

**PLANNING COMMISSION
MEETING
THURSDAY, FEBRUARY 23, 2017**

**DOCUMENTS RECEIVED AFTER PUBLISHED
AGENDA
FOR**

PH #17-014

**LINCOLN LANDING
MIXED USE
PROJECT**

PH #17-014

**EMAIL RECEIVED FROM
MINANE JAMESON**

**LINCOLN LANDING
MIXED USE
PROJECT**

Dear Commissioners,

I understand that you will be voting on the Lincoln Landing project tomorrow, so I would like to share two concerns that I have:

I think it's very important to offer customers and tenants alternatives to using personal cars; the options are many, starting with unbundling parking, making certain that there is ample parking for car sharing, and offering shuttle service to BART. I live in Fairway Park and at rush hour it takes an average of 45 minutes for me to get to downtown, and I know it will only get worse. We need to get cars off the road, for the sake of our sanity and the environment.

I would like to see a coffee shop or other appropriate tenant facing the park on Hazel. I learned that all retail will be located on the front side of Lincoln Landing, which I think is a missed opportunity. Many parents would enjoy stopping at a café and walking only a few steps further to sit in the park with their children. HAPA's idea of a café facing both sides of the building would be perfect. As you know, more eyes on the park and creek trail will help keep this area safe and clean.

Thank you in advance for your consideration.

Minane Jameson

PH #17-014

**EMAIL RECEIVED FROM
BEN GOULART
PRESIDENT: PROSPECT HILL
NEIGHBORHOOD ASSOCIATION**

**LINCOLN LANDING
MIXED USE
PROJECT**

Good afternoon, I hope this email finds you well and dry. I wanted to give you guys a report on our group in concerns with Dollinger Properties and Lincoln Landing. Scott Athearn has really taken his time with us to meet over 7 times in the past 2 years. We have discussed ideas, problems and concerns that we all have with the project. He has made numerous changes to the design with concern to our input, and has tried to work with us as best he can. As much as we all know that the traffic will be a huge problem, there are quite a few perks to this project. We all like the amount of retail/commercial they have designed in, and they have created multiple exits to allow good flow. They have included a public park for kids to play, as well as the creek walk trail. They plan to do murals and incorporate local talent for it. They changed the solid block of a design into towers to allow views for our neighborhood. They plan on incorporating a shuttle, carshare, electric charging stations, drought tolerant landscaping and solar power.

Our only input would be to try and make the street frontages a bit more inviting. As of now the rules say that there cannot be ground floor residential. So that creates the problem of having only parking garages at ground level and the view of a wall. The downtown plan has been talking about creating stoops and attractive frontages along streets, and we would like to request this implementation onto Hazel and Foothill.

The only other concern for our group was the north tower. We would like to see it pushed more towards Foothill Blvd. This would keep the bulk of the building more towards Centennial Plaza, and away from the residences on Hazel.

Other than that, our group can say that we will not protest this project. We may not like everything about it, but it has many carrots for Hayward, and really looks like a great shopping center. Scott Athearn has also done a great job with working with us.

Thank you for your time, and will see you on Thursday,

Benjamin Goulart

President: Prospect Hill Neighborhood Association

(510) 410-0445

PH #17-014

**EMAIL RECEIVED FROM
SHERMAN LEWIS**

**LINCOLN LANDING
MIXED USE
PROJECT**

HAPA Comments on Lincoln Landing

We support conditions of approval for a private shuttle, participation in a future public shuttle public, and mitigation of neighborhood spillover parking and traffic.

TDM

The City should **require** a Transportation Demand Management (TDM) Plan under Mitigation Measure (MM 3.1.2) that would require the same requirements as for Maple Main, adapted to Lincoln Landing. For the MM to be effective, it has to say what it **will** include as well as what it **may** include. A list of possibilities is not enough. The MM should mandate transit passes, unbundled parking, parking spaces for car share, car rental, taxis, and ehaul, with space availability to be increased as needed to meet demand, and with some arrangements with public car providers.

The MM should require design for a small multi-modal center by City Center Drive, as it is the only logical place for a turn-around for a frequent one-bus rapid shuttle system to BART as proposed by HAPA.

The target traffic reduction should be a minimal requirement. The developer should be required to have TDMs regardless of some goal. If more traffic is reduced, all the better. It does not make sense to stop implementing TDMs when some target is reached when the project is already based on overriding the requirement for mitigating LOS F—extremely congested—intersections. In addition, traffic increases above LOS F by Maple Main are getting a free ride even though they make Lincoln Landing congestion worse, because it's not worse enough to have to mitigate. With so many people complaining about traffic, the City should do what it can.

Further, if the TDMs fail to reach a target, the developer should be required to implement additional TDMs. One of those should be a surcharge on the unbundled parking rent with proceeds used to improve a shuttle service, unless the developer shows an alternative would work.

Unbundling

Staff: “It is important to note that the General Plan Policy *encourages* rather than *requires* unbundling parking...”

OK, but it is more important to reduce traffic, increase pedestrian and transit access to downtown, reduce pollution and GHG, and provide an opportunity to live a more sustainable, affordable life. The staff report is biased by omission.

The traffic projections actually **assume** implementation of TDM, while the conditions make it only **voluntary**. The project already has unmitigatable congestion impacts, and failure to require real TDMs can only make them worse. You don't need the General Plan to justify managing impacts

Staff: “...the particular circumstances of the proposed project make unbundling the cost of parking from rents an unattractive option for the developer in that the commercial and residential parking on the Lincoln Landing site exceeds the parking requirement (see Table 1 above).” (Table 1 shows that the project provides more parking than code requirements.)

I do not understand how extra parking makes unbundling unattractive. Why? Why refer to commercial when commercial is not proposed for unbundling? What circumstances? Is it the fact that parking exceeds code? Why would that make rentals unattractive? If Maple Main, in a near identical situation, can unbundle, why can't Lincoln Landing? How unattractive is it? If the problem is parking in excess of code, the developer can reduce it with no problems.

Staff: “The developer found that reducing residential parking located in proximity to residential units in the north tower (along Hazel Avenue) or reducing surface parking for commercial tenants,

which is necessary to attract and retain high quality commercial tenants, would make the project difficult to market to future tenants (Attachment XI).”

The reference to Attachment XI, the Planning Commission minutes, may be in error. I read Attachment XI over several times and was unable to find any reference to this problem.

HAPA has **never** proposed reduced parking for commercial tenants. We do **not** propose mandating a reduction for the North Tower. We **do** propose using TDM to see if parking demand can be reduced for phase one, the South Tower, and then applying the results to adjust parking for the phase two, the North Tower. The City could explicitly allow the developer to ask for reduced parking, saving money, making housing more affordable, etc. Even weak (subsidized market rate) unbundling should induce some reduction of demand, especially if shuttle and public car spaces and other TDM are properly implemented.

Truck Road

The truck delivery configuration could be changed to waste less space in pavement and reorient the only loading dock for turn-around, with access only off of Hazel. There would then be no need for a truck way on the southern part of the site and the land could be used as proposed below. The redesign needed seems very easy to do.

Creek Walk Café

Truck road reform makes more green space and the Café possible on the south side by the Creek Walk. The road close to and by the parking structure could be converted to landscaping and improved creek-side walkway. The already proposed terracing and improved walkway in place of the flood control service road are great concepts. There is a need for drapery landscaping on the west side of the channel to improve the attractiveness of the view.

The belief that retail space hidden from cars is not viable is simply wrong. It is the same car thinking we saw from the Concord Group for Maple Main. The 476 Lincoln Landing units and about a thousand people are enough for a Café based on walk-in and local knowledge to be successful based solely on residents.

The Creek Walk should be reachable from commercial parking on the Foothill side and, in fact, the Café can help that happen. The passage could be part of the proposed Café, with a door on the Foothill side and another on the creek side, which would control use. The Café could use the space now proposed for tuck-under parking on the creek side of the “Stores.” There is already an odd opening about four-foot wide from the Foothill side to the creek side between these stores and the Lobby. The Café would overlook the creek walk and creek with no truck road in the way. In addition to residents, Foothill-side shoppers could also be attracted by the passage to a sheltered, quiet spot for coffee, pastries or a lunch with a nice view and with room for outdoor dining in warm weather.

Management of public use of Creek Walk

It is not clear how public use of the Creek Walk and Hazel Park will be managed. The City should require that they have gates that can be closed at night and that a public agency have responsibility for managing public use.

Long-term Creek Enhancement

The developer should be required to contribute to a study to improve the flood channel for landscaping and fish and for removing the fish barrier at the east end of the property. The study should include acquiring land on the west side of the channel.

PH #17-014

**EMAIL RECEIVED FROM MARK WOLFE ON
BEHALF OF DESIRAE SCHMIDT**

**LINCOLN LANDING
MIXED USE
PROJECT**

February 22, 2017

**By E-Mail
Acknowledgment of Receipt Requested**

Heather Enders, Chair
Members of the Planning Commission
c/o City Clerk
City of Hayward
777 B Street
Hayward CA 94541-5007
Miriam.Lens@hayward-ca.gov

Re: Lincoln Landing Mixed-Use Project Final EIR

Dear Chair Enders and Planning Commissioners:

Please accept the following comments on the above-referenced Final EIR for the Lincoln Landing Project (“Project”), submitted on behalf of Hayward resident Desirae Schmidt. We previously submitted comments on the Project’s Draft EIR, and have now reviewed the City’s responses to those and others’ comments as contained in the Final EIR. We respectfully submit that the Final EIR remains deficient in its analyses of the Project’s potential to cause or contribute to traffic and decay impacts in this area of Hayward, as well as in its analysis of viable Project alternatives. We would urge the Planning Commission to decline to certify the Final EIR or approve the Project unless and until these problems are addressed.

I. The Final EIR omits analysis of impacts to affected congestion roadways despite Alameda CTC’s express request that it do so.

In its November 7, 2016 comment letter on the Draft EIR, the Alameda County Transportation Commission (Alameda CTC)’s requested that the EIR’s traffic analysis be updated to include impacts on Interstate 580, SR 92 (Jackson Street), and Interstate 238. These roadways currently experience heavy congestion throughout the day, especially during the AM and PM peak hours. As Alameda CTC noted in its comments, all of these roadways are Congestion Management Program (CMP) and Metropolitan Transportation System (MTS) network roadways.

The City has declined to conduct the requested analysis, explaining that Project-generated traffic on these roadways is “minimal,” and that the Project’s land uses are consistent with those considered in the City’s General Plan EIR. (Final EIR p. 2.0-13). Neither point provides a legally adequate justification for failing to perform the analysis.

First, even if the Project’s contribution to new traffic is by itself truly “minimal,” this does not relieve the City of its obligation to evaluate the Project’s cumulative impacts, which is what Alameda CTC essentially asked for. The CEQA Guidelines define “cumulative impacts” as the combined change in the environment resulting from a proposed project in combination with other “past”, “present” (i.e., existing) and foreseeable “future” projects: The cumulative impact from several projects is the change in the environment which results from the incremental impact of the project when added to other closely related past, present, and reasonably foreseeable probable future projects. Cumulative impacts can result from individually minor but collectively significant projects taking place over a period of time. Guidelines, § 15355, emphasis added.

CEQA requires an agency first to consider whether the combined effect of the project and other past, present and/or future projects “when considered together” is significant, because such impacts may be “individually minor but collectively significant.” *Communities for a Better Environment v. California Resources Agency* (“CBE”)(2002) 103 Cal.App.4th 98, 119-120. Then, if there is a significant combined effect, the agency must then separately consider whether the project’s contribution to that effect is itself considerable, i.e., “whether ‘any additional amount’ of effect should be considered significant in the context of the existing cumulative effect.” *CBE* at 119; Guidelines, § 15130(a); *see also* Kostka and Zischke, *Practice Under the California Environmental Quality Act* (2nd ed., 2016 Update), §§ 13.39. 15.52. Cases are clear that an EIR may not conclude a cumulative impact is insignificant merely because the project’s individual contribution to an unacceptable existing condition is, by itself, relatively small. *Los Angeles Unified School Dist. v. City of Los Angeles* (1997) 58 Cal.App.4th 1019, 1025-1026 (rejecting EIR’s reasoning that because noise levels around schools already exceeded governing standards, new noise source would have insignificant impact); *CBE, supra*, 103 Cal.App.4th 98, 117-118, 121 (invalidating CEQA Guidelines provision that *de minimis* impacts are necessarily less than considerable). On the contrary: “the greater the existing environmental problems are, the lower the threshold should be for treating a project’s contribution to cumulative impacts as significant.” *CBE, supra*, 103 Cal.App.4th at 120. Thus, even if a given project has only an “individually minor” impact, its contribution to an existing environmental problem may nevertheless be “cumulatively considerable,” hence significant, and hence requiring mitigation measures under CEQA. *CBE* at 120; *see also* Guidelines, §§ 15355(b), 15065(a)(3); *LAUSD, supra*, 58 Cal.App.4th at 1024-25

(individually insignificant noise increase may nonetheless be cumulatively considerable).

Here, although the Draft EIR included some cumulative traffic analysis, it did not do so for the roadways identified by Alameda CTC. Given the severity of existing congestion on these roadways, it is critical that the City evaluate whether the addition of any new traffic, no matter how “minimal” could result in a cumulatively considerable contribution to an existing cumulative impact.

II. The Final EIR’s response to comments on the Draft EIR are inadequate, and the analysis remains deficient.

CEQA mandates that responses to substantive comments on a draft EIR contain fact-based analysis. *People v. County of Kern* (1974) 39 Cal.App.3d 830, 841-842 (duty to provide “good faith, reasoned analysis in response”); Guidelines, § 15088(c) (“[c]onclusory statements unsupported by factual information will not suffice”). Where comments seek omitted facts or analysis essential to a draft EIR’s conclusions, the failure to correct those omissions “renders the EIR defective as an informational document.” *California Oak Foundation v. City of Santa Clarita* (2005) 133 Cal.App.4th 1219, 1244 (failure to provide reasoned analysis in response to comments pointing out uncertainty of water supply). In *Cleary v. County of Stanislaus* (1981) 118 Cal.App.3d 348, the court held an agency violated CEQA by providing only conclusory responses to comments requesting documentation of existing vehicle emissions levels.

In our comments on the Draft EIR’s traffic analysis, we asked the City to expand its transportation impact analysis to include an assessment of the Project’s potential effects on the policies of the City’s General Plan Mobility Element, which promote expansion of the use of multi-modal public transit, bicycling, and walking in lieu of automobile reliance. The Final EIR essentially dismisses this comment, stating that “[t]he City has no standards for bikeability or sustainability plans related to a project’s traffic and transportation impacts,” and arguing that the set of proposed Transportation Demand Management measures included as part of the Project somehow eliminates the need to consider these impacts on General Plan policies. We submit that these comment responses are inadequate under CEQA.

Likewise, our comments on the Draft EIR pointed out that an urban decay analysis should be conducted to evaluate the potential for the Project’s retail component to cause or accelerate store closures in nearby retail spaces, in light of the high retail vacancy data reported by LoopNet.com. The response in the Final EIR faults us for not providing information regarding the location and condition of the vacant retail space referenced. However, CEQA places the burden of investigation and disclosure squarely on the lead agency, not the commenting public, by requiring that an agency “use its best efforts to find out and disclose all it reasonably can.”

Guidelines, § 15044; *East Bay MUD v. Dept. of Forestry & Fire Prot.* (1996) 43 Cal.App.4th 1113, 1133. Thus, an agency's failure to use its best, good-faith efforts to investigate, disclose, or mitigate environmental impacts is an abuse of discretion warranting reversal. *Kings County Farm Bureau v. City of Hanford* (1990) 221 Cal.App.3d 692, 724. We submit these comment responses, too, are inadequate under CEQA.

Finally, our Draft EIR comments pointed out that the proposed justification for rejecting Alternative 2, the Reduced Development Alternative, was perfunctory and analytically deficient. The Final EIR's response is likewise perfunctory. It basically reasserts that even though the Alternative would have materially fewer environmental impacts in areas including traffic, water use, waste generation, and aesthetics, it would be "less than optimal," and a "missed opportunity" because it would have fewer residential units and would eliminate the unidentified ground-floor retailer. This statement amounts to an improper policy judgment that the Planning Commission itself should make based on actual facts and analysis presented to it in the EIR. Again, requires a lead agency to respond to reasonable public comments seeking additional information with "good faith, reasoned analysis," and not conclusory unsupported statements. The EIR's justification for rejecting Alternative 2 remains inadequate.

Finally, on behalf of Ms. Schmidt, we second and support the concerns expressed by other agencies, organizations and individuals on both the Draft and Final EIR for this Project.

In conclusion, we urge the Planning Commission to DECLINE to certify the Final EIR and approve the Project at this time, and instead to direct staff to prepare a revised Draft EIR that addresses the deficiencies identified above and in earlier correspondence.

Thank you for your consideration of these comments and concerns.

Yours sincerely,

M. R. WOLFE & ASSOCIATES, P.C.

A handwritten signature in black ink, appearing to read 'M Wolfe', with a long horizontal flourish extending to the right.

Mark R. Wolfe
On behalf of Desirae Schmidt

MRW:

PH #17-014

**EMAIL RECEIVED FROM
KATHLEEN PELTON**

**LINCOLN LANDING
MIXED USE
PROJECT**

Leigha Schmidt

From: Colleen Kamai
Sent: Friday, February 17, 2017 8:59 AM
To: David Rizk
Cc: Leigha Schmidt; Sara Lamnin
Subject: FW: Mervyns development

FYI

-----Original Message-----

From: [REDACTED]
Sent: Friday, February 17, 2017 8:46 AM
To: List-Mayor-Council <List-Mayor-Council@hayward-ca.gov>
Subject: Mervyns development

I have lived on Kimball Ave. in downtown for 28 years, and I am tired of the poor judgement the City of Hayward has shown regarding getting rid of the eyesore and homeless encampment of the abandoned Mervyns building. I read about the Maple & Main development, and while I'm happy there is some improvement in downtown, I still recall the debacle of the City Council rejecting a beautiful proposal for the Mervyns site. Please try to get something done because this is on Foothill Blvd., the "gateway" to Hayward. It is an embarrassment to the City of Hayward, as well as a health hazard and dangerous attraction to the homeless population. Don't allow a vocal neighborhood group from Prospect Hill to derail another potential project. Thank you, and I hope to hear a personalized response from one of you, my elected officials.

Kathleen Pelton

PH #17-014

**EMAIL RECEIVED FROM
MICHAEL STRIMLING**

**LINCOLN LANDING
MIXED USE
PROJECT**

Leigha Schmidt

From: [REDACTED]
Sent: Tuesday, February 21, 2017 1:17 PM
To: Leigha Schmidt
Subject: I support Lincoln Landing - IT'S ABOUT TIME!

Dear Ms. Schmidt:

I live at 22012 Sevilla Road, about two blocks from the Lincoln Landing proposed project on Foothill.

This email is to SUPPORT THE PROJECT GOING FORWARD! I hope that this email will be forwarded to the Planning Commission or City Council and other relevant bodies.

I think it is important to evaluate the project compared to the current situation. The Mervyn's site is an unproductive eyesore and a well-known hang-out for squatters and vandals. When the police raid it, we get increased break-ins in the neighborhood. When the Mervyn's site is added to the useless, blighted eyesore of the City Center Building, the neighborhood is in a bad state. That also needs to be demolished or renovated, now. Nearly any development would be better.

The need for this Mervyn's site to be demolished and renovated is URGENT!

It will also catalyze this business district which is suffering from the "loop" of traffic. The parking lots that are planned are sorely needed since the "loop" erased a lot of on-street parking. If there are ever going to be restaurants or other useful businesses on the way to B Street, or vacant storefronts on B Street filled with business, we need this kind of development. Both the commercial and condo parts would be useful additions and could lead to technology and service sector jobs in the area.

I or you might not build exactly the development that is planned. But it is important to realize that these things are a compromise between what a developer can "pencil out" as a profitable development and what a bank will loan money to build, not our personal preferences. I am sure that modifications in use may occur during phases of the development or after. But you must keep in mind the need for the Mervyn's site to be put to productive, economic use. That must be paramount in reviving this area.

Please accept and circulate this comment to those reviewing this development.

Michael Strimling

PH #17-014

**EMAIL RECEIVED FROM
ALAMEDA COUNTY
TRANSPORTATION COMMISSION**

**LINCOLN LANDING
MIXED USE
PROJECT**



February 23, 2017

Leigha Schmidt
Senior Planner
City of Hayward
777 B Street
Hayward, CA 94541

SUBJECT: Response to Alameda CTC's Comments on the Draft Environmental Impact Report (DEIR) for the Lincoln Landing Project

Dear Ms. Schmidt,

Thank you for the response to our earlier comments dated November 7, 2016 on the Draft Environmental Impact Report (DEIR) for the Lincoln Landing Project. The proposed project consists of approximately 476 residential units and 80,500 square feet of commercial space. The project site is bounded by Foothill Boulevard to the north and east, City Center Drive to the south, San Lorenzo Creek to the south and west, and Hazel Avenue to the north and west.

Alameda CTC has reviewed the responses to our comments included in Section 2.0 of the Final Environmental Impact Report (FEIR) and finds that they adequately address our comments.

Thank you again for the opportunity to comment on this EIR. Please contact me at (510) 208-7426 / SSuthanthira@alamedactc.org or Chris Van Alstyne, Assistant Transportation Planner at (510) 208-7479 / cvanalstyne@alamedactc.org, if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Saravana Suthanthira". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Saravana Suthanthira
Principal Transportation Planner

cc: Chris Van Alstyne, Assistant Transportation Planner

file: R:\Planning_Policy_Public_Affairs\Planning\CMP\LUAP\2017\February