



Oct 24, 2003

Diane Henderson, Project Manager  
City of Oakland Community and Economic Development Agency  
Planning and Zoning Division  
250 Frank H. Ogawa Plaza  
Oakland, CA 94612

RE: Draft Environmental Impact Report for the Jack London Square Redevelopment Project  
Case File Number ER03-0004

Dear Ms. Henderson:

Oakland Heritage Alliance appreciates the opportunity to comment on the DEIR for Jack London Square.

The first section of this letter pertains to the DEIR review and approvals process for the project. The second section addresses aspects of the DEIR which relate to historic and cultural resources. The third section is a listing of miscellaneous detailed comments on various passages in the DEIR.

OHA is leaving most comments on air quality, parking, and transportation to letters anticipated from the neighbors of the project. We feel that these are important factors, with enormous impacts which may hinder the success of the project and may have deleterious impact on nearby historic areas, but are limiting this letter to the issues with which our organization is most familiar.

#### **PART I: DEIR REVIEW AND APPROVALS**

##### **INSUFFICIENT TIME FOR REVIEW OF THE DEIR**

OHA on October 2 requested that the deadline for these comments be extended. The request was not frivolous; we found that due to the size, expense, and complexity of the proposed project, it would be difficult to comment fully in the time allotted. Indeed, we noticed that it was somewhat overwhelming to the planning commissioners, not having sufficient time nor enough discussion to fully air all the many issues. Some important issues were never raised at all in the hearings.

We received no written reply to that request, but heard a staff assertion during a planning commission meeting that 45 days is enough. There was no ensuing motion nor any discussion. Thus, we are here making our comments with misgivings, and not as well organized or as well edited as they could be. We know that no matter how limited the time for study and discussion, we are supposed to raise all the substantive issues now. Yet it seems that some areas of concern inevitably will remain, to ambush us all later on.

## **PREPARE A REVISED DRAFT EIR**

Because substantial additional work must be done, and many questions newly addressed, we strongly believe that a “Revised Draft EIR” must be presented for public discussion before proceeding to a Final EIR. We hereby request that the staff and commissioners include taking such a step as an agenda item at a meeting before taking any further action on this project. We do not have confidence that the usual level of response incorporated into the FEIR stage will be sufficient for a huge project that may be in progress for twenty years in a climate of rapidly accumulating impacts.

## **PHASED REVIEWS AND APPROVALS**

There must be a clear, public mechanism for revisiting this project’s environmental impacts as each phase of construction is contemplated. There must be a review of the design features and project effects before each part of the project proceeds. These reviews must occur in public, such as before the Planning Commission, not behind closed doors in staff offices. While current staff may be highly competent, there is no guarantee of institutional memory, nor of the hoped-for high quality of review, in an era of severe budgetary restriction at the planning department. The most reliable body of information about the waterfront area lies in the citizens of Oakland, many of whom have lived here for decades as projects come and go.

## **POSSIBLY INSUFFICIENT DISTRIBUTION OF REQUESTS FOR COMMENT**

We questioned in our letter whether comments had been actively sought from all of the relevant regulatory and other related public agencies, since many of the development issues will be within their purviews. Because there were two notices of preparation, at widely separated times, we feel that some agencies may not have realized that they should comment on the present report. Please provide a list of agencies required or requested to comment.

## **ISSUES TO BE RESOLVED (ALTERNATIVES INSUFFICIENTLY STUDIED)**

We take particular exception to the section in the summary, “E. ISSUES TO BE RESOLVED.” This section seems to say that the environmental impacts and mitigations for alternatives don’t require detailed study within this document, and should be left until later. How can we support the approval of a project, its design and this EIR when the mitigation measures and preferred alternatives for something with such major effects are not described? Apparently some of these alternatives may be more likely to be built than the maximum envelope analyzed in the EIR. So the discussion under the DEIR applies to a project not intended. This does not serve the public, nor the project. We are constantly assured that the project “will be smaller” but we don’t really know how much smaller, and the request is for “entitlements” at the largest size. This makes mincemeat out of any program of mitigations. The mitigations listed are insufficient, so cannot form a basis for later action.

If the project proponent plans a smaller project, then study that. Subsequent plans for a larger design can be addressed in a Supplemental EIR at a later date, as not infrequently occurs.

We hope that “flexibility” as used here is not a callous euphemism for getting approvals on an informally-promised smaller project and then if the market allows, building a much larger one.

## DEIR INADEQUATE, INCOMPLETE

The “ISSUES TO BE RESOLVED” paragraph alone leads us to find the DEIR inadequate and incomplete, and means that the project cannot proceed unless the city plans to require a Supplemental EIR for each relevant phase of the project. However, several other sections are deficient as well.

## PART II: HISTORIC AND CULTURAL RESOURCES

Some or all of the relevant specific information on historic buildings, districts, APIs, and ASIs from the Oakland Cultural Heritage Survey ought to be included in the EIR. The general descriptive text from the survey will inform the reader more thoroughly than the brief summaries provided in the body of the document.

*Inadequately or not at all studied in this DEIR analysis, and subject to very significant impacts:*

### • THE PRODUCE MARKET

For some reason, the Produce Market is not included on page IV.E-13 in the list of historic resources impacted by the project. This intact group of early-20th-century market buildings is of great importance and must be included as a historic resource. The standards under Historic Preservation Policy 2.2, 2.4b and 2.4c would require that this area be studied and effects upon it be mitigated. There is no careful description of which blocks are involved, nor detailed study of potential traffic and pedestrian circulation between this area and the proposed project.

The proposed project appears to derive some of the inspiration for its program from the historic food-related uses represented by the historic Wholesale Produce Market. In a classic case of killing the golden goose, the proposed project may well push the Produce Market out of existence. Alternatives should be presented and thoroughly studied to address how this project could foster the historically appropriate use of the Produce Market. This could provide synergy, rather than damaging both areas. Alternatives could include such ideas as:

#### 1. PRODUCE MARKET CONNECTION PLAN

Create a direct connection between the Produce Market area and the proposed project, perhaps considering a food-related use in 66 Franklin, and enhanced connections between them. The proposed Harvest Hall is not as well-aligned with the Produce Market area as is the Franklin building, and with the potential for “unwrapping” the 66 Franklin building, it could provide an interesting transition from the new project to the older area.

Address the many traffic consequences that would have impacts on both areas; the early to mid-morning use of the Produce Market street areas for unloading and sales seems to lead to an inevitable conflict with rush hour access to the proposed project. How will this Produce Market use be preserved? How can the Produce Market businesses be encouraged rather than pushed out?

#### 2. PRODUCE MARKET RE-USE PLAN

With the city staff, work to come up with a relocation and re-use plan for the Produce Market businesses that allows historic preservation of the area, and development of a re-use that interacts appropriately with the proposed project. Study the best way to link the projects, providing good pedestrian connections and protection from traffic so that the whole area can thrive.

### 3. PRODUCE MARKET COOPERATIVE IMPROVEMENT PLAN

Design a common-use truck loading area that could facilitate the movement of goods into both the Produce Market area and the proposed project. Since the truck deliveries required by the new project are given short shrift in this EIR, and the train use of the tracks almost ignored, it should be possible to consider this alternative along with an improved traffic study of the whole area.

### 4. THE BENIGN COHABITATION PLAN

Research how to have the fewest deleterious effects on the Produce Market, and implement a special traffic agreement that preserves the morning access required by its businesses, requiring tenants and users of the new project to accommodate to the Produce Market, rather than the other way around.

#### • THE WATERFRONT WAREHOUSE DISTRICT

The analysis of the relationship to the adjoining Waterfront Warehouse District is inadequate. OHA defers to anticipated letters from the neighborhood, but would like to reiterate that this historic designation should not be shrugged off. Mitigations must be proposed so that decision-makers can see how the impacts can be reduced.

#### 1. SITE DESIGN IMPROVEMENT MITIGATION

Alternatives should be presented, showing ways to mitigate the impacts of traffic, blocked views, and increased parking problems on this valuable historic district. In particular, the position of the gigantic parking structure between the Waterfront Warehouse District and the waterfront does not respect the historic resource. An alternative should be studied which provides for a modified garage solution, even if it requires the project to be smaller, with reduced parking demand. View analysis from this neighborhood should be more detailed. Potential provision of open space which could serve this neighborhood as well as the proposed project should be discussed in detail.

#### 2. CIRCULATION IMPROVEMENT MITIGATION

Mitigations must be required, to route traffic in the least disruptive pattern for the new and old residents of the neighborhood. Possible transportation alternatives not sufficiently studied in the present DEIR include: a) cooperative planning with AC Transit to provide dense, frequent, convenient shuttle service or other free service from the project to 14th Street (current bus frequency is too low to encourage transit use). b) Innovative solutions such as pedicabs, to facilitate tourist travel around the project and neighborhood, and up to BART, possibly including protected bike and pedicab lanes along a north-south street. c) Short-term Carshare promoted as an alternative to car rental, for projected hotel users and other visitors, could reduce the number of rental cars brought into the area and could provide incentive to "try something new."

#### 3. NEIGHBORHOOD PROTECTION MITIGATION

The DEIR should study how best to protect the Waterfront Warehouse District from further incursions of out-of-scale building, and consider mitigations such as property improvement programs of some sort, under the aegis of the city, to encourage appropriate preservation and interior improvements to the contributory buildings.

- **LOWER BROADWAY**

The visual relationship of the project to the historic buildings of lower Broadway must be further analyzed. Under the Oakland General Plan, the idea is not only to preserve some of the historic fabric of the city, but to make sure that the areas have good built relationships and avoid jarring juxtapositions. Alternatives should be prepared:

1. IMPROVED DESIGN AND PLANNING AT BROADWAY ENTRY

The EIR should more thoroughly address this important gateway into the downtown area, going north, and into the project area, traveling south on Broadway. Transportation, railway, transit, pedestrian conflicts could make a big mess of this intersection, which by rights should be a true gateway between Jack London Square and downtown Oakland.

2. OVERLAND HOUSE PRESERVATION AND IMPROVEMENTS

The EIR should address the historic preservation potential of the Overland House, and how it can relate to and enhance the proposed project, across the street. Nearby buildings should be designed for a good scale relationship to this building.

- **HISTORIC DOWNTOWN OAKLAND**

Missing from the EIR entirely is any discussion of the worrisome potential for the proposed project to draw energy and people from the central Broadway area. It is surely an environmental effect to hasten the development of peripheral zones while sucking the life out of the central city.

In order for this project to provide synergy instead, the issues must be discussed and confronted. For example, how does the proposed hotel comport with the existing and hoped-for hotel developments near 12th Street, including the historic Washington Inn? How will the city-subsidized, historic, food-oriented Swan's Market compete with this new project? How will the 100-year-old Ratto's be affected? Perhaps it can all be done, and everything will be fine. However, the issues are not discussed at all here, and yet many historic resources could be put at risk for their viability.

*Studied, but without adequate discussion of possible mitigations under Subalternative, page V-12*

- **HEINOLD'S FIRST AND LAST CHANCE SALOON**

We reject any possibility that Heinold's be demolished, and oppose any finding that this would be acceptable. Moreover, we reject its inclusion in any adjoining building. We reject completely the proposal to demolish part of this tiny building. There is no possible need for land so great that the 1500 square feet represented by Heinold's would have to be occupied at all by this enormous development. We support the mitigations E.3a, b, d, and f to protect the building during construction, but further, recommend that the proposed project be designed such that it is far enough away from Heinold's to be certain not to endanger it.

Measure E.3c sounds dangerous, unwise and should be avoided. The EIR does not address how exactly one could accomplish moving the building and then replanting it without serious loss of authenticity, and a terrible interruption of business. In fact, we see no discussion whatsoever of the fiscal threat to this small but important historic business. Continuous operation is an integral aspect of the cultural resource. Address a better mitigation which shows how to do the project without having such a huge impact on this tiny business and its customers.

The subalternative on page V-12 seems to be a good beginning for a study of how to handle Heinold's relationship with the F1 building, regardless of how the rest of the proposed project is designed. More detailed description is required to show how the adjoining building could step

down to Heinold's so as not to make the scale shift seem ridiculous and trivializing. While the "project sponsor's objective of incorporating it into the Site F1 structure so that it would be viewed as a key feature as visitors go down the escalator. . ." would not be met, it is not a reasonable objective. Study the possibility of including some transitional neighboring structures which are closer in scale to the size of the saloon.

Assess seriously the possibility of assembling a more meaningful context around the saloon to help educate visitors and memorialize Jack London himself, preferably in a less -than-intense retail context. Perhaps the not entirely historic, but interesting cabin, the wolf-related items, and any other available historic or evocative materials could be combined to make a connection for visitors. Mr. London was no retailer, but his intense relationship to the sea and to nature could reasonably be evoked in this area of the project. This might require keeping some distance from an escalator, however. Include better simulation of views around Heinold's; if the view on Figure IV.I-8 is accurate, it seems that new buildings should be held back so that their looming over the small area dedicated to thinking about Jack London would not have a farcical effect.

- **TRAINS, TRAINS, TRAINS**

- (IF NOT A HISTORIC RESOURCE, A HISTORIC REASON FOR OAKLAND'S EXISTENCE)

It is remarkable that the train tracks are barely mentioned. (Is Union Pacific in on this discussion?) This project should study ways to make the best of the train track factor, rather than asserting (incredibly, and very wrongly) that the trains have no traffic impact. Their absence from the traffic analysis means that one of the most salient features of going to Jack London Square is omitted. Possible mitigation measures worthy of study include:

1. **THE TRAIN APPRECIATION ALTERNATIVE: A CULTURAL RESOURCE**

Following the old "make lemonade" philosophy, the EIR and the project should address the trains and train tracks as part of Oakland's historic *raison d'être*. Find ways to incorporate the trains' presence into the experience of being in the project, rather than turning the project's back on them. Provide educational and historical material to enhance the train track delay experience. In particular, capitalize on the fact that many children don't get to see trains up close. Discuss with Union Pacific the possibility of doing some kind of train-friendly exhibit or sponsorship of historic train cars as part of the project, or as a nearby attraction.

2. **"TURN OFF YOUR ENGINE" PROGRAM**

The contribution to air pollution; the general dismay when a long freight is coming through; the tension fostered in drivers who are in a hurry; the tendency toward barrier-running of pedestrians: all are serious problems at the track crossings. One simple mitigation worthy of study is a program incorporating some well-designed signs (and even an ordinance?) requiring the waiting auto driver to switch off the automobile engine. Another is to add some train-oriented things to look at that will encourage people to enjoy (or at least not hate) the experience. Street performers?

3. **NO ENGINE IDLING IN THE WHOLE DISTRICT?**

The EIR absolutely must address mitigations for the serious effects of train crossing delays in the project area, the Produce Market area, and the Waterfront Warehouse District. Study the possibility of a general prohibition on truck and car engine idling at all times, to reduce air pollution and noise. (The Grand Avenue Safeway has such prohibition signs posted for its loading dock, as a result of considerable discussion with the surrounding neighbors). The shortage of creative alternatives is a serious weakness in the document.

• 66 FRANKLIN

We are intrigued at the suggestion that 66 Franklin could be “unwrapped” and though it would still not be a registered historic landmark in pristine condition, think that it might have value as an interesting transitional building. We would welcome further development of this idea. It seems far preferable than building the much larger new building on that site.

**PART III: OTHER COMMENTS**

Page II-1: The proposed project is certainly not generally consistent with the General Plan and Estuary Policy Plan. It is in some ways in conflict, in other ways in agreement.

Page II-8: A mitigation should be studied which integrates project shuttle services with AC Transit services. As currently scheduled, AC Transit does not make enough trips to the project area to serve as an inducement to commute or visit by bus. The EIR should address whether an integrated plan in which the project and AC Transit work together instead of in parallel would better serve the public and the project, and might achieve higher usage levels. Has AC Transit been included in project-related discussions?

Page II-37: OHA disagrees that the project would have less than significant impacts on nearby historic districts and areas of primary and secondary importance. To the contrary, many major impacts can be predicted. Mitigations must be proposed and studied.

Page III-3: The Egghead Lofts is repeatedly mentioned; properly it seems to mean the building known as the Egghouse. The former “Iguana Ameramex” name has here been conflated with “Black Sea Gallery” to make an unthinkable cultural melange. The Oakland Metro theater space might usefully be included in the listing.

Page III-4 insert after “structure” that Heinold’s is on the National Register of Historic Places.

Page III-4 note that without sufficient funding, and with restricted assembly spaces, the Fourth of July celebration is endangered and could be discontinued. The breaking up of public assembly spaces may limit the ability of the farmer’s market to continue, and may diminish the visibility of boat events from the shore, since new buildings will block views in a number of places. The DEIR does not adequately address the impact of the new project on the public use of the spaces in the Jack London Square Area for some of these events. (“public uses and activities,” III-9) Much more discussion of the waterfront trail is necessary. Is there a continuous trail along the water, or not?

Page III-4 is egregious in its promise of building “less than the maximum envelope” while still asking for approval for the most enormous of developments. Require additional environmental review if the project is larger than the designs approved; do not approve the EIR based on a promise that it will really have less effect. Require large mitigations and alternatives for larger projects.

Page III-9 is disturbing in its promise of “glimpses” of the estuary. It might be nice to have some wider “views” wherever possible. The view analysis is weak, and these “glimpses” or views down corridors at Clay, Washington, Broadway, Franklin, Webster, Harrison and Alice are not shown in the visualizations. (There’s an angled view at Broadway) There should be some consideration of night views, and limiting the light pollution generated by the project. One of the pleasant aspects of visiting the waterfront in the evening is the presence of dark areas and distant lights around the

bay, not blazing areas as shown in one of the developer's design sketches. If the project is to be active at night, then the visual aspects should be comprehensively addressed.

In general, the DEIR should address potential use of green building standards; a project of this size should be designed for innovative and radical minimization of impacts on energy consumption, water use, solid waste production, as well as air pollution and traffic loads. The project should act as a good example to others, and go an extra way to minimize its impacts.

Page III-10: OBJECTIVES: DEIR asserts that the project fosters "Public activities that are oriented to the water" but it seems to wall off the marina, views of the water, and water-related uses. The promised cooking school and other proposed activities do not seem to be particularly "water-related." As noted above, the DEIR could do much better in analyzing how the project could go further in "respecting cultural and historical resources. . ." While there are some open spaces, it is not clear that any of them would be large enough to accommodate even the current open space uses, such as the farmer's market and July Fourth events, and the DEIR does not address this issue.

Page III-10: OBJECTIVES/USES: It is odd to suggest creating yet more office space when there is a glut all around the Bay Area. The DEIR should address the reasonableness of such a use, and whether it might conflict with the goal of keeping City Center and other downtown Oakland areas viable.

The idea that we should build "close to a variety of modes of transportation, including several mass transit nodes" is nice, but it is not competently addressed. The project is far from BART and bus transit is not well-addressed nor planned for. The train is close by, but not really configured for local transportation. The DEIR is not adequate at all on this topic.

Page III-11 OBJECTIVES/SITE PLANNING: It is objectionable to speak of integrating a development with historic districts and elements by swallowing up Heinold's, competing with and choking the Produce Market, and presenting a garage facade to the Waterfront Warehouse District. The objective is not well-enough framed, and the analysis is inadequate. "Integrating" should mean "working to enhance the project's relationship to its surroundings and to support the longterm viability of historic areas."

In order to enhance the outdoor area at the foot of Broadway, considerable further analysis is required. Providing sufficient parking may not be possible if the project is too large. It should probably be scaled down to a point where access is not the Achilles heel of the whole thing. As stated before, the view corridors are inadequately studied.

Page III-12: APPROVAL PROCESS: This page contains a quite astounding passage, a request for **"A VARIANCE TO SUSPEND THE MINIMUM RADIUS REQUIREMENTS APPLICABLE TO FAST FOOD RESTAURANTS. . ."**

The project proponents have repeatedly discussed their high standards and goals for a kind of development that might be described as "slow food." Fast food restaurants generate litter, create substandard jobs, are too numerous already, provide inferior nutrition, tend to be operated by chains (which induces a ghastly sameness coast to coast), destroy a sense of place, and emit smells of grease. The EIR must address this passage and the proponent must explain their intentions. This is a business type of which it is possible to have way too many, in a precious waterfront location. One would think that the deep fat fried ambience of some waterfronts is not one to be emulated. It is at cross purposes with marketing the place as a mecca for gourmets. It seems the antithesis of the project goals.

Page IV.A-1. LAND USE

Has the State Lands Commission reviewed this huge project?

Page IV.A-3. Project site land use: Again, please address the project with respect to how public use will be fostered and accommodated.

Page IV.A-5. Ninth bullet: This paragraph is the basis for our request that effects on other parts of downtown Oakland must be considered as part of the DEIR. The “strong core area” could be affected by this development on its periphery, and by a duplication of uses which might be more appropriate further up Broadway.

Page IV.A-6 “Facilitate and promote downtown Oakland’s position as the primary office center. . .” This paragraph provides a basis for questioning the inclusion of office uses in the proposed project.

Page IV.A-7 “Concentrate. . . ‘destination’ commercial development in the . . .” This paragraph again reinforces our concern that the proposed development should be studied for its potential to compete with commercial development in important downtown areas.

Page IV.A-7 Housing in this area would be relatively far from BART stations, and would benefit from more solid and comprehensive transit study and recommendations.

Page IV.A-8 EIR should address provision of public restroom facilities.

Page IV.A-8 EIR should address “public, educational and interpretive information. . .”

Page IV.A-9 EIR assumes there are no “plant or animal habitats” and in a sense this is true, but the development plans could make this situation worse by installing more landscape of concrete, grass (water-using, non-native, fertilizer-run-off-generating) and non-native palms. Some attempt could be made to provide tree cover for migratory birds, eschew grass for other ground covers (which may help to discourage geese, too) and find planting spaces for plants which will encourage beneficial predators and other small wildlife. The general tendency to pave the whole waterfront should be resisted.

Page IV.A-9 “Access to transportation corridors and transit should be provided” This seems one of the weakest parts of the DEIR, with virtually no suggestions pertaining to enhanced development of mass transit.

Page IV.A-12. Although the DEIR asserts that the project “would be consistent” with objectives and policies identified in the preceding passages, it would be just as accurate to assert that the project “would be inconsistent.” It is a large project, with many aspects that could be described either way. In general, the pedestrian-oriented aspects are extremely local, depend upon driving into the area, and are not terribly well coordinated with accessing other transit modes.

Pave IV.A-12. It is difficult to understand the point of the third paragraph on this page, which teeters on the edge of gobbledegook. It seems to merely say “If housing is built it will meet housing objectives. If housing is not built it will not meet housing objectives.” Is this translation correct?

Page IV.A-13 General Land Use and Shoreline Access Objectives.

It is apparent that in some ways the project does not conform with the Estuary Policy Plan. Asserting that it does will not make it so.

Page IV.A-16. It is disappointing to see the truncation of the "Meadow Green" Is the new building necessary?

Page IV.A-17, 19. Is it necessary to put buildings in the middle of the Broadway/Franklin Plaza? What will this do to "continue to stage special events" and to the popular farmers' market? It seems to be described as inconsistent in the EIR text. Perhaps these should not be built.

Page IV.A-19. The discussion of how the residential uses in the MUD area fit in seems vague, garbled, and uncertain. We can't tell how to react to it. For the purposes of the EIR, the discussion is inadequate.

Page IV.A-27. Study of fast-food restaurant density exemption should be included. There is nothing at all on this topic. Study whether this exemption is necessary at all. At the very least, if fast food is to be allowed, require mitigations such as: provision of nutritionally valuable foods, restriction of packaging materials to eliminate all styrofoam and similar nonbiodegradable, marine-life-endangering products, and mounting an aggressive recycling program. Require a program preferring locally-owned independent non-franchised businesses over chain establishments. Institute a living wage provision.

Page IV.A-28. Sixth bullet. How do the massive buildings help to preserve views? Again, inadequate views discussion. One has to bear in mind that the view FROM a building is quite different than the view OF a building.

The opportunity to discuss this project with the Planning Commission and with the developers is most valuable. We are optimistic that something good will result from the earnest efforts of the developers and the hard work of the staff and appointees. It is possible that with further discussion, some of the issues could be made clearer and citizens would worry less. But in its present form, there are many gaps and inadequacies which must be remedied. Again, we urge the staff and the commissioners to provide for public review of a Revised Draft EIR so that all these issues can be ironed out before the final EIR is presented for review.

Thank you for your consideration.

Sincerely,



Naomi Schiff  
Oakland Heritage Alliance