14768.

the proposed project would include retail uses does not mean that urban decay could result or would likely result and should be studied. As one court noted, “proposed new shopping centers do not trigger a conclusive presumption of urban decay.” *Bakersfield Citizens for Local Control*, 124 Cal.App.4th at 1207.

An urban decay impact would occur when there is a negative economic impact so severe that other stores might close as a result and those buildings and/or properties, rather than being reused within a reasonable time, would remain vacant, deteriorate, and lead to decline of nearby real estate. The physical deterioration to properties or structures would need to be so prevalent, substantial, and lasting for a significant period of time that it would impair the proper utilization of the properties and structures, and the health, safety, and welfare of the surrounding community. The manifestations of urban decay include such visible conditions as plywood-boarded windows and doors, long-term unauthorized use of the properties and parking lots, extensive graffiti painted on buildings, dumping of refuse on site, broken parking barriers, litter, unmaintained landscaping, and lack of building maintenance. Store closures alone are not sufficient to cause urban decay, as such closures could provide an opportunity for new retailers or other tenants to occupy the vacated space or for property owners to engage in economic development efforts to improve their property.

Comment 7-1, submitted by the Bayfair Center in San Leandro indicates concern over potential impacts associated with urban decay/blight at the Bayfair Center, and potentially other locations within the City. The Comment Letter from Bayfair also includes an attached report from Retail Focus/Jeff Green Partners that summarized the primary trade area and potential urban decay impacts of the proposed retail uses on the Bayfair Center. Keyser Marston Associates, independent real estate economists retained by the City, prepared a memorandum in response to Comment 7-1 and the Retail Focus/Jeff Green Partners Report (see Appendix A of this Final EIR). The Keyser Marston Report addresses the issues identified in the Bayfair Center comments. Results of the Keyser Marston Report included the following, which support the City’s earlier finding that urban decay would not occur as a result of the proposed project:

- The proposed project could feature a variety of potential retail concepts with markedly different potential impacts on existing retailers. Therefore, it is premature to conclude potential urban decay impacts.
- The analysis provided in the Retail Focus/Jeff Green Partners Report is not conclusive in demonstrating the potential for urban decay, even for a retail concept that would be potentially competitive with Bayfair Center. The Keyser Marston Report identifies various development concepts and identifies if these concepts would compete with the Bayfair Center. The Keyser Marston Report identified that if the Mixed-Use Retail Development were to be developed with a regional shopping center comprised primarily of mid to larger retail boxes, including outlets retailing primarily GAFO merchandise (general merchandise, apparel, furniture and home furnishings, and specialty goods such as sports equipment), the center would be closely aligned with

retailing at the Bayfair Center. However, even with this development concept, the Keyser Marston Report indicates there is considerable likelihood that a center with these uses at the project site would not cause urban decay for the Bayfair Center. All other development concepts that could occur at the project site would be minimally competitive with the Bayfair Center, as discussed in the report.

- The trade areas for the proposed project and the Bayfair Center were defined in the Keyser Marston Report and the Retail Focus/Jeff Green Partners Report. As noted in the Keyser Marston Report, even if the retail concept focused on similar store types to those represented at Bayfair Center (which is not assured), the share of trade area sales at the project site in competition with the Bayfair Center would be small, at about 10 percent of trade area potential for these stores. The proposed project would not be a dominant center and would not be likely to cause urban decay.
- The trade area delineation shows that the Bayfair Center is currently absorbing about 10 to 15 percent of the GAFO sales potential in the trade area delineated in the Retail Focus/Jeff Green Partners Report; therefore, many other centers and freestanding retailers such as Wal-Mart are absorbing the retail potential of trade area residents. Since Bayfair Center currently captures only a small share of retail spending, it is unrealistic to portray that a high proportion of retail sales at the project site, even if focused on similar store types, would be at the expense of Bayfair Center.
- Data indicate that the trade area within a ten-minute drive time of the project site is underserved for GAFO-based goods. Also, the Keyser Marston Report indicates that the GAFO sales potential unique to the Mixed-Use Retail Development (not in the Bayfair trade area) is more than sufficient to support a GAFO-based retail project at the project site. Therefore, retail uses at the project site focused on GAFO-based goods could serve an unmet demand within the trade area.
- The Retail Focus/Jeff Green Partners Report identified two examples of urban decay in California and suggested that the proposed project could have similar results at the Bayfair Center. Eastmont Mall in Oakland is an example of a center that declined despite the virtual absence of new retail competition. The Baldwin Hills Crenshaw Plaza in Los Angeles is an example of the continued recycling of an existing retail property serving a minority community. Both examples do not in the least support an urban decay finding for the proposed project.

Store closures in and of themselves do not constitute urban decay if the properties so affected can be recycled to other productive uses. The Bayfair Center is strongly advantaged by its proximity to transit (BART) and there may be many opportunities to recycle property in the future to a variety of productive urban uses. However, until potential impacts can be more clearly identified, it is premature to speculate on the nature and extent of recycling, if any, that could occur.

The Draft EIR evaluates the impacts of the proposed project on a programmatic level. As stated above, the proposed project does not identify a specific development concept or stores that could occupy the proposed retail space. Therefore, it is premature to speculate as to potential urban decay impacts that could occur, if any. The project sponsor and lead agency anticipate subsequent environmental review at the project level that would evaluate specific retail concepts and users, including potential urban decay impacts of such uses at the project site. Both the *Bakersfield Citizens* and the *American Canyon* cases cited by the commentor involve supercenters. At this time, no decision has been made by the City to include supercenters and “big box” retailers in the Mixed-Use Retail Development. In the recent case of *Melom v. City of Madera* MCV037268(Ct.App. March 24, 2010), the Court of Appeals further limited the holding in *Bakersfield Citizens*, stating that “*Bakersfield Citizens* did not hold and should not be construed as holding that the inclusion in a project of a retail store called a “supercenter” necessarily triggers a requirement that the project’s EIR include an examination of possible urban decay.”

7-2 The commentor correctly notes that the City would have to adopt a statement of overriding considerations for the significant and unavoidable impacts identified in the Draft EIR, if it were to approve the proposed project, and that the City will comply with all required CEQA processes and procedures.

7-3 The project applicant scoped the Mixed-Use Retail Development component of the proposed project to allow options for development. Trip generation from the three land use options for the proposed Mixed-Use Retail Development (i.e., retail plus residential, all retail, and retail plus hotel) would all result in a similar number of trips as shown in Table 3-1; however, there are variations in the AM, PM, and Saturday peak hours, and the overall daily trip generation. The retail plus residential option for the Mixed-Use Retail Development was selected for analysis since the retail plus residential option would generate more trips than the all retail option during the AM peak hour, and more trips than the retail plus hotel option during the AM and PM peak hours. The retail plus residential and the all retail options would generate almost the same number of trips during the PM peak hour. Although the all retail option would generate higher Saturday peak hour trips, it would generate similar PM peak hour trips and much lower AM peak hour trips.

The combination of traffic generated by the proposed project and background traffic during the AM and PM peak hours provides the worst-case analysis for traffic intersection and freeway impacts. An all retail option would result in higher trip generation than the other land use options during the Saturday peak hour; however, the background traffic on the roadways would not be as high on Saturdays compared to the AM and PM peak hours. Since most traffic impacts identified in the Draft EIR are during the AM and PM peak hours, the selection of the retail plus residential option for analysis is conservative and represents the worst-case scenario.

**Table 3-1  
Trip Generation Rate Comparison for the Mixed-Use Retail Development**

<b>Land Use Option</b>	<b>AM Peak Hour Trips</b>	<b>PM Peak Hour Trips</b>	<b>Saturday Peak Hour Trips</b>	<b>Daily Trips</b>
Retail plus Residential (387,000 s.f. retail plus 250 residential units)	536	1,619	2,101	18,298
All Retail (432,000 s.f. retail)	445	1,620	2,147	18,550
Retail plus Hotel (387,000 s.f. retail plus 210-room hotel)	516	1,575	2,075	18,333

*Source:* Dowling Associates, Inc., 2010.

Furthermore, the trip generation assumptions made for internal trips (trips that remain within the project site) was minimal and therefore would not vary substantially between the all retail and mixed-use options. Because trips approaching and leaving the project site would be very similar for the all retail and mixed-use options, it was appropriate for the Draft EIR to assume the mixed-use option and no further analysis or revision is necessary.

The air quality and greenhouse gas calculations included some reduction in emissions for both the mix of uses and local serving retail in the URBEMIS model; however, as shown in Appendix B of the Draft EIR, the reductions represented less than 0.5 percent of the total emissions for both the Kaiser Medical Center and the Mixed-Use Retail Development. Therefore, if an all retail option was chosen, which would not include the same mix of uses, air quality and greenhouse gas emissions would be similar to those presented in the Draft EIR for the retail plus residential option.

- 7-4 Response 7-3 addresses the trip generation rates from retail and residential uses. As noted, there would be variations in the trip generation rates between the different options. In addition to the Saturday peak hour, the daily trip generation rate for an all retail option would also be slightly higher than a mixed-use residential option. However, the difference in trips between the all retail option and the retail plus residential options would be approximately 250 vehicle trips. This increase in daily trips would not be substantial in comparison to the overall daily trip generation rate from the Mixed-Use Retail Development (about 1.4 percent of the overall trip generation rate). As such, because the mobile-source greenhouse gas emissions are calculated based on the daily trip rate, greenhouse gas emissions would also be slightly higher under the all retail option. In addition, since the proposed project would result in greenhouse gas emissions above the identified thresholds, the Draft EIR identifies a significant impact associated with these emissions for the proposed project. If an all retail option were selected, these emissions would continue to exceed the identified thresholds, and the impacts would also be significant and unavoidable, similar to the mixed-use retail plus residential option analyzed in the Draft EIR. However, analysis of the all retail option may have resulted in fewer impacts on traffic operations as described in Response 7-3.

Comment 7-4 also states that because various green building features are optional under the Draft EIR, they may not actually be included and their discussion is misleading. As described more fully in Response 7-5, the green building features identified in the Draft EIR (see Section 3.11, Climate Change), will be included in the Kaiser Medical Center. Specific green building features for the Mixed-Use Retail Development will be identified at the time a specific project is proposed.

- 7-5 Comment 7-5 states that the Draft EIR fails to look at the “full range” of greenhouse gas (GHG)- related mitigation measures and fails to require that the project incorporate all feasible mitigation. Because the climate change impact is significant and unavoidable, Comment 7-5 argues that this violates CEQA.

The City and Kaiser conducted an extensive review of potential measures to reduce GHGs from both the Kaiser Medical Center and the Mixed-Use Retail Development components of the project. This review included examining various publicly available lists of potential mitigation measures, including those suggested in various guidance documents. Documents consulted include: *Draft CEQA Air Quality Guidelines*, Bay Area Air Quality Management District (December 2009); *Technical Advisory: CEQA and Climate Change*, Office of Planning and Research (June 19, 2008); *Addressing Climate Change at the Project Level*, Attorney General’s Office; and *CEQA & Climate Change*, California Air Pollution Control Officers Association (January 2008). Kaiser is also committed to implementing the standards contained in the Green Guide for Healthcare. Through this process, the City has identified and required all feasible mitigation. These measures would result in significant and meaningful reductions in GHGs.

Comment 7-5 does not reference specific feasible mitigation measures that the project should include. Instead, it references “additional” Transportation Demand Management (TDM) measures and increases in energy efficiency, “payment of mitigation fees,” and the “substantial use” of renewable energy. Each of these general suggestions is discussed further below.

### **Transportation and Demand Management Measures**

As for TDM measures identified in the Draft EIR, Mitigation Measure AQ-2.1 set a very aggressive, but achievable, standard for the Kaiser Medical Center of requiring that Kaiser develop a TDM program that reduces vehicle trips by approximately 10 to 15 percent during both Phase 1 and Build-Out. The TDM program must include, at a minimum, a Transportation Coordinator, a Commute Assistance Center, a Shuttle Service between the San Leandro BART Station transit center and the project site, a Guaranteed Rides Home Program, a Commuter Check Program, preferential parking space for carpools and vanpools, car/vanpool ride matching services, bicycle storage and racks, combined shower and changing facilities, and periodic employee surveys to determine the effectiveness of the program. The Mixed-Use Retail Development would also include a TDM program with similar requirements. Because the specific components of the Mixed-Use Retail Development are unknown at this time, a trip reduction rate would be established at the time a specific project is proposed. As such, the

Draft EIR requires that the proposed project include all feasible TDM measures. These measures would result in significant reductions in transportation-related GHG emissions. In addition, the proposed project supports pedestrian access to a variety of amenities, further minimizing the number of car trips by staff and the general public.

Because Comment 7-5 does not cite specific measures, it is not clear what “additional” TDM measures the commentor believes are feasible. Based on the City’s review of the proposed project and potential TDM measures, it believes that all feasible TDM measures have been included.

### **Energy Efficiency Measures**

Comment 7-5 states that “additional” energy efficiency measures are available and feasible, although it does not identify any specific measures. Further, Comment 7-4 states that the green building measures identified on page 3.11-21 are not required and thus it is misleading to mention them in the Draft EIR. Contrary to implications of these comments, Kaiser has committed to implementing various green building features and will maximize energy efficiency to the greatest extent feasible.

It should be noted that the hospital and portions of the hospital support building are regulated by the Office of Statewide Health Planning and Development (“OSHPD”). OSHPD regulations include requirements that preclude the ability of hospitals to include some energy efficiency measures that may be possible in a typical building. Hospitals are unique uses that, by their very nature, are energy intensive. They operate 24 hours a day, 7 days a week and have safety requirements to ensure the proper operation of medical equipment and heating, ventilation, and air conditioning (HVAC) systems, resulting in a more intensive use of energy. This is evidenced by the fact that hospitals are exempt from many Title 24 requirements. Working within these constraints, the Draft EIR requires that the Kaiser Medical Center, including the hospital, include all feasible energy efficiency measures during both the construction and operation phases.

The climate change-related mitigation measures identified on pages 3.11-27 to 3.11-28 include extensive energy efficiency requirements. These include requirements to achieve a minimum of a 15 percent beyond Title 24 reduction in energy use (excluding the hospital, which has special energy needs and OSHPD requirements), energy efficient lighting, extensive waste and recycling programs, water efficient fixtures and appliances, and the incorporation of passive solar features. Other items not identified as mitigation measures, but that Kaiser has committed to, include the following:

- Minimizing the “heat island effect” by planting approximately 665 trees (effectively providing a 1 tree to 3 car ratio) and using light colored concrete.

- The Medical Center would be commissioned by an Independent Commissioning Authority that would oversee and review energy and resource measures to verify the installation and performance of the building systems related to heating, cooling, lighting, and water.
- The Medical Center windows would use high efficiency glazing (Solar Ban 60 1-inch insulated, low-e glazing), which would minimize energy used for cooling.
- Low volatile organic compound (VOC) content adhesives, sealants, paints, and coatings would be used in the construction of the hospital, central utility plant (CUP), and hospital support building.
- Only carpet and resilient flooring systems that meet or exceed the indoor air quality requirements of California 01350 would be specified for the hospital and hospital support building.
- Site lighting would be zoned to allow separate controls for site safety and lighting reduction alternatives.
- Four electric vehicle charging stations would be located at the on-site CUP service yard to recharge maintenance vehicles.

The comment also indicated that the climate change analysis is misleading because the Draft EIR does not require that all green building features identified on pg. 3.11-21 be implemented. For purposes of calculating the proposed project's GHG emissions after mitigation, the climate change analysis did not assume any of these elements would be implemented. This was a conservative approach that results in overstating the proposed project's emissions. Further, as Kaiser has planned to implement the standards in the Green Guide for Healthcare, Kaiser has identified the following features that would be included in the Medical Center:

- The use of construction materials with at least one of the following attributes, to be selected wherever possible: salvaged materials, rapidly renewable materials, materials harvested and processed within 500 miles of the project, and/or materials with recycled content.
- The installation of interior lighting designed to optimize energy use, reducing the lighting related power demand. Lighting efficiency measures include occupancy sensors throughout the hospital support building and wherever possible in the hospital.
- Zero use of chlorofluorocarbon (CFC)-based refrigerants in new base building mechanical systems to minimize or eliminate the emission of compounds that contribute to ozone depletion and global warming.
- Zero use of refrigerants or select refrigerants and HVAC equipment that minimize or eliminate the emission of compounds that contribute to ozone depletion and global warming.
- Fire suppression systems that contain ozone-depleting substances (CFCs, HCFCs, or Halons) would not be installed.

- The installation of skylights used to augment perimeter daylighting and provide natural light to upper floor circulation in the hospital support building.

It is also noteworthy that construction-related measures include all best management practices suggested in the Bay Area Air Quality Management District's (BAAQMD) proposed CEQA thresholds, and thus construction impacts are less than significant.

Although not part of the project, it is noteworthy to review Kaiser's successful waste diversion efforts in relation to the demolition of the structures that previously existed on the southern portion of the site. Kaiser diverted a total of 182,973 tons of material, representing 99.3 percent of the non-hazardous construction and demolition debris. Using the Environmental Protection Agency's (EPA) WASTE Reduction Model (WARM), it is estimated that this resulted in the avoidance of the equivalent of 40,601 metric tons of CO<sub>2</sub>, which is equivalent to removing 8,951 passenger cars from the road for a year. The successful implementation of waste diversion alone has already resulted in significant reductions in GHGs and would further avoid emissions during the demolition of the northern portion.

These various measures would result in substantial reductions in energy consumption and related avoidance of GHG emissions. After extensive consultation with Kaiser, the City believes that these measures represent all feasible energy efficiency measures. Because Comment 7-5 does not cite specific measures, it is not clear what "additional" energy efficiency measures the commentor believes are feasible.

### **Payment of Mitigation Fees**

Comment 7-5 suggests that additional GHG mitigation could be achieved through the payment of "mitigation fees." The comment does not identify a specific "mitigation fee" program, indicate whether the City or some other agency should adopt such a fee program, or what sort of off-site program would be appropriate to reduce GHGs from the project. Neither the City, BAAQMD, nor the State currently operate a GHG fee mitigation program.

The use of a mitigation fee, such as carbon credits or offsets, for purposes of GHG mitigation under CEQA is in its infancy, subject to uncertainty and is not appropriate in all instances. While the recent amendments to the CEQA Guidelines adopted by the Natural Resources Agency pursuant to Senate Bill 97 note that GHG mitigation measures "may include . . . [o]ff-site measures, including offsets that are not otherwise required," the agency also confirmed that offsets may not always be fitting and the lead agency ultimately has the discretion to determine feasibility. Addressing this issue, the Resources Agency wrote in the Final Statement of Reasons for the new CEQA Guidelines:

While the proposed amendments recognize offsets as a potential mitigation strategy, *they do not imply that offsets are appropriate in every instance*. The efficacy of any proposed mitigation measure is a matter for the lead agency to determine based on the substantial

evidence before it. Use of the word “feasible” in proposed Section 15126.4(c) requires the lead agency to find that any measure, including offsets, would be “capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, legal, social, and technological factors.” (State CEQA Guidelines, § 15364.)

Final Statement of Reasons for Regulatory Action, at 89 (emphasis added). Further, in response to considerable comments raised regarding the use of offsets as mitigation, the Resources Agency added language to Section 15126.4(c) that GHG mitigation measures must be “supported by substantial evidence and subject to monitoring or reporting.” Here, the commentator did not provide evidence demonstrating how “mitigation fees” could be used to reduce GHG emissions, identify a mitigation fee program, explain how mitigation fees could be monitored or reported, or how this could be “accomplished in a successful manner within a reasonable period of time.” For reasons described below, the City finds that offsets are not a feasible mitigation measure for purposes of this project.

The City recognizes that there are many different types of off-site mitigation options, ranging from a locally operated mitigation fee program to purchasing carbon credits on one of several carbon markets. For purposes of CEQA, for off-site mitigation to be “accomplished in a successful manner,” the City believes that the offset project must occur locally, or at least regionally, and be authorized by a local or regional agency. As an example of such a program, the City notes requirements in the settlement agreement ConocoPhillips entered into with the Attorney General’s Office relating to the alleged failure to fully mitigate the GHG impacts of upgrades to its refinery in Rodeo, California. In that agreement, ConocoPhillips agreed to make a onetime \$7 million payment to BAAQMD for the purposes of establishing a carbon offset fund. Through a separate Memorandum of Understanding, BAAQMD agreed to award grants to projects in the vicinity of the Rodeo refinery that result in permanent, verifiable, and quantifiable reductions in GHGs. The City is not aware of another similar fund or fee program operated in the Bay Area. As described further below, the City does not believe that establishing a similar mitigation fee or grant program for this project is feasible.

The reasons for favoring a local mitigation fee program are several. CEQA requires that mitigation is fully enforceable and subject to monitoring or reporting. A local offset program, particularly one carried out by the City or another local agency, is easily capable of being monitored and enforced. Carbon credits purchased on the open market, on the other hand, fund projects all over the world and the City would have no capacity to monitor or enforce the implementation of the mitigation and may have difficulty ensuring the credibility of a purchased offset. Second, local off-site mitigation measures provide local, non-climate related “co-benefits,” benefits that are lost to the community if offsets occur outside the region. Third, CEQA guidance documents have favored local programs. *See e.g., CEQA & Climate Change*, California Air Pollution Control Officers Association, page B-33 (noting that mitigation fee programs are not logistical because no local or State programs exist). Finally, while carbon markets have evolved considerably in recent years, the efficacy of offsets remains

uncertain. A recent report from the U.S. Government Accountability Office reviewed the voluntary carbon market and found that considerable uncertainty regarding the credibility of offsets remains. GAO, *Carbon Offsets: The U.S. Voluntary Market is Growing, but Quality Assurance Poses Challenges for Market Participants*, GAO-09-1048, page 37 (August 2008) (“[E]nsuring the credibility of carbon offsets poses challenges because of the inherent uncertainty in measuring emissions reductions or sequestration relative to a projected business-as-usual scenario. Any measurement involving projections is inherently uncertain.”). Further, some offsets programs have been found to have “leakage” problems, undermining their effectiveness. See e.g., Jenkins, et al., *Addressing Leakage in a Greenhouse Gas Mitigation Offsets Program for Forestry and Agriculture*, Nicholas Institute for Environmental Policy Solutions (April 2009).

Currently, there is no State or local GHG mitigation fee program and the City finds that it would be infeasible to establish one in a timely and cost-effective manner for purposes of approving this project. Indeed, one of the most comprehensive guidance documents analyzing potential methodologies for addressing climate change under CEQA noted that creation of an off-site mitigation fee program could not be “implemented without extraordinary effort.” *CEQA & Climate Change*, California Air Pollution Control Officers Association, page B-33.

It is possible that such a program would exist at the time a specific project for the Mixed-Use Retail Development is proposed and the feasibility of GHG mitigation fees for that portion would be determined at the time project level environmental review is conducted. Issues relating to offsets and carbon trading are both complex and in the early years of development. The City would continue to monitor the status of offsets. As the regulatory framework evolves in the future, it may subsequently determine that offsets are appropriate for development projects under CEQA.

### **Use of Renewable Energy**

Comment 7-5 suggests that feasible mitigation include the “substantial use of renewable energy” and identifies the placement of photovoltaic solar panels on the rooftops of the retail buildings. Because the Mixed-Use Retail Development was examined at a programmatic level in the Draft EIR, it was not possible to determine the feasibility of rooftop solar panels. The City will examine the feasibility of solar panels at the time that a specific project is proposed.

For the Kaiser Medical Center, building rooftops would be highly constrained and the City finds that it is not technically feasible to require installation of solar panels. Kaiser intends to explore a range of renewable energy sources for its Medical Center project, including without limitation, solar energy, biofuel, and wind power. During Phase 1, Kaiser would provide approximately 250 kilowatts of its energy consumption from these alternative energy sources, with an additional 250 kilowatts for its hospital and medical office at build-out, most likely from the installation of photovoltaic panels in the parking areas. Kaiser would require any future developer of the Mixed-Use Retail Development project to generate no less than 250

kilowatts of energy use from renewable energy sources. This Final EIR confirms that these alternative energy elements are included as project components by the applicant and will be imposed through the Mitigation Monitoring and Reporting Program to partially mitigate GHG emissions and climate change impacts.

- 7-6 Comment 7-6 states that the Draft EIR is deficient because it did not meet CEQA's requirement to analyze a reasonable range of alternatives that would accomplish most of the project's objectives, and that would reduce the project's significant impacts. The requirement under CEQA is that the EIR describe a reasonable range of feasible alternatives. However, an EIR need not consider every conceivable alternative to a project. Instead, the purpose of discussing alternatives is to foster informed decision making and public participation. CEQA Guidelines § 15126.6(a). Under the "rule of reason," an EIR need only set forth those alternatives necessary to permit a reasoned choice and public discourse. CEQA Guidelines § 15126.6(f). Provided these standards are met, an EIR is not deficient for failing to discuss alternatives suggested by a commenting party. *Mann v. Community Redev. Agency*, 233 Cal.App.3d 1143 (1991).

The discussion of alternatives in the Draft EIR is sufficient. In addition to the proposed project, the Draft EIR analyzed four alternatives, including the No Project Alternative. These included the Existing Zoning Alternative, the Reduced Project Alternative, and the Additional Site Access from Merced Street Alternative. Under existing zoning, it was assumed that no change in zoning would occur and that the site would be redeveloped with light industrial and warehouse uses. The Reduced Project Alternative examined a project whereby all square footages would be reduced by 20 percent. This would include the same mix of uses, but a smaller footprint. The Additional Site Access from Merced Street Alternative added an access point that would reduce traffic impacts. Further, the Draft EIR considered, but rejected as infeasible, two additional alternatives. The Reduced Project Alternative by 90 Percent would have reduced all potentially significant traffic, air quality, and climate change impacts of the proposed project to a less-than-significant level. Due to the significant reduction in size, project objectives would not be met and the project would not be financially feasible, so that alternative was rejected. The City also initially considered alternatives sites, but due to a lack of available sites within the City that can accommodate the size and access required, and because Kaiser owns the project site, such an alternative was not considered in detail in the Draft EIR.

This range of alternatives was selected based on an identification of alternatives that accomplish most of the project's objectives, and reduce one or more significant effects. The Reduced Project Alternative achieves the same mix of uses, but impacts are reduced due to the smaller size. The Additional Site Access from Merced Street Alternative would achieve all project objectives, while also alleviating traffic congestion, one of the significant and unavoidable project impacts.

Comment 7-6 suggests two additional alternatives. First, it suggests that the EIR should consider the alternative of Full Development of the Medical Center, but No Project/Existing Zoning for the Mixed-Use Retail Development portion. This alternative is not considerably different from the existing analysis and would not serve the purpose of furthering public discourse. This alternative is essentially a combination of two existing alternatives examined in the Draft EIR: the Proposed Project Alternative and the No Project/Existing Zoning Alternative. Because the analysis in the Draft EIR generally discusses the impacts of the Kaiser Medical Center and the Mixed-Use Retail Development portions separately, the public and City decision makers are reasonably informed of the impacts of proceeding with an alternative that includes the Kaiser Medical Center, but not the Mixed-Use Retail Development. Further, this alternative would not meet any of the Mixed-Use Retail Development project objectives; objectives that are important to the overall success of the project. This alternative would also not maximize the sales tax revenues and property tax base that would be associated with the Mixed-Use Retail Development.

The second alternative proposed by Comment 7-6 would allow full development of the Medical Center, but include a “true mixed use development of the Mixed Use Retail Development site with neighborhood-serving retail and additional residential units.” According to the commentor, this alternative would reduce the project’s transportation, climate change, and urban blight impacts. As described in the City’s urban decay analysis, the proposed project will not have a significant economic impact on existing retail areas that would result in urban decay or blight, so it is not necessary to consider an alternative that reduces these impacts. The City finds that this alternative is only a slight variation on the Reduced Project Alternative and, as such, would not significantly further inform decision making. Under the Reduced Project Alternative, the retail portion would be reduced to approximately 310,000 square feet of retail space. While the commentor believes the EIR should include analysis of an alternative with less retail space, CEQA does not require that alternatives include all reasonable densities. *Village Laguna of Laguna Beach, Inc. v. Board of Supervisors of Orange County*, 134 Cal.App.3d 1022 (1982). Further, a substantially smaller retail project would not serve to meet the project objectives of revitalizing the western Marina Boulevard corridor and maximizing sales tax revenue and property tax base.

- 7-7 Comment 7-7 argues that the City must recirculate the Draft EIR in response to its comments. In particular, it states that recirculation is required because (i) the urban blight analysis will show a new significant impact; (ii) re-analysis of the project’s transportation, air quality, and climate change sections based on the all retail option will show a substantial increase in significant impacts; (iii) additional alternatives must be discussed; and (iv) the climate change section must include additional mitigation measures (unless all feasible mitigation is adopted).

Recirculation is required when significant new information is added to the EIR. New information is not significant unless the EIR is changed in a way that deprives the public of a meaningful opportunity to comment upon a substantial adverse environmental effect of the project or a feasible mitigation measure that the project proponent has declined to implement.

CEQA Guidelines § 15088.5(a). Further, information that clarifies or amplifies or makes insignificant modifications to an adequate EIR is not significant new information requiring recirculation. CEQA Guidelines § 15088.5(b).

(i) *The Project Will Not Have a Significant Urban Blight Impact*

Comment 7-7 claims that the information submitted with its comment letter on urban blight demonstrates that the project will have a significant urban blight impact. However, the City's recent economic study contradicts this evidence and shows that the project will not cause a significant urban decay or blight impact. As such, the economic information submitted by the commentor is not new information requiring recirculation.

(ii) *The Draft EIR Examined the Worst Case Scenario so its Transportation, Air Quality, and Climate Change Analysis is Accurate*

The commentor states that analysis of the "all retail" option will show a significant increase in impacts relating to transportation, air quality, and climate change. However, as explained in Response 7-3, the analysis in the Draft EIR analyzed the worst case scenario. Consequently, there is no significant new information requiring recirculation.

(iii) *The Range of Alternatives was Sufficient*

"Significant new information" includes a feasible project alternative considerably different from others previously analyzed that would clearly lessen the significant environmental impacts of the project, but the project proponent declines to adopt it. CEQA Guidelines § 15088.5(a)(3). The commentor claims that the alternatives analysis in the Draft EIR should have included additional alternatives, and that the Draft EIR should be recirculated including these additional alternatives. As explained in Response 7-6, the Draft EIR complied with CEQA by analyzing a reasonable range of feasible alternatives and no further alternatives analysis is needed. Further, the project alternatives proposed are not considerably different from the alternatives in the Draft EIR. As a result, there is no significant new information requiring recirculation.

(iv) *The Draft EIR Requires the Inclusion of all Feasible Climate Change Related Mitigation*

As described in Response 7-5, the Draft EIR identifies a range of mitigation measures to address climate change impacts. The comment does not identify any new feasible GHG mitigation measures that the project proponent has refused to incorporate. To the contrary, Kaiser has agreed to install solar panels over its parking lots. Kaiser has committed to generating no less than 250 kilowatts of energy from renewable energy sources during Phase 1 of the Kaiser Medical Center. This same requirement would be imposed on the Mixed-Use Retail Development and build-out of the Kaiser Medical Center. Because all feasible climate change related mitigation is included, no recirculation is required.

8. Dana G. Parry, President and CEO, Reynolds & Brown (letter dated March 10, 2010)

R E Y N O L D S & B R O W N



Letter 8

March 10, 2010

VIA E-MAIL [klivermore@ci.san-leandro.ca.us](mailto:klivermore@ci.san-leandro.ca.us)  
AND COPY VIA FACSIMILE (510) 577-6007

Ms. Kathleen Livermore  
Planning Manager  
City of San Leandro  
835 East 14<sup>th</sup> Street  
San Leandro, CA 94577

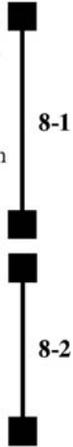
**Re: Written Comments to Draft EIR for Kaiser Permanente San Leandro Medical Center/Mixed Use Retail Development Project**

Dear Ms. Livermore:

As long term corporate citizens of the City of San Leandro, we heartily endorse the Project and look forward to its development. In the development process, we wish to ensure that the Project and its proposed roadway improvements be undertaken in such a way so as to not impair the long term functional viability of our properties located at the SEC of Marina and Merced (1803 - 1809 Marina, 2300 - 2412 Merced) and 2551 - 2587 Merced (between Republic and Fairway). To that end, we offer the following, hopefully constructive, comments:

1. The proposed elimination of the existing two-way left turn lane along the length of Merced Street as well as the proposed new center median along Merced Street between Republic Avenue and Fairway Drive will prevent left turn access to and from properties on the west side of Merced Street, including our property located at 2551 - 2587 Merced. Given that the parking areas and potential volume of left turns to and from the properties on the west side of the street are significantly lower than for Kaiser, we do not believe that restricting access to the properties on the west side is justified and should be further studied and other mitigations provided and considered.

2. Mitigation measure TR-13.2 contemplates the addition of a third left turn lane on westbound Marina Blvd. and a third southbound receiving lane on Merced Street adjacent to our property located on the southeast corner of Marina and Merced. We need to more clearly understand how the implied widening at this location may impact our property and how this widening would work in the context of other proposed mitigation measures (e.g., TR-1.1 Adaptive Signal Control System on Marina Blvd. and TR-1.3 New Signalized Driveway on Marina Blvd. discussed in our comment #4 below).



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1200 Concord Avenue, Suite 200, Concord, CA 94520 ♦ Telephone 925 674-8400 ♦ Fax 925 689-1535 ♦ [www.reynoldsandbrown.com](http://www.reynoldsandbrown.com)

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3. The I-880 interchange configuration allows traffic from the loop off-ramps to flow directly onto Marina Blvd. without the ability to be controlled or regulated by a traffic-signalized intersection. The DEIR should give more details on the interchange design, how the future Project improvements might change the design, and comment on why the selected alternative design was chosen.

8-3

4. The proposed new intersection on Marina Blvd. just east of the Denny's driveway located on our property is sandwiched between the new I-880 southbound ramp's signal and the Marina/Merced signal. We are concerned that this proposed new signalized intersection will result in the near continuous blockage of the existing Denny's driveway on our property resulting from eastbound traffic stopped for the new signal backing up beyond our driveway. We believe that further study of this situation is warranted. In addition, this signal services a proposed 60' driveway into the mixed use property. We want to better understand how the through traffic to the mixed use parcel will be handled and its internal traffic circulation plan. Has the possibility of a street through the mixed use parcel from this driveway to the front door of the hospital been considered?

8-4

5. A diagram of the Project and its surrounding areas depicting the proposed traffic mitigation measures should be added to the DEIR.

8-5

Thank you for your kind attention in this regard. Should you have any questions, please do not hesitate to call.

Sincerely,

Reynolds & Brown

By:

  
Dana G. Parry, President  
& CEO

DGP/wp

cc: Mr. David A. Brown  
Mr. Jon Q. Reynolds

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**8. Dana G. Parry, President and CEO, Reynolds & Brown (letter dated March 10, 2010)**

- 8-1 The proposed elimination of the two-way left-turn lane and addition of center median on Merced Street would impede access to and from the Reynolds & Brown property. However, such restrictions are necessary to provide a safe travel environment per the City considering the increased traffic on the roadway. The traffic volume accessing these sites is very minimal and will be diverted to u-turns at the adjacent signalized intersections.
- 8-2 Mitigation Measure TR-13.2, providing a third westbound left-turn lane at the Marina Boulevard/Merced Street intersection, would only be needed under Cumulative plus Kaiser Medical Center Build-Out plus Mixed-Use Retail Development conditions. The mitigation measure would not be needed under the analyzed Baseline conditions or the Cumulative plus Kaiser Medical Center Phase 1 plus Mixed-Use Retail Development conditions. As indicated in Mitigation Measure TR-13.2, implementation of Mitigation Measures TR-1.1 and TR-1.3 would mitigate impacts at the Marina Boulevard/Merced Street intersection to acceptable levels during the AM and Saturday peak hours under Cumulative plus Kaiser Medical Center Build-Out plus Mixed-Use Retail Development conditions. However, widening of Marina Boulevard and Merced Street to add a third left-turn lane on Marina Boulevard westbound approach and third receiving southbound through lane on Merced Street would be required to mitigate the PM peak hour. Because of the constrained available right-of-way, the widening of these legs would require acquisition of right-of-way along both Marina Boulevard and Merced Street. Because there are existing uses on all legs of this intersection (including property owned by the commentor), TR-13.2 indicates that widening at this location may not be possible because of the constrained right-of-way. Therefore, this project impact was deemed significant and unavoidable in the EIR.
- 8-3 The commentor notes that the I-880 interchange configuration allows traffic from the loop off-ramps to flow directly onto Marina Boulevard. The condition described by the commentor refers to the existing configuration of the I-880/Marina Boulevard interchange. As noted on page 3.9-29 of the Draft EIR, the analysis in the Draft EIR assumes completion of both the I-880 HOV lane project and reconfiguration and signalization of the I-880/Marina Boulevard interchange by 2013. A Project Study Report (PSR) is currently being prepared for the interchange project that will detail the selected alternative and reasons why that alternative was chosen. The final design of the interchange project will be determined as part of the PSR. The alternative selected for analysis is the modified existing interchange design with loop off-ramps terminating at signalized intersections on Marina Boulevard. The selection of this alternative for the Draft EIR was based on best available information on the future Marina Boulevard/I-880 interchange improvements from the draft alternatives prepared for the PSR. The impacts and mitigations identified in the Draft EIR for the proposed project would not modify the design of the future interchange. The City has confirmed with Caltrans and the Alameda

County Congestion Management Agency that the I-880/Marina Boulevard Interchange project is scheduled for completion prior to the opening of Phase 1 of the Kaiser Medical Center.

- 8-4 The eastbound movements at the new signalized Mixed-Use Retail Development driveway along Marina Boulevard would have LOS C or better under all study scenarios, indicating optimal traffic operations. While the 95<sup>th</sup> percentile queue would extend beyond the Denny's driveway under all scenarios especially during the PM peak hour, the upstream signal at Merced Street would provide sufficient gaps for vehicle egress from Denny's driveway, which allows right-in and right-out movements only.

It is assumed that the new driveway would be constructed as part of the Mixed-Use Retail Development and it would serve both the Mixed-Use Retail Development as well as the Kaiser Medical Center. Therefore, with the implementation of the new driveway for the Baseline plus Kaiser Medical Center Phase 1 plus Mixed-Use Retail Development conditions, the demand on the Marina Boulevard/Merced Street intersection would be reduced.

- 8-5 Information regarding the proposed intersection mitigation measures is included in the Draft EIR (see Section 3.9, Transportation). The City believes the description of these measures in the Draft EIR is clear and no diagram is necessary to understand the proposed mitigation measures. In addition, at this time full details regarding the design of these measures have not been finalized.

9. **Jeffrey A. Goldfarb, Attorney, Rutan and Tucker, LLP (letter dated March 10, 2010)**



Jeffrey A. Goldfarb  
Direct Dial: (714) 641-3488  
E-mail: jgoldfarb@rutan.com

**Letter 9**

March 10, 2010

Kathleen Livermore, Planning Manager  
City of San Leandro  
835 East 14th Street  
San Leandro, CA 94577

Re: Kaiser Permanente San Leandro Medical Center/Mixed-Use Retail  
Development Project

Dear Ms. Livermore:

This office represents ICI Development Company and P.H. Holdings LP, a California limited partnership, an affiliate of ICI (both of which are individually and collectively referred to herein as "ICI"). ICI owns the properties located at 2420 and 2424 Merced Avenue in the City of San Leandro. These properties are adjacent to the site of the proposed San Leandro Medical Center/Mixed-Use Retail Development Project (the "Project"). As a result of its proximity to the Project, ICI has a desire to ensure that the Project's environmental impacts are fully considered and actually mitigated to the extent feasible. This proximity also gives ICI an interest in ensuring that the impacts of the Project are minimized so that the Project can be developed in a manner that actually works within the context of the City's infrastructure.

By way of this letter, ICI would like to offer comments on the Project's Draft Environmental Impact Report (SCH # 2008012056, the "Draft EIR"). The Draft EIR, together with its appendices, is a lengthy and complex document. ICI has not had sufficient time to fully digest all the issues raised by the Draft EIR. In addition, as explained below, ICI is attempting to obtain additional information that is necessary to its analysis of the Draft EIR. It is therefore likely that ICI will have more comments in the future as it continues to review and analyze the Draft EIR in an effort to ensure the Draft EIR is as informative and efficacious as possible. ICI therefore reserves the right to continue to review and comment upon the document as this process advances.

To properly review the Draft EIR, I had submitted a public records request to the City for public records which would have assisted me in analyzing numerous issues raised by the document. As you know, however, On March 9, 2010, you called to let me know the City has taken the position that writings (as that term is used in Government Code Section 6252) which were used in the preparation of an environmental impact report are not public records.

Rutan & Tucker, LLP | 611 Anton Blvd, Suite 1400, Costa Mesa, CA 92626  
PO Box 1950, Costa Mesa, CA 92628-1950 | 714-641-5100 | Fax 714-546-9035  
Orange County | Palo Alto | www.rutan.com

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The City's decision not to comply with its obligation under the Public Records Act is regrettable for two reasons. First, it deprives ICI of the ability to fully vet the Draft EIR's analysis and conclusions. This is particularly problematic given the potential environmental consequences of locating a large hospital in an industrial zone with existing industrial uses as its neighbors, and in an area of the City which appears to lack the infrastructure necessary to serve the high intensity of the proposed use. In fact, in the absence of these documents, we are unable to verify that the Project description is even accurate.<sup>1</sup> Second, the City's decision violates the California Public Records Act. Government Code section 6253 states "(b) Except with respect to public records exempt from disclosure *by express provisions of the law*, each state or local agency, upon a request for a copy of a record that reasonably describes an identifiable record or records, shall make the records promptly available to any person upon payment of fees covering the direct cost of duplication or a statutory fee if applicable." Writings used in the preparation of an environmental impact report are not "public records exempt from disclosure by express provisions of the law." I will continue to try to obtain the necessary public records held by the City in an effort to make CEQA's public review process meaningful.

ICI is very concerned about the Project's traffic impacts. The Project will create a significant impact at both the intersection of Marina Blvd. and Merced Street and the future intersection/main entrance of the Project at Marina and Republic. The Draft EIR states that the southbound left turn queue from Merced Street to eastbound Republic (the left turn on southbound Merced) would exceed the 400 foot storage capacity of the single left turn lane contemplated in the absence of an expanded right-of-way. "The queuing analysis determined that the southbound left-turn queues along Merced Street at the Republic Avenue/Merced Street intersection would exceed the estimated storage capacity of 400 feet. As such, project traffic waiting to turn left from southbound Merced Street to the Republic Avenue extension may block through traffic on the southbound approach thereby affecting upstream operations on Merced Street. This would be a potentially significant operational impact." In fact, the unmitigated left turn queue<sup>2</sup> generated during the P.M. peak hour by Kaiser Medical Center Phase I operations alone extends a full 504 feet back from the Merced/Republic Intersection. Mitigation measure TR-1.1 (even if it were to be implemented) would only reduce this queue length by about 40 feet, leaving the "Kaiser Medical Center Phase I only" backup extending well beyond the single left turn pocket, and significantly into the southbound travel lanes on Merced Street.

When the currently vacant northerly 25 acres of the Project site is reused for any purpose, the Republic Avenue left-turn queue length will increase substantially. According to the Draft EIR's analysis, the addition of the mixed use retail portion of the Project, for example, would extend that queue to in excess of 1,290 feet. To put this in perspective, this backs the line of cars

<sup>1</sup> This is also intended to be a substantive public review comment on the Draft EIR.

<sup>2</sup> We have referred to the "unmitigated" condition because the Draft EIR concludes that implementation of the mitigation measure (TR-1.1) is at best uncertain and probably unlikely.

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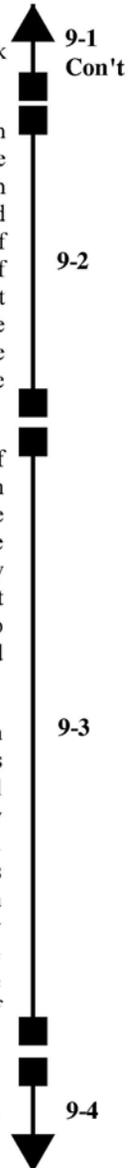
wishing to turn left onto Republic into the southbound through lanes on Merced all the way back through the intersection of Merced and Marina Blvd.

A similar problem exists with the left turn queue for westbound cars turning left from Marina Blvd. onto Merced Street. With the “Kaiser Medical Center Phase I only” portion of the Project, traffic desiring to turn left from westbound Marina during the P.M. peak hour will be in a 695-foot long line of cars attempting to turn left. When the mixed-use retail project is added without accommodation of improved access to the Project site from Merced Street, that line of cars on Marina Blvd. is extended to in excess of 1,000 feet. To put this in perspective, the line of cars wishing to turn left from Marina Blvd. onto Merced will be backed up into the left-most through lane on Marina Blvd. to within 130 feet of the I-880 freeway overpass. ICI believes the Draft EIR does not evaluate the full environmental impacts of these unusual and unacceptable Project queues which could be substantially reduced through the application of feasible mitigation.

The Draft EIR concludes these impacts can be substantially reduced by the widening of Merced Street and the addition of a second southbound left turn lane for traffic turning from Merced onto Republic (“Mitigation Measure TR-1.2”). The EIR nevertheless concludes the mitigation measure is infeasible because it would require the acquisition of right-of-way. The property on which the necessary right-of-way is located, however, is owned and controlled by ICI. ICI is prepared to sell the property necessary for the right of way to Kaiser (or the City if it so desires) for “just compensation.” ICI is currently having an appraisal prepared in order to expedite this process. As such, implementation of mitigation measure TR-1.2 *is* feasible and therefore must be required.

The Draft EIR is unclear on how the City will handle most of the traffic mitigation measures. The Draft EIR notes that the City cannot implement most of the mitigation measures because many of them require a Caltrans encroachment permit or the acquisition of additional right-of-way, or both. With regard to the need to acquire right-of-way, such acquisition is clearly feasible because the City has the right to condemn the necessary property for roadway purposes. It is unclear if the City believes implementing the mitigation measures requiring Caltrans encroachment permits are infeasible and thus will not require the applicant to pay all or a portion of the mitigation cost. We would like the City to answer the following question: Will the City require the applicant to fund these mitigation measures notwithstanding its finding that some implementation actions may be beyond the City’s control? ICI believes the Draft EIR should be revised to clearly state that the applicant will be required to pay all mitigation costs regardless of whether extra jurisdictional permits and/or additional right-of-way is necessary.

ICI believes the Draft EIR’s air quality analysis is flawed in a number of respects. First, in contrast with the Draft EIR’s assertions to the contrary, it does not appear that the City is using the Bay Area Air Quality Management District’s (“BAAQMD’s”) proposed regulations.



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ICI also believes that the health risk assessment is also flawed as it does not consider all the impacts associated with the Project's diesel traffic or the impacts of locating the hospital among industrial users<sup>3</sup>. In addition, the Draft EIR finds the Project will result in the significant production of Reactive Organic Gases ("ROG"), but fails to discuss available mitigation measures that can reduce that ROG problem.

Some off-site infrastructure is going to be necessary. An analysis of the noise impacts associated with the construction of that infrastructure should be included. In addition, the EIR does not appear to analyze noise impacts associated with delivery vehicles.

ICI believes the land use analysis applied to housing is flawed and should be corrected. For instance, the Draft EIR indicates that the Project's growth-inducing impact in both housing (as a result of the residential component of the mixed-use portion of the Project) and jobs (as a result of the Kaiser portion and the retail portions) "would be within the City's growth forecasts and would not be considered substantial growth in the area." Presumably, the City's growth forecasts are based upon its General Plan. The General Plan designation of Project Site is currently industrial. The Project proposes to change that General Plan designation to General Commercial. It is therefore unclear how the increase is not additive to the City's growth forecasts, rather than included within the City's growth forecasts. In addition, the EIR attempts to downplay the population growth numbers by suggesting that some of the jobs developed by the Project would be taken by San Leandro residents. Is this a reasonable assumption?

The EIR also appears to underestimate the Project's impacts on public services such as Police, Fire, Housing, Parks, and Schools due to its underestimate of the Project's impact on housing.

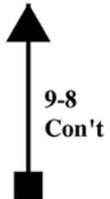
The Draft EIR notes that Mitigation Measure UT-4.1 is necessary because the existing sewer lines may be inadequate to handle wastewater generated by the Project. The mitigation measure, however, only requires the applicant to pay "a fair share contribution to any capacity improvements that would be required to accommodate the wastewater flows of the proposed Project prior to issuance of building permits for that phase of the Project." However, there is no indication that the City will have sufficient reserves to cover the gap between the applicant's fair share contribution and the entire cost of the new sewer lines. If "gap" funding is not available, how will the infrastructure be constructed?

The Draft EIR finds that the Project's impacts on global warming and the exacerbation of greenhouse gas accumulations is "significant and unavailable." Under such circumstances, CEQA requires the City to deny Project approval unless it finds that it has eliminated or

<sup>3</sup> This comment applies to the Draft EIR's conclusion that the Project does not create significant land use inconsistencies.

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substantially lessened all significant effects on the environment where feasible. (Guideline Section 15092.) The Draft EIR fails to discuss the multitude of mitigation measures that can substantially reduce the Project's impacts on global warming. In fact, it appears that numerous mitigation measures have either been ignored or ruled infeasible, *sub silentio*. We strongly believe that the Draft EIR must evaluate additional mitigation measures to "eliminate or significantly lessen" this impact. ICI would be happy to assist the City in suggesting additional mitigation measures should the City so choose.



ICI will continue to review this highly technical document and will provide more comments to the extent it believes that its comments can provide for a better Environmental Impact Report. Given the technical nature of the document, however, ICI is unable to evaluate much of the technical information on its own. We are seeking the assistance of others who may help us through this process.

Thank you in advance for considering these comments and striving to improve the public discussion of both the Project's impacts and feasible mechanisms to reduce those impacts to a less than significant level.

Sincerely,

RUTAN & TUCKER, LLP

Handwritten signature of Jeffrey A. Goldfarb.

Jeffrey A. Goldfarb

JAG:jh

**9. Jeffrey A. Goldfarb, Attorney, Rutan and Tucker, LLP (letter dated March 10, 2010)**

9-1 As noted in Section 2, Summary of Revisions to the Traffic Analysis, it was discovered that the traffic study had overstated the total inbound project traffic. As a result, the revised analysis resulted in improved level of service results at most study intersections, and significantly improved results at the Republic Avenue/Merced Street intersection and at the Marina Boulevard/Merced Street intersection. With this correction, southbound left turn queues at the Republic Avenue/Merced Street intersection would be accommodated by the 400-foot left-turn lane during AM, PM, and Saturday peak hours. Therefore, there would not be a queuing impact at the southbound left turn at the Republic Avenue/Merced Street intersection under Baseline plus Kaiser Medical Center Phase 1 conditions and no mitigation would be required. The revised analysis under Baseline plus Kaiser Medical Center Phase 1 conditions indicates that the southbound left-turn queue at the Merced Street/Republic Avenue intersection would be accommodated by a single left-turn lane without any impacts. However, the analysis included in the Draft EIR for all other study conditions (Baseline plus Kaiser Medical Center Phase 1 plus Mixed-Use Retail Development, Cumulative plus Kaiser Medical Center Phase 1 plus Mixed-Use Retail Development, and Cumulative plus Kaiser Medical Center Build-Out plus Mixed-Use Retail Development) indicated that the southbound left-turn queue would exceed storage capacity and Mitigation Measure TR-1.2 would require the widening of Merced Street to provide a second left-turn lane to accommodate the anticipated queue lengths. As described in the Draft EIR, mitigation measures are available for this impact under all conditions. However these mitigation measures would require the acquisition of right-of-way from adjacent properties and/or encroachment permits from Caltrans. Because the acquisition of such right-of-way and the granting of encroachment permits are uncertain at this time, this project impact is treated as significant and unavoidable as discussed in the Draft EIR.

9-2 Tables 50 through 55 in the Revised Traffic Study, and shown in Section 2, Summary of Revisions to the Traffic Analysis, provide the 95<sup>th</sup> percentile queue lengths for selected study intersections along Marina Boulevard and Merced Street. The westbound left-turn queues at the Marina Boulevard/Merced Street intersection would be up to 570 feet in the PM peak hour under Baseline plus Kaiser Medical Center Phase 1 conditions, and up to 1,047 feet in the PM peak hour under Baseline plus Kaiser Medical Center Phase 1 plus Mixed-Use Retail Development conditions. The queues would exceed the available capacity of 360 feet for this turn lane. For the Baseline plus Kaiser Medical Center Phase 1 conditions, this deficiency can be resolved by restriping to extend the westbound left turn lanes by an additional 150 feet. However, as noted in Section 2, this deficiency is considered an operational impact not related to CEQA. Therefore, no mitigation is proposed.

As shown in Section 2, Summary of Revisions to the Traffic Analysis, under Baseline plus Kaiser Medical Center Phase 1 plus Mixed-Use Retail Development conditions, implementation of Mitigation Measures TR-1.1 (adaptive traffic signal system along Marina Boulevard) and TR-1.3 (new signalized driveway on Marina Boulevard) would reduce the westbound left-turn

queue to 633 feet. However, the maximum queue would continue to exceed the available storage length under the Baseline plus Kaiser Medical Center Phase 1 plus Mixed-Use Retail Development conditions. Adding a third westbound left-turn lane on Marina Boulevard at Merced Street was considered to address the queuing issue. However, it was considered infeasible due to the lack of available right-of-way. Also, although the queue for this movement would exceed the available storage length, the Marina Boulevard/Merced Street intersection would operate at acceptable LOS D during the PM peak hour.

- 9-3 See Response 9-1 for impacts and mitigation measures for the Merced Street/Republic Avenue intersection. The acquisition of property for the proposed mitigation measures would be part of negotiations that would be completed after certification of the EIR for the proposed project. At this time, it is uncertain whether the acquisition of property can be accomplished. Property owners may not be willing to sell at terms acceptable to all parties. Condemnation would require approval by the City Council, which cannot be guaranteed at this time. Therefore, all impacts that would require acquisition of right-of-way were deemed uncertain, and the impacts are treated as significant and unavoidable for the purposes of the EIR.

Implementation of mitigation measures that would require permits, approvals and/or coordination from outside agencies, such as Caltrans, are beyond the control of the City of San Leandro's jurisdiction. Therefore, such impacts are significant and unavoidable for the purposes of the EIR. However, the Development Agreement between Kaiser and the City provides that Kaiser or its successor retail developer will make efforts to obtain the required property and approvals from outside agencies in conjunction with project-level approvals for the Mixed-Use Retail Development.

- 9-4 The commentor asserts that the Draft EIR does not appear to be using the BAAQMD's proposed regulations. However, without further elaboration from the commentor, it is unclear why the commentor is making this assumption. As discussed in Section 3.2, Air Quality, and Section 3.11, Climate Change, the Draft EIR uses the BAAQMD's proposed draft thresholds and CEQA Guidelines.

The commentor also believes that the Health Risk Assessment is flawed in that it does not consider impacts from the proposed project's diesel traffic or the project's location within an industrial area. According to the BAAQMD, five toxic air contaminants (TACs; i.e., diesel particulate matter, 1,3 butadiene, benzene, hexavalent chromium, and formaldehyde) are responsible for about 97 percent of the Bay Area's cumulative TAC cancer risk; diesel particulate alone accounts for about 80 percent of this cancer risk. Major sources of diesel particulate include on-road and off-road heavy duty diesel trucks and construction equipment. (*Community Air Risk Evaluation Program, Phase I Findings and Policy Recommendations Related to Toxic Air Contaminants in the San Francisco Bay Area*, September 2006).

The California Air Resources Board (CARB) provides recommendations for the siting of new sensitive land uses (i.e., residences, schools, daycare centers, playgrounds, and medical

facilities) near certain recognized major sources of TACs, including freeways, large warehouses/distribution centers, rail yards, ports, refineries, chrome plating facilities, dry cleaners and large gasoline dispensing facilities. For most of these major TAC sources, minimum separations of 500 to 1,000 feet are recommended from new sensitive land uses (*Air Quality and Land Use Handbook: A Community Health Perspective*, 2005).

Since the proposed hospital is to be located within 1,000 feet of I-880, a health risk analysis was performed to explicitly evaluate the potential effects of diesel particulate from the freeway on hospital patients/workers (*Health Risk Analysis San Leandro Medical Center/Mixed-Use Retail Development Project*, Environ, January 21, 2010). Exposure to diesel particulate was found to be below the TAC significance thresholds set by the BAAQMD. It is very probable that the cumulative emissions of diesel trucks using the freeway far outweigh the local influence of the diesel trucks associated with the hospital on the sensitive uses at the hospital and on the residences along the local access routes.

The BAAQMD has inventoried stationary sources of TACs in the Bay Area. Upon review of the list of such sources in the City, it appears that only two could be within 1,000 feet of the proposed hospital: Champion Carpet & Wood Services at 2389 Verna Court and Cultured Marble Products at 2701 Merced Street. Again, it is very probable that the cumulative health effects of TACs from the freeway far outweigh the local influence of these local stationary TAC sources on the sensitive uses at the hospital and other sensitive receptors nearby.

The commentor also notes that the proposed project would generate significant quantities of reactive organic gases (ROG), but that the Draft EIR does not identify mitigation to reduce this impact. It is unclear whether the commentor is referring to significant emission of construction or operation. For construction-related emission, the second bullet at the top of page 3.2-17 of the Draft EIR includes a mitigation measure to use low volatile organic compounds (i.e., ROG) beyond local requirements. This measure was included in the calculation for mitigated construction emissions shown in Table 3.2-6 on page 3.2-15 of the Draft EIR. As shown in the table, even with mitigation, the proposed project could result in significant daily emissions of ROG during the architectural coating phase. For operational emissions, page 3.2-20 notes that the majority of emissions from the proposed project are generated by mobile source emission, and Mitigation Measure AQ-2.1 is proposed to reduce vehicle trips associated with the proposed project. This measure would result in a reduction of mobile-source ROG emissions; however, not to a less-than-significant level.

- 9-5 The commentor asserts that the Draft EIR does not include discussion of noise impacts from construction of off-site infrastructure. The off-site infrastructure improvements would primarily be associated with the immediate vicinity of the proposed project, such as along Merced Street or Marina Boulevard adjacent to the project site. As noted in the Draft EIR (see Section 3.6, Noise), the closest sensitive receptors are approximately 800 feet away from the proposed project. Even if construction activities occurred outside of the project site boundary, it is unlikely that construction activities would be substantially closer to these off-site receptors.

Therefore, similar to construction activities at the project site, no significant noise impacts would occur at these off-site residential uses.

The commentor also notes that the Draft EIR did not address noise impacts associated with delivery trucks to the project site. The conceptual site plan for the Kaiser Medical Center includes a frontage road on the project site along I-880 from Fairway Drive into the Kaiser Medical Center and then into the Mixed-Use Retail Development site (see Figure 2-2 in Section 2, Project Description, of the Draft EIR). The frontage road would be the primary means of access for trucks to the site. The majority of trucks accessing the site would originate from I-880, and would access the site from the Marina Boulevard interchange and then west along Marina Boulevard to Merced Street and Fairway Drive. Land uses along this route are primarily commercial and industrial. There are no residential uses along these roadways. In addition, because of the industrial setting, these roadways already experience a high percentage of truck trips. Because of the proximity to I-880 and the adjacent industrial areas, which already include heavy truck traffic, and because there are no residential uses along these roadways, the delivery trucks associated with the project would not result in a significant increase in noise levels for existing residential uses.

Future traffic noise levels for the project site were analyzed in the Draft EIR. These traffic noise levels were projected for the proposed project, including delivery truck trips. The results of this analysis are included in the tables in Section 3.6, Noise, in the Draft EIR. As noted in the Draft EIR, future residential uses associated with the Mixed-Use Retail Development would be required to perform detailed acoustical analysis and implement recommendations to reduce noise levels to acceptable levels, as required in Mitigation Measure NO-3.1 in the Draft EIR.

- 9-6 The Draft EIR does not compare the projected population and employment estimates to the General Plan, as the commentor suggests. As noted in the Draft EIR Section 3.7, Population and Housing, the housing and employment data was obtained from the Association of Bay Area Governments (ABAG) Projections 2007. The ABAG Projections 2007 projects regional growth (including growth within the City of San Leandro) using a number of resources including the general plans of cities and counties within the region, economic and demographic data, availability of space (including vacant land, under-utilized existing developed areas, and building sites that can be reused or redeveloped), and discussions with the local agencies. The City's General Plan horizon year is 2015. Therefore, ABAG would have relied on sources of data other than the General Plan to project growth beyond the year 2015. As such, the conclusions in the Draft EIR on pages 3.7-7 through 3.7-9 that the proposed project would have a less-than-significant population and housing impact since the proposed project would be within ABAG's forecasts are still consistent with regional planning efforts, even though the proposed project would require a General Plan Amendment.

The commentor also suggests that the Draft EIR underestimates the proposed project's impacts on public services. The potential for impacts on public services was determined through communication with service providers, comparison to service capacity, or per capita service

standards. The conclusions of the Draft EIR on potential impacts to public services are therefore not directly related to the proposed General Plan Amendment. As noted on pages 3.8-8 through 3.8-12 of the Draft EIR, the proposed project's impacts to public services would be less than significant.

9-7 At this time, it is unknown what, if any, sewer line upgrades would be necessary to accommodate the proposed project. Therefore, as described in the Draft EIR (see Mitigation Measure UT-4.1), the project sponsors shall be required to pay for a study to determine the need for such upgrades. The project sponsors would then be required to pay fair share costs towards the construction of any upgrades deemed necessary by the study. This fair share payment would likely include the entire cost of the upgrades as the sewer lines would only serve the project site. The remaining costs would be covered by the City's Water Pollution Control Plant Enterprise Fund. Additionally, the City's Water Pollution Control Plant Enterprise Fund is adequately funded to complete a sewer line capacity project.

9-8 Please see Response 7-5 for a discussion of GHG mitigation measures.

10. Gary E. Kruger, T.E., (letter dated March 4, 2010)

March 4, 2010

Letter 10

COMM. DEVEL. DEPT.  
MAR - 5 2010  
SAN LEANDRO  
RECEIVED

Kathleen Livermore, Planning Manager  
835 East 14<sup>th</sup> Street  
San Leandro, CA 94577

RE: Kaiser Permanente San Leandro Medical Center/Mixed-Use Retail Development  
Project Draft EIR – Transportation

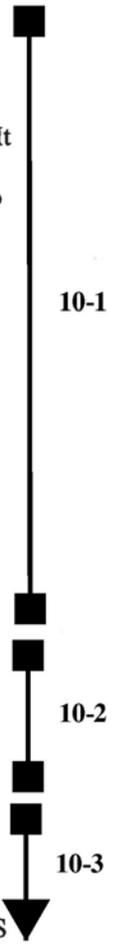
Dear Ms. Livermore:

This letter replaces my March 3, 2010 letter to you regarding the traffic impact analysis in the DEIR for the Kaiser Permanente San Leandro Medical Center/Mixed-Use Retail Development Project. I overlooked the mitigation analysis in the appendices. Please disregard the March 3, 2010 letter.

In my review of the traffic impact analysis, I have several concerns that the analysis, while extensive, overlooked or dismissed the effects of the interaction between intersections within the future system of signalized intersections along both Marina Boulevard and Merced Street when one or more of those intersections is over-saturated. It is probable that queuing from one intersection operating at LOS F will fail to clear from one signal cycle to another, and the resulting and growing queues can extend upstream to additional nearby intersections, such as the newly-signalized ramp intersections with I-880, and especially the new signalized intersection between Merced and the southbound I-880 ramps on Marina which is proposed as Tier 2 mitigation. Once unrelieved queuing begins (gridlock), ordinary capacity analysis is not meaningful.

Operations under potential gridlock is an analytical problem clearly noted in the *2000 Highway Capacity Manual*, and yet there is no discussion of this potential that I can find in the DEIR and the traffic report, including the appendices. If the traffic analysis in the DEIR is to be consistent with the highway capacity manual, a requirement of the City of San Leandro, then the analysis should include how the signal system will operate under over-saturation using micro-simulation at the very least. Using this type of analysis will prove out the proposed mitigation, or not as the case may be. It is very likely that the operation of Marina and Merced will interfere with the operation of the new intersection proposed as Tier 2 mitigation and also the signalized I-880 ramp intersections.

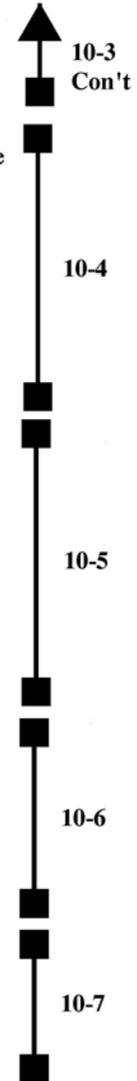
If gridlock conditions occur along Marina Boulevard and along Merced Street, the impacts will be much more severe than just additional seconds of delay. For example, if traffic is continuously queued (gridlocked), ambulances may not be able to get to the hospital, because even with a siren, they could not bust through the standing queues of vehicles. Additionally, while the analysis addresses the a.m., midday and p.m. peak hours, over-saturation and gridlock during those hours will also adversely impact more hours of operation over the day. Even if queues do not extend all the way from one intersection to another, they may extend far enough to limit the number of vehicles able to enter and clear the intersection during green. While the Synchro software used for LOS



Kathleen Livermore re Kaiser San Leandro DEIR  
March 4, 2010

Page 1

analysis tries to estimate this potential, the software vendor does not claim that it can do so under over-saturation which is clearly the case under cumulative and build-out conditions.



Over-saturation and gridlock on Marina Boulevard would also impact the operation of the southbound off ramp from I-880. Under these conditions, southbound I-880 off ramp traffic may back into the southbound freeway mainline, subjecting freeway traffic to a higher potential for rear end collisions. This is especially critical due to the high proportions of truck traffic in these same lanes. Trucks cannot stop as easily as passenger cars, and accident data for I-880 show accident rates significantly higher than average. I suspect these higher rates are due to the higher proportion of heavy trucks as well as the older design standards used for this freeway (sight distance, interchange spacing, interchange type, etc.). This potential should be thoroughly explored.

With respect to mitigation, I have concerns how adding a third westbound left turn lane on Marina at Merced will be effective (Mitigation TR 13.2, page 3.9-113). Most of the westbound left turns will desire to turn into the retail center or hospital complex, so it is very likely that traffic will not line up evenly across the three left turn lanes. If appropriate lane utilization assumptions are not carefully entered into the analysis, then the analysis may be too optimistic, and the potential impact mitigation would be less than is presented. I did not find the analysis in the appendix that showed the analysis input values for the third left turn lane. I did see lower lane utilization factors for the southbound I-880 off ramp traffic (3 right turn lanes with a 0.76 lane utilization factor), and that seems about right.

I also fail to see how improving signal timing is mitigation such as "adjusting the cycle length." Coordination and adaptive signal system is truly mitigation, but should not traffic engineers at the city appropriately time and operate isolated signals? My understanding is that the city uses reasonably current signal controllers. Perhaps improved detection is in order, but to me, improving local signal timing is something the city should provide from time to time, and optimized timing should be assumed as a base case.

I also noted other technical issues and problems with the analysis, but I don't think it is important to list these at this stage. The traffic analysis is incomplete to the extent that the conclusions are not credible. In other words, the traffic report did not convince me that the future traffic system will work, and the true impacts may be far worse than stated.

Very truly yours,

Gary E. Kruger, T.E.  
1359 Santa Rosa Street  
San Leandro, CA 94577

Kathleen Livermore re Kaiser San Leandro DEIR  
March 4, 2010

Page 2

**10. Gary E. Kruger, T.E., (letter dated March 4, 2010)**

- 10-1 Intersection delay and levels of service (LOS) were analyzed using the methods described in the *2000 Highway Capacity Manual*. The *Highway Capacity Manual* method is a standard method of analyzing vehicle delays and LOS as the part of environmental analyses completed in the region for both under-saturated and over-saturated conditions. The analysis methodologies used for this EIR is consistent with other recent traffic studies conducted in the City.

The traffic impact analysis was conducted using the Synchro software package, which considers the effects of the interaction between intersections within the existing and future system of signalized intersections along both Marina Boulevard and Merced Street. A queuing analysis was performed for Marina Boulevard and Merced Street and the results are provided in Section 2, Summary of Revisions to the Traffic Analysis as well as in the *Revised Traffic Study for San Leandro Kaiser Medical Center plus Mixed-Use Retail Development* (Dowling Associates, April 6, 2010). The Synchro method used to evaluate the effects of queuing looks at how queues generated at one intersection can affect other intersections through spillback, starvation, and storage blocking. Spillback occurs when a vehicle queue from a downstream intersection extends through an upstream intersection preventing vehicles from entering the upstream intersection. Starvation occurs when vehicles cannot reach a downstream intersection because of a bottleneck at an upstream intersection. Storage blocking occurs when vehicles cannot get into a lane being served by a traffic signal phase because of long queues that extend beyond the entry to the storage area being served. The results of the Synchro queuing analysis are consistent with standard methods of analysis for this type of study. The software vendor uses a percentile delay method for determining queue lengths that specifically addresses queuing in over-saturated conditions. The percentile delay method for determining queues is described on pages 13-30 and 13-31 of the Synchro manual and states specifically that, “The primary differences between the Percentile [Synchro method] and Webster [traditional method] calculations lie in the determination of green time, and the handling of nearly- and over-saturated conditions.” Micro-simulation is another tool that could be used to assess the potential for vehicle queuing; however, the use of micro-simulation would not be expected to identify any new significant impacts. The results of the Synchro analysis provide an accepted assessment of potential project effects on queuing, and were visually verified using SIMTraffic.

- 10-2 As described in the Draft EIR (see Section 3.9, Transportation) as well as the associated traffic study for the project, appropriate mitigation measures are available to mitigate project impacts along Marina Boulevard and Merced Street. The City of San Leandro will work with Caltrans to ensure implementation of these measures. The ambulance bays for the Kaiser Medical Center would be located at the southeast corner of the hospital building. It is expected that ambulances would access the emergency department from Fairway Drive. If Marina Boulevard and/or Merced Street are congested, ambulances accessing the emergency department from I-880 would travel east on Marina Boulevard, south on Teagarden Street, and west on Fairway

Drive to access the site from the East Medical Center Driveway. This route would avoid any potential congestion along Marina Boulevard and/or Merced Street.

- 10-3 The traffic analysis considered the worst case conditions which usually occur during the weekday AM, PM, and Saturday peak hour. While it is possible that congestion during these peak hours may also adversely impact more hours of operation over the day than those analyzed, the impacts during hours that were not analyzed would be less than the impacts disclosed in the Draft EIR for the peak hours. In addition, the method of analysis conservatively assumes that all traffic generated during the peak hours would be served during the peak hours instead of being shifted into a subsequent time period due to congestion on the street.

As stated in Response 10.1, the effects of queues have been adequately considered in the analysis conducted for the peak hours. The software vendor uses a percentile delay method for determining queue lengths that specifically addresses queuing in over-saturated conditions. The percentile delay method for determining queues is described on pages 13-30 and 13-31 of the Synchro manual and states specifically that, “The primary differences between the Percentile [Synchro method] and Webster [traditional method] calculations lie in the determination of green time, and the handling of nearly- and over-saturated conditions.”

- 10-4 The I-880 southbound off-ramp queuing results are included in Section 3.9, Transportation, of the Draft EIR. As shown, under most conditions analyzed, no queuing impacts would occur. However, impacts would occur under Cumulative plus Kaiser Medical Center Phase 1 plus Mixed-Use Retail Development conditions and under Cumulative plus Kaiser Medical Center Build-Out plus Mixed-Use Retail Development conditions during the Saturday peak hour. Mitigation measures to reduce these impacts are described in the Draft EIR. However, implementation of these measures is uncertain at this time and therefore the impacts are treated as significant and unavoidable.

- 10-5 As described in the Draft EIR, adding a third westbound left turn lane on Marina Boulevard at Merced Street was considered as a mitigation measure. Based on forecasted cumulative traffic volumes presented in the Draft EIR (Figures 3.9-14 through 3.9-21), non-project traffic is at least 40 percent of the total traffic using the westbound left-turn at Marina Boulevard/Merced Street intersection. Considering the amount of project and non-project traffic, all three left-turn lanes are expected to be equally utilized. However, this improvement was considered uncertain due to right of way constraints and therefore the impact was deemed significant and unavoidable under most cumulative conditions.

- 10-6 Improvements to traffic signal timing were assumed to occur with or without development of the proposed project. The improvement of signal timing described as mitigation measures are intended to be additional signal timing improvements required to accommodate project traffic over the signal timing modifications that would be required without the introduction of project traffic. Mitigation Measure TR-1.1 requires implementation of an adaptive control system,

which would allow for variable signal cycle lengths and coordinated timing, would be required to mitigate impacts for the Marina Boulevard and Merced Street corridors. With regard to the implementation of this adaptive control system within the Marina Boulevard corridor, the consent and cooperation of Caltrans would be required, making implementation of this mitigation measure uncertain. However, the applicant will be required to make reasonable good faith efforts to coordinate with Caltrans in implementing the adaptive control system on Marina Boulevard.

- 10-7 As described in the Draft EIR, the traffic analysis was conducted according to the standard practice for EIRs and the assumptions included in the analysis are considered conservative. Impacts were identified as significant and unavoidable under some project conditions, which is an acknowledgement that the future traffic system would operate below the standards of significance.

11. Yoon Lee, General Manager, Hilton Garden Inn/San Leandro and Audrey L. Velasquez, General Manager, San Leandro Marina Inn (letter dated March 4, 2010)

Letter 11

Honorable Mayor  
Tony Santos

Honorable Council Member  
Joyce R. Starosciak of District 4

Honorable Council Member  
Jim Proia of District 6

Planning Manager  
Kathleen Livermore

March 4, 2010

Dear Honorable Mayor and Council Members,

We, the undersigned would like to present our concerns regarding the new planned Kaiser Permanente development in San Leandro. We, the Hotel industry, welcome the addition and development of the property located on Merced Ave. and the new Kaiser Permanente hospital to our fine city. It will bring new business, jobs and a retail destination for many East Bay residents.

Our concerns center a round the proposed Mixed-Use Retail Development mentioned in the Draft EIR – Project Description 2.1 (ii); “a 387,000-s.f. retail development plus hotel of up to 210 rooms”. The hospitality industry welcomes competition but, we want to make it clear to the Council and City leaders that there is a glut of hotel rooms in the area. With over 500 rooms in San Leandro, 600 rooms in bordering Hayward, 200 in Castro Valley, and 1,301 rooms located in Oakland at the airport, we have more than 2,400 rooms available within 7 miles of the Airport. With additional two 100 plus room hotels coming in our markets, “Aloft” at Oakland Airport and “Hyatt Place” at soon to be built Hayward convention center, there will be influx of hotels within 7 miles of radius.

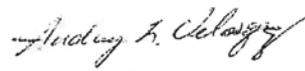
Thus, building another 210 room hotel, right next to Wicks Business Park, where majority of our hotel business come from will definitely cannibalize our San Leandro hotel market. These companies provide a financial base of “room night stays” that our hotels rely on to fill rooms. Without these important regional businesses our Hotels would not be able to survive hard times and continue in business. These larger companies provide the backbone of our business, but they are at a premium, due to a lack of locally located large international businesses within the city. Another large hotel in San Leandro would dilute this pool of companies and could lead to the demise of our businesses. Please keep in mind at even before unprecedented economic recession, our hotels were never full.

We realize that development of this portion of the project is projected to begin no sooner than 2013. We want City Leaders to know that our group of San Leandro Hotels would be against any additional Hotels of this size being part of the proposed project. Our interest lies with bringing more major companies to San Leandro which will in turn strengthen existing businesses and Hotels.

Furthermore, as the Draft EIR reports, ABAG projects an 11.3% increase in population in San Leandro by 2030 and the need for an additional 1630 housing units in the City. Increased housing brings in property tax revenues and helps mitigate future housing needs in San Leandro. We believe that the City should pursue the Mixed-Use projects: 250 Housing Units component as the major approach for determining this projects future.

Thank You,

  
Yoon Lee  
General Manager  
Hilton Garden Inn/San Leandro

  
Audrey L. Velasquez  
General Manager  
San Leandro Marina Inn

11-1

**11. Yoon Lee, General Manager, Hilton Garden Inn/San Leandro and Audrey L. Velasquez, General Manager, San Leandro Marina Inn (letter dated March 4, 2010)**

11-1 The commentors raise economic and financial concerns, which have been noted by the City. At this time, no application for the development of the Mixed-Use Retail Development site has been submitted to the City. The commentors do not raise questions as to the adequacy of the Draft EIR and, as such, no further response is required.

**San Leandro Planning Commission Regular Meeting February 18, 2010**

**Public Hearing**

**SAN LEANDRO PLANNING COMMISSION  
REGULAR MEETING**  
City Council Chambers, First Floor  
835 East 14th Street  
San Leandro, California 94577

**MINUTES FOR AGENDA NO. 10-02**

**February 18, 2010**

**7:00 P.M. Regular Meeting**

**Item 1: Roll Call**

**Present:** Planning Commissioners Anna Brannan, Esther Collier, Dale Reed, Chair Thomas Dlugosh.

**Absent:** Planning Commissioners Denise Abero (excused) and Rene Ponder (excused).

**Staff:** Kathleen Livermore, Secretary to the Planning Commission; Sally Barros, Senior Planner; Keith Cooke, Principal Engineer; Reh-Lin Chen, Traffic Engineer; Rich Pio Roda, Assistant City Attorney; Larry Ornellas, Facilities Coordinator; Barbara Templeton, Recording Secretary.

**Kaiser:** PBS&J (consultants) – Michael K. Kay, Natalie Irwin; Dowling Associates: (transportation modeling) – Damian Stefanakis.

**Item 2: Public Comments on Non-Agenda Items**

None.

**Item 3: Minutes**

*Motion to Approve the Minutes  
of the January 14, 2010 Work Session and Special Meeting  
Collier/Reed: 4 Aye, 0 No, 2 Absent*

**Item 4: Correspondence**

A letter came in related to this evening's public hearing. It will be part of the public record and responded to as part of the Environmental Impact Report Response to Comments document. (Note: The letter appears at the end of Public Hearing Item 7a.)

**Item 5: Oral Communications**

None.

**Item 6: Work Session**

None.

**Item 7: Public Hearing**

- a). PLN2009-00030: Kaiser Permanente San Leandro Medical Center/Mixed-Use Retail Development Project Draft Environmental Impact Report (EIR) (SCH#1008012056): Public hearing to provide members of the public and the Planning Commission with an opportunity to comment on the adequacy and accuracy of the Draft EIR prepared for the Kaiser Permanente San Leandro Medical Center/Mixed-Use Retail Development Project. The 63-acre project site is divided into two portions, the southern portion is planned as a new medical center and the northern portion is planned for a future Mixed-Use Retail Development. Located between I-880 and Merced Street, and between Marina Boulevard and Fairway Drive; 11 separate Alameda County Assessor's Parcel Numbers between 077A-0647-001-34 and 077A-0647-012-03. Kaiser Foundation Hospitals, applicant and property owner.

Secretary Livermore introduced Michael Kay, of PBS&J, project manager for the lead consultant team that has been working on the Kaiser Medical Center proposal, explaining that he would provide a synopsis of the draft EIR for the benefit of the Planning Commission and the public. Comments and questions raised by Commissioners and the public will be responded to in a Response to Comments document that will be prepared after the March 10 close of the comment period.

Michael Kay began with an overview of the project, which includes medical uses on the southern 38 acres of a 63-acre site bounded by I-880, Merced Street, Fairway Drive and Marina Boulevard. He explained that the California Environmental Quality Act (CEQA) provides for two types of reviews. One examines the environmental impacts of a specific development project – in this case Kaiser's Phase 1 (described below). The potential Kaiser Build-Out and the development of the northern 25 acres (where a mixed-use retail development is anticipated) are evaluated at a programmatic level because no specific projects are being considered. When the time comes, additional confirmatory environmental analyses and approvals would be required prior to approval of specific proposals.

Mr. Kay showed simulations to illustrate how the project would fit in the area visually, from a number of vantage points for both Phase 1 and Phase 2, looking:

- West from the Marina Square Shopping Center
- Southwest from the I-880 over-crossing at Marina Boulevard
- West from the Pacific Recreation Complex on Teagarden just off Marina
- Northeast from Merced and Fairway;
- North from Fairway and Miller
- Northwest from the I-880 over-crossing at Fairway Drive

Phase 1 of the southern 38 acres has up to 742,000 square feet of medical uses that would open between 2013 and 2015, including:

- 436,000-square-foot, six-story hospital (up to 264 beds)
- 275,000-square-foot hospital support building (up to six stories)
- 31,000-square-foot central utility plant
- 20,000-square-foot outdoor service yard
- Up to 2,100 surface parking spaces

A number of proposed onsite roadway and circulation improvements include:

- Extension of Republic Avenue east into site, dividing the northern and southern portions of the 63-acre site
- Two new traffic signals – one at Fairway Drive opposite Miller Street and the other on Fairway between Miller and Merced
- Frontage road parallel to Fairway Drive for site access

Offsite roadway improvements proposed include:

- Re-striping Merced from Wells Fargo Driveway to Republic Avenue (with two lanes in each direction plus a southbound left-turn lane at Republic)
- Widening Merced from Republic to Fairway (with three northbound lanes, two southbound lanes and left-turn lanes at Republic and Fairway)
- Adding two right-turn only driveways from the project site to northbound Merced
- Installing wide sidewalks along Merced and Fairway
- Making pedestrian improvements at the intersections of Merced/Republic, West Driveway/Fairway and Miller/Fairway
- Widening Fairway to three Lanes from Merced to Miller (two lanes westbound and one eastbound, with left-turn lanes westbound at Miller and Merced and eastbound at West Medical Center Driveway and at East Medical Center Driveway)

Mr. Kay explained that CEQA requires an analysis of potential environmental impacts based on four levels of significance: 1) No Impact; 2) Less than Significant Impact; 3) Less than Significant Impact with Mitigation; 4) Significant and Unavoidable Impact. He showed lists of items 1 through 3, and then devoted most of the remaining presentation to discussing the level 4 items, Significant and Unavoidable Impacts for three topics: climate change, air quality, and transportation. In terms of climate change, during construction the project would emit levels of greenhouse gases in excess of Bay Area Air Quality Management District (BAAQMD) thresholds. Incorporating BAAQMD's recommended Best Management Practices (BMPs) would reduce the construction impacts to Less than Significant (LTS), but operational impacts would remain Significant and Unavoidable.

In terms of air quality, the exhaust emissions of construction equipment might exceed BAAQMD thresholds, which may be mitigated in part by implementing BAAQMD-recommended dust and exhaust emission control measures. Operational emissions would exceed BAAQMD thresholds in terms of ROG (reactive organic gases), NOx (nitrogen oxides), PM<sub>10</sub> (respirable particulate matter), and PM<sub>2.5</sub> (fine particulate matter). To help alleviate that impact, Kaiser intends to implement a Transportation Demand Management Program with a goal to reduce project-related trips by 10 to 15 percent. This program, with a full-time transportation coordinator, will include features such as:

- Commute assistance center
- Shuttle service to/from the San Leandro BART station
- Guaranteed rides home
- Commuter check program
- Car/vanpool ride matching services and preferential parking spaces
- Bicycle storage and racks, shower and changing facilities
- Semi-annual transit information fairs

As far as impacts in the area of transportation are concerned, Kaiser will contribute fair-share funds towards the overall improvement to the City's Traffic Management System for impacts to Congestion Management Program (CMP) roadways. Still, the project would create Significant and Unavoidable Impacts at a number of intersections, under cumulative conditions, also to I-880,

and designated CMP roadways. These include arterials (such as Washington Avenue) as well as State Routes 112, 61 and 185 (Davis Street, Doolittle Drive and East 14th Street, respectively) and SR 238 (connecting I-580 with I-880). According to CEQA, cumulative impacts refer to “two or more individual effects which, when considered together, are considerable or which compound or increase other environmental effects.” Cumulative effects include increases in “background” traffic as well as traffic from sources unrelated to the project, including potential new developments in the area. In the case of most of the study intersections affected, appropriate mitigation measures have been identified, but in some cases, neither the City nor Kaiser has full control over implementation of these measures. In those instances, CEQA requires the Significant and Unavoidable designation to remain. For the most part, these mitigation measures depend on Caltrans approval (encroachment permits) and/or or acquisition of rights-of-way (ROW).

For instance, traffic signal timing along the Marina corridor would mitigate Kaiser Medical Center Phase 1 congestion at Marina/Merced, as well as other intersections for subsequent development of the mixed-use project, but encroachment permits from Caltrans would be needed for signalization to work because Caltrans controls the intersections at the I-880 ramps. There is no guarantee that Caltrans will agree to such permits. For the same reason, another mitigation that would ease congestion at Marina/Merced as well as Republic/Merced – an additional site entry/exit on Marina – cannot be guaranteed. Similarly, a second left-turn lane for southbound traffic onto the Republic extension would require ROW acquisition, which cannot be guaranteed so the impact remains Significant and Unavoidable. Likewise, to mitigate the traffic issues at Merced/Fairway, by adding eastbound lanes along Fairway, would require ROW acquisition at the northwest portion of the intersection.

CEQA also requires the Draft EIR to address alternatives to the proposed project. Of four possibilities considered, only one meets Kaiser’s needs. The No Project and the Existing Zoning Alternative would avoid most of the Significant and Unavoidable transportation impacts. A third alternative (20% reduction of the project) would not mitigate any transportation issues. The fourth – which would meet the objectives of the project – would eliminate one of the intersections impacted by the project (Republic/Merced) by providing additional site access from Merced.

Mr. Kay pointed out that the Final EIR, which is due out in the spring, will consider all substantive comments received during the review period. It will consist of the Draft EIR, the comments (oral as well as written), responses to comments and revisions to the draft document made as a result of comments.

**Less-than-Significant Impacts or Less-than-Significant with Mitigation (described in EIR)**

Less than Significant	Less than Significant with Mitigation
Hydrology	Light and Glare
Consistent with General Plan	Toxic Air Contaminants
Consistent with Airport Land Use Plan	Exposure of Construction Workers and Occupants to Contaminants
Population and Housing	Construction Noise
Fire and Policy Facilities	Construction Vibration
Park Facilities	Operational Noise
Hazards associated with Design Features or Emergency Access	Noise from Mechanical Equipment
Bicycle Facilities	Schools
Public Transit	Parking
Solid Waste Generation	Wastewater
Energy	
Wastewater Treatment	

Stormwater Facilities	
Water Supply and Treatment Facilities	
<b>No Impact or Less-than-Significant Impact</b> <b>(from the August 2008 Initial Study; not evaluated in Draft EIR)</b>	
Agricultural Resources	Geology and Soils
Biological Resources	Mineral Resources
Cultural Resources	

Chair Dlugosh asked Commissioners to first ask any questions about issues they want clarified, and then make comments and raise questions for inclusion as EIR responses after the Public Hearing.

Commissioner Brannan wondered why the Davis/Doolittle intersection is included in 2030 impacts, because it seems pretty far away from the project, and no impacted intersections appear south of the site. She said it seems that Marina/Doolittle or Fairway/Doolittle would be closer to the site and affected more.

Mr. Kay said he cannot speak to why the traffic study determined there would be impacts to the Davis/Doolittle intersection among the 29 intersections analyzed. He speculated that perhaps it involved airport trips, and/or traffic capacity where Marina and Fairway intersect Doolittle. The Davis/Doolittle intersection is among those that would require a Caltrans encroachment permit.

Commissioner Reed asked what analysis had been done in terms of the impact of keeping or closing Eden Medical Center's San Leandro Hospital campus. He said it seems that the future of this facility would have an impact on the EIR.

Mr. Kay said that isn't considered part of the project, so it was not included in the analysis. He explained that the impacts of that facility would likely be outside the scope of an environmental process, because there would be no measurable environmental effects associated with it.

Chair Dlugosh inquired about traffic impacts south of the project and across I-880, at Floresta Boulevard and Fremont Avenue, which ties into Alvarado, for example, and the residential area south of Alvarado. The impacts dealt with impacts from I-880, but that area is also affected by traffic from I-580.

Mr. Kay explained that those intersections were not included in the traffic analysis. The determination of which intersections to analyze was made in consultation with the City, based on expected travel patterns. As you get further from the project site, it gets more difficult to analyze what impacts would be associated with the project versus background growth.

Chair Dlugosh asked what "URBEMIS" is.

Mr. Kay said that URBEMIS (for Urban Emissions Model) is an air quality modeling system used to measure air quality impacts. The inputs into that model include traffic, background conditions, and mandates related to the type of equipment used during construction.

Natalie Irwin, Mr. Kay's project co-lead and an air quality expert, explained that the EMFAC (Emission Factor) model calculates emissions from vehicles traveling on the roadway in a given year, while URBEMIS takes the land use from a project and models what emissions will be generated from that specific land use.

Chair Dlugosh asked about CALINE4.

Ms. Irwin said this is a carbon monoxide model that indicates whether CO hotspots would occur at any intersection.

Chair Dlugosh opened the public hearing.

Cedric Young, VP of Development for Madison Marquette's West Coast operation, explained that Madison Marquette is the owner and developer of Bayfair Center, an 800,000-square-foot regional community center employing about 1,000 people, located 2.8 miles from the proposed retail site. Right now about 10% of Bayfair's space is vacant. Including other major San Leandro shopping centers – Westgate Center (400,000 square feet, 0.9 mile from the site), Marina Square (170,000 square feet, 0.2 mile from the site – that represents a total of 1.4 million square feet of retail space less than three miles or five minutes' drive from the proposed retail site. This new retail development would add about 30% to the existing supply, without accounting for small centers and street-front retailers within this three-mile radius. He emphasized that Madison Marquette fully supports and understands the importance and benefits of the medical component of the proposed project to the City and the community. However, he added, they strongly believe that the EIR does not adequately address the negative impacts of the proposed retail development on existing shopping centers. Such impacts include the cannibalization of sales, customers and retailers from these existing shopping centers that may be lost if they go to this new, competing retail development. CEQA requires analysis of potential physical and environmental impacts that include urban decay or deterioration and blight caused by store closures and empty spaces resulting from a new retail development. Under current market conditions, the additional competition would make it difficult to re-lease vacant spaces. For the past seven years, Madison Marquette has been experiencing many of these challenges in spite of investing millions of dollars into Bayfair's redevelopment. With the City's continued support, they believe they can overcome these challenges and restore Bayfair's vibrancy in the community. They are still reviewing the EIR and believe that there are other environmental issues that need to be evaluated in greater detail. Given these considerations, they think the only reasonable course of action is to immediately revise the project description to eliminate the retail development and proceed with the medical component. By doing so, the medical development can still proceed without delay.

PH 1-1

*Note: As indicated under Item 4: Correspondence, one letter also came in regarding this item, from Ron Musgrove and Jeff Musgrove, CEO and President, respectively, of Applied Fusion Inc., 1925 Republic Avenue.*

Now it is time to address our concerns about the Kaiser Hospital facilities and the as yet unknown developments for the remaining 32 acres. On the issue of economic benefits to San Leandro's coffers I am mostly in the dark. My question is, Kaiser, being a non-profit entity, meaning few if any tax returns to the City. Who will pay for the extra police patrols and emergency services that will be demanded by a 24/7 emergency and hospital facilities?

AFI is immediately across Merced Blvd., a 50 MPH speed zone in both directions and the major avenue to our industrial area and even beyond to many residential communities. A major short cut for truck traffic is to turn from Merced onto Republic Ave. and then left on Nicholson St. to avoid the very tight right hand turn onto Fairway Dr. The S.E. corner parking lot of the La Pinata Restaurant must be converted to a wider turn for semi's to discourage the Republic/Nicholson short cut.

PH 2-1

Finally and our most serious concerns are for the safety of our employees and our company properties. We are weekly being cased by ill intentioned folks to see if there is a hole in our security efforts. Foot traffic wanders into our facilities on a regular basis pretending to look for a job. Does a welder or a machinist ever give out application blanks from their workplace? Kaiser will be a 24/7 operation which means many folks will be relegated to wait and wait and wait some more. With all this idle time we anticipate the risks in this area will increase ten fold both in autos and foot traffic. We have always operated a swing shift in two buildings, and we feel that their safety will be unjustly compromised. Will we need armed guards?

The City may get some financial concessions from Kaiser for some temporary mitigations and perhaps even from staid EIRs and other calls. But these are only short term and short lived help. What we need is some long term guarantees that the City can afford these extra long term burdens and taxes the originators and not the existing taxed out businesses and homeowners in the area. Question is: Can we afford Kaiser?

PH 2-1  
Con't

Chair Dlugosh entertained a motion to close the public hearing.

**Motion to Close Public Hearing**  
**Reed/Collier: 4 Aye, 0 No, 2 Absent**

Chair Dlugosh invited Commissioner comments.

Commissioner Collier expressed concern about traffic created by a retail center being higher volume than from a medical center. She also is aware that a lot of retail space is under-utilized or empty, not only in Bayfair, Westgate, and Marina Square, but in a lot of neighborhoods, partially empty or begging for somebody to rent them. She said we should not designate the northern section of the site as anything other than a mixed-use development at this time, because we don't know what the market will be in two, three, five years, let alone 15, 18 or 20 years. Accordingly, she suggests dropping the word "retail," even though she is aware that retail is a potential source of taxes for the City.

PC 1-1

Commissioner Reed complimented staff and the applicant for the enormous number of hours they've devoted to preparation of the EIR. He said he wholly supports the concept and hopes to see the hospital fast-tracked through construction. He said it will motivate further development in San Leandro and help the City's image. With the population aging, he said Kaiser's arrival will be good for the wellbeing of our community. However, like Commissioner Collier and Mr. Young, he said he is troubled by the inclusion of "retail" in the project description. Because there's no telling how the market will evolve, he said he would hate to see San Leandro miss out on a non-retail opportunity by retaining the retail language, particularly since no specific project is on the table. We have the mechanisms, the ability and the staff expertise to look carefully at any project that comes forward. Accordingly, he, too, recommends dropping the word "retail" from the development description.

PC 2-1

Commissioner Brannan said she was very excited about the project, including the retail portion, when she first heard about it a couple of years ago. Due to the economy, that has changed and right now there is no plan for retail or any other development on the northern portion of the site. She did not give that much thought until Mr. Young made his remarks, because it wasn't in the EIR. The last thing we want is blight. The Auto Mall is already suffering from the economy. She believes the economy is taking care of the retail issue at the project site. In terms of the Kaiser proposal, she is glad to see it go forward and fully supports it. It will bring a lot of jobs and be the start of our recovery.

PC 3-1

Commissioner Reed said that we're "pushing the envelope" on traffic, and there isn't much to be done about it if we want development. However, if we push retail on that site – particularly retail of a big-box nature with the traffic that format tends to generate – it might "break the envelope."

PC 2-2

Chair Dlugosh noted that one omission in the study was the need for additional public services the project of this size will require, such as police, fire and other emergency services – particularly a hospital. There is nothing here to compare it to; fire fighters and police officers have no experience dealing with either a facility of this size or its use in an emergency situation such as an earthquake. They would need training to handle such situations at or around the site.

PC 4-1

Chair Dlugosh said he understands the proposed route for ambulances to reach the emergency department at the hospital (eastbound on Marina, southbound on Teagarden, over the Fairway overpass and then into the project from Fairway). However, he saw nothing in the EIR about the traffic implications of, say, ambulances, particularly during peak hours when all of the impact intersections are jammed up solid. What would the alternatives be for the emergency vehicles?

PC 4-2

Chair Dlugosh, noting that bioswales to mitigate problems with stormwater runoff were discussed briefly during the January work session, would like assurance that the bioswales on the project site will be well-maintained. He said that he recently saw some bioswales in Hayward that were overgrown with weeds.

PC 4-3

Chair Dlugosh also expressed concern about policies governing any potential residential occupancy, whether apartments/condominiums or hotel, on the northern part of the site. Such uses may be incompatible with some existing businesses in the area. He doesn't a situation to arise similar to those when people buy or build homes near an airport and then complain about noise.

PC 4-4

In terms of traffic mitigation, Chair Dlugosh said that the Fairway/Nicholson Street intersection warrants investigation (Nicholson parallels Merced to the west). He believes the signals proposed for Fairway are so close together that they would worsen rather than ease congestion. To avoid some ROW requirements associated with mitigation measures proposed for areas adjacent to the project, he suggested that the necessary land be taken from the project.

PC 4-5

**Item 8: Miscellaneous**

*Motion to Delay Election of Planning Commission Chair and Vice Chair until more  
Planning Commission members are present*

*Reed/Brannan: 4 Aye, 0 No, 2 Absent*

**Item 9: Commissioners' Comments**

Commissioner Brannan suggested that the City cut back on the volume of paper being used in mailings to Commissioners and others, which would also save postage costs.

**Item 10: Staff Updates/Project Status Report**

Secretary Livermore indicated that the next meeting of the Planning Commission will be on March 25; a Special Meeting because it does not fall on the third Thursday of the month. She said that the same applies for the April meeting, scheduled for April 22.

**Item 11: Adjourn**

*Motion to Adjourn*

*Collier/Brannan: 4 Aye, 0 No, 2 Absent*

Chair Dlugosh adjourned the meeting at 8:29 p.m.

Respectfully Submitted,

Kathleen Livermore, Secretary  
Recording Secretary, Barbara Templeton

## **San Leandro Planning Commission Regular Meeting February 18, 2010**

PH 1-1 Please see Response 7-1.

PH 2-1 Please see responses to Comment Letter 6.

PC 1-1 The Commissioner's concerns about impacts from the proposed retail component of the proposed project have been noted by City staff and addressed in more detail in the responses to Comment Letter 7. At this time, no application for the development of the Mixed-Use Retail Development site has been submitted to the City. As noted in the Draft EIR, the evaluation of the Mixed-Use Retail Development is on a programmatic level. At such time as an application is proposed for development of the northern parcel, additional environmental analysis and approvals from the City would be required. In addition, please see Response 7-1 for a discussion of the potential for economic impacts from the future retail development.

PC 2-1 The Commissioner's concerns about impacts from the proposed retail component of the proposed project have been noted by City staff and addressed in more detail in the responses to Comment Letter 7. At this time, no application for the development of the Mixed-Use Retail Development site has been submitted to the City. As noted in the Draft EIR, the evaluation of the Mixed-Use Retail Development is on a programmatic level. At such time as an application is proposed for development of the northern parcel, additional environmental analysis and approvals from the City would be required. In addition, please see Response 7-1 for a discussion of the potential for economic impacts from the future retail development.

PC 3-1 The Commissioner's concerns have been noted by City staff and addressed in more detail in the responses to Comment Letter 7. At this time, no application for the development of the Mixed-Use Retail Development site has been submitted to the City. As noted in the Draft EIR, the evaluation of the Mixed-Use Retail Development is on a programmatic level. At such time as an application is proposed for development of the northern parcel, additional environmental analysis and approvals from the City would be required. In addition, please see Response 7-1 for a discussion of the potential for economic impacts from the future retail development.

PC 2-2 The Commissioner's concerns about traffic impacts have been noted by City staff. However, it should be noted that the traffic analyzed in the Draft EIR included trip generation rates for a regional shopping center, which could include large format retail stores. As noted in the Draft EIR, the evaluation of the Mixed-Use Retail Development is on a programmatic level. At such time as an application is proposed for development of the northern parcel, additional environmental analysis, which would likely include an updated traffic analysis, would be required.

PC 4-1 Please see Response 6-1 and Response 6-3. Note that the City will be entering into a Development Agreement with Kaiser to address some of the economic needs of the City, such as additional fire fighting apparatus that will address taller buildings.

PC 4-2 The Chairman is correct that the likely route for ambulances accessing the emergency department from I-880 would travel east on Marina Boulevard, south on Teagarden Street, and west on Fairway Drive to access the site from the East Medical Center Driveway. This route would avoid any potential congestion along Marina Boulevard and/or Merced Street. In addition, as shown in the Draft EIR (see Section 3.9, Transportation), neither the Marina Boulevard/Wayne Avenue intersection nor the Aladdin Avenue/Teagarden Street intersection would operate under substandard conditions under Baseline plus Project conditions. Therefore, access by ambulances would not be impeded. Under Cumulative plus Project conditions, these two intersections would operate under substandard conditions during peak periods. Mitigation measures for these intersections have been identified; however, these mitigation measures may be infeasible due to the requirement for a Caltrans Encroachment Permit and/or right of way constraints. Without mitigation, the Marina Boulevard/Wayne Avenue intersection is projected to operate at LOS E with up to 70 seconds of delay during the PM peak hour under Cumulative plus Project conditions and the Aladdin Avenue/Teagarden Street intersection is projected to operate under LOS E with up to 70 seconds of delay during the AM peak hour. While these are both below City standards, ambulances operating with sirens and flashing lights should be able to pass through these intersections with minimal delay.

PC 4-3 The Chairman's concerns about mitigation for stormwater runoff have been noted by City staff. The proposed project, if approved, will be subject to conditions of approval and standard City requirements that relate to landscaping maintenance.

PC 4-4 Land use compatibility is discussed in the Draft EIR (see Section 3.5, Land Use). As discussed, the proposed project, including the potential for residences to be located on the site of the Mixed-Use Retail Development, would be generally consistent with the San Leandro General Plan. Also, the Draft EIR in Section 3.6, Noise, notes that there could be noise impacts to future residential or hotel uses on the northern portion of the project site. However, Mitigation Measure NO-3.1 would require detailed acoustical analysis and incorporation of measures to reduce noise impacts to future residential or hotel uses.

PC 4.5 The Chairman requested additional analysis for the Fairway Drive/Nicholson Street intersection. Nicholson Street is a minor collector that has a stop-controlled intersection at Fairway Drive and provides access to an industrial area. Due to the low traffic volumes at the Nicholson Street/Fairway Drive intersection and that the proposed project is not expected to add traffic to Nicholson Street, this intersection was not included in the transportation analysis for the proposed project. Furthermore, it is not anticipated that the traffic on Nicholson Street would increase significantly in the future.

The Chairman also expressed concern over the distance between traffic signals along Fairway Drive. The traffic signals along Fairway Drive at Merced Street, West Medical Center Driveway, and Miller Street would be coordinated to provide the most optimum flow conditions and to minimize delay and queuing. The spacing between the three intersections is approximately 500 feet, which is within accepted engineering practice for intersection spacing.

With the addition of the new signals at the new project driveways, the level of service for each of the intersections along this segment would not exceed City standards under any of the analyzed scenarios. Therefore, no increased congestion would occur as a result of the new signalized driveways.

Where ever feasible, all roadway widening will occur from property within the project site. However, as described in the Draft EIR (see Section 3.9, Transportation), in some locations implementation of mitigation measures would require the acquisition of right of way from adjacent parcels. This would include intersections near the project site, such as Fairway Drive/Merced Street, Republic Avenue/Merced Street, and Marina Boulevard/Merced Street. The proposed project would include widening of Fairway Drive and Merced Street. Property for the widening of these roadways would be taken from the project site (see Section 2, Project Description, in the Draft EIR, for a description of these improvements). However, it would not be feasible to take property from the project site to fully implement the improvements needed for Mitigation Measures TR-1.2, TR-9.4, or TR-13.2 since the roadway segments to be widened do not front the project site.