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Delivery through electronic web portal

April 22, 21

Attn: Peterson Vollmann, Planner IV
City of Oakland
Planning & Building Department
250 Frank H. Ogawa Plaza, Suite 2114
Oakland, CA 94612

Re: Draft Environment Impact Report for the Waterfront Ballpark District at
Howard Terminal, Oakland. (Project # ER18016)

Dear Pete,

I am writing on behalf of my client, the Jack London District Rail Safety Working Group (RSWG), to comment on the above-referenced Draft Environmental Impact Report (DEIR). The RSWG is composed of a wide range of residents, home and business owners, employees and other interested parties in the Jack London District (the District). The RSWG is enthusiastically supportive of the Waterfront Ballpark District at Howard Terminal (Project) with its anticipated major uplifting impact to the surrounding area, particularly in the District. However, the RSWG believes that the DEIR is deficient in its treatment of Project-associated transportation impacts, and more specifically, impacts on pedestrian safety from Broadway to Oak Street that are excluded from the proposed rail safety zone from Market Street to Broadway.

Under the California Environmental Quality Act (CEQA), an EIR is required to evaluate all significant project impacts, regardless of location. In particular, an EIR may not artificially truncate the geographic scope of its analysis to exclude consideration of potentially significant project impacts. In failing to identify and address the pedestrian safety impacts that the Project will have at the rail crossing east of Broadway, the current DEIR is deficient, as it fails to identify and, if possible, mitigate all significant impacts caused by the Project.

The DEIR identifies potentially significant pedestrian safety impacts along the railroad corridor on Embarcadero Street resulting from increasing numbers of pedestrians heading to and from the Project site, particularly when there are events happening at the Project. The RSWG agrees that there is a potentially significant pedestrian safety issue associated with the Project, and specifically at rail grade crossings that pedestrians would have to negotiate in going to and from the Project site. The DEIR proposes to mitigate those potentially significant impacts by creating a rail safety zone extending from Market Street to Broadway along Embarcadero Street (TRANS-3). The RSWG agrees with the DEIR that these upgrades are needed. However, the RSWG believes, based on its evaluation of pedestrian traffic and the pedestrian traffic estimates provided in the DEIR, that the rail safety zone improvements need to be extended east of Broadway to Oak Street if the Project's significant pedestrian safety impacts at affected rail grade crossings are to be adequately mitigated.

The DEIR includes figures assigning the expected increase in pedestrian traffic to various pedestrian routes when an event occurs at the Project (e.g., an A's baseball game). (See DEIR at p. 4.15-168 and Figure 4.15-46.) According to the DEIR,

“Pedestrian trips were assigned based on route directness and expected quality of the pedestrian experience.” Nothing in the DEIR or its appendices, however, provides any further information about how those assignments were made. Shouldn't the simplicity of the path also influence trip assignment? For example, proceeding directly down Oak Street from the Lake Merritt BART station and then turning right onto Embarcadero West would certainly be the simplest route from Lake Merritt BART to the Project. Shouldn't that path be favored over one involving multiple turns at unsignalized intersections?

To what extent were more “direct” routes presumed to be favored, and by how much? How was the “quality of the pedestrian experience” evaluated? How were these two factors balanced? Would a slightly longer route, but with a “better” pedestrian experience be favored or disfavored, and by how much? For example, for pedestrians arriving at Lake Merritt BART, or returning from the Project to that same BART station, the walking route along Oak Street through the District would pass dozens of restaurants, bars and entertainment venues between Lake Merritt BART and the Project, especially along Water Street (see attached Appendix A). Further, Figure 4.15-46 only identifies pedestrian routes for arrival at the Project. What about trips returning from the project? The two would not necessarily be the same. Does the trip assignment take into account the expected desire of patrons at Project events for after-game food, drinks, or other entertainment? Shouldn't that be taken into account in making trip assignments? The District features more than 10 breweries, taprooms, wineries and tasting rooms that are part of the popular “Oakland Ale Trail.” These destinations can be expected to try to capitalize on game day activity by staging, and advertising, post-game promotions. Those promotions will undoubtedly make the route through the District at least as desirable as the route along 8th street indicated in Figure 4.15-4, which features fewer such venues.

The DEIR (p. 4.15-7) identifies that “the study area was expanded beyond the one-half-mile radius along these corridors because pedestrians are expected to use them to walk between the Project site and transit/downtown.” However, as highlighted in the figures shown in Appendix A (the ½ mile radius indicated by the dashed circle), areas well within the ½ mile radius, and just beyond, were not included in the pedestrian counts provided in the DEIR and its appendices. Despite not including any pedestrian counting analysis in the area highlighted in Appendix A, the DEIR nevertheless includes estimates of pedestrian traffic through that same area, without any explanation of how those estimates were derived. Its conclusions, unsupported by evidence in the record, must be considered arbitrary and capricious. In fact, the RSWG believes, based on many years of experience with pedestrian preferences traveling to and from special events, that the DEIR's estimates of this pedestrian traffic substantially underestimate the pedestrian traffic likely to opt for a route to/from Lake Merritt BART and nearby parking going through the District. The DEIR does identify certain wayfinding measures intended to direct foot traffic through Chinatown. However, pedestrian attractions along routes through the District can also be expected to take actions to entice pedestrians to travel through the district.¹ Consequently, it should be expected that at least as much of this foot traffic will opt for a route through the District, its waterfront venues and its bars and wineries, as opt to travel by way of Chinatown.

The DEIR's section discussing Impact TRANS-3 includes a table (Table 4.15-42, at p. 4.15-233) showing expected project-related pedestrian rail crossings at five intersections, from Market Street to Broadway, but does not include data for any

¹ For example, bistros could offer special pricing to patrons holding a ticket/ticket stub from that day's game or event.

crossing east of Broadway (see also DEIR Appendix TRA Part 1 – Chapter 10 – At-Grade Rail Crossings, also identifying only the crossing at Broadway and those further west for improvement). Further, there is no explanation in the DEIR or any of its appendices of how the number of pedestrians shown in the table was derived. Indeed, based on the lack of any explanation or analysis of the trip assignments, they appear to have been made on a purely subjective basis and appear to be arbitrary and capricious. Without evidence showing what kind of data was collected, when and how, and how it was processed to produce the numbers in the table, those numbers are not supported by any substantial evidence. We note that detailed pedestrian and traffic counts were taken at more than 30 locations which are detailed in Appendix 13 Part 1, page 222 (Section 3.1.1. Data Collection) and Appendix 13 Part 2, pages 1-184, but, at least in the information provided in the DEIR and its accompanying appendices, none were taken at the intersections bound by Broadway and Oak street, and Embarcadero and 4th Streets (the area highlighted in Appendix A to this letter).

Table 4.15-36 (at p. 4.15-185) identifies railroad safety improvements to be implemented at five pedestrian railroad crossings (MM TRANS-3a). These improvements are also discussed in Table 4.15-41 (p. 4.15-220), which discusses their consistency with provisions of the Downtown Oakland Specific Plan. That Plan calls for improvements along the railroad right of way to facilitate establishments of a “Quiet Zone” – i.e., an area where safety improvements allow trains to go through grade crossings without sounding their horns before each crossing. The DEIR concludes that the improvements to the five pedestrian crossings it proposes are consistent with the Downtown Oakland Specific Plan, but does not explain why the crossings at Franklin Street, Webster Street, and Oak Street, also identified in that specific plan, are not also being improved to address the pedestrian safety impacts of the Project.

Appendix 13, App. TRA-Part 2, includes a December 1, 2020 memo re: Howard Terminal – Site Assessment and Construction Assessment (at p. 507 of the pdf file). Section 2.2 of that memo (starting at p. 9 of 18 - p. 515 of the pdf file) addresses rail crossings. At pp. 11-12, the memo discusses all eight of the railroad grade crossings between Market Street and Oak Street, and their characteristics. It identifies one pedestrian fatality at Franklin and one at Webster. Shouldn't that history of recent pedestrian fatalities at railroad grade crossings be taken into account in evaluating the need for pedestrian safety improvements at the crossings? By contrast, Table 2 of the memo repeats the data shown in Table 4.15.42 of the DEIR. Again, only data for crossings at or west of Broadway are shown. Why were the grade crossings east of Broadway omitted?

The DEIR makes multiple references to a May 31, 2019 study by RSE, Inc., “Oakland A's Howard Terminal Project Railroad Corridor and Grade Crossing Improvements” (the Railroad Study). The recommendations in TRANS-3 appear to be derived primarily from the recommendations of this study (ref 4.15-93). However, the Railroad Study provides no information about pedestrian access to the Project site involving any railroad grade crossing east of Broadway, and may have even assumed there would be no at-grade crossings east of Broadway: “Assuming only the existing 5 at-grade crossings are retained *without any additional access* to the development site at Full Buildout...” (Railroad Study at p. 4 of the pdf file [emphasis added]). It is as if the areas east of Broadway, including the railroad grade crossings at Franklin, Webster, and Oak Streets, had simply dropped off the face of the earth!

The Railroad Study does not, however, totally ignore the area east of Broadway. The section titled “Proposed Fencing Improvements” (at p. 7 of the pdf file) refers to the open rail corridor, “...from west of Market Street *to Webster Street.*” [emphasis added]. After noting that currently, “striping and signage are designed to restrict certain

movements,” the study goes on to note that, “physically vehicles, pedestrians, and bikes may freely cross the tracks at any location, not just at the designated grade crossings.”

Of the recommendations made by the Railroad Study, one explicitly calls for adding fencing in this exposed rail area, “To restrict all movements to the signalized at-grade crossings, a fence is proposed to be installed parallel to the UPRR tracks on both the north and south side of the tracks, between the at-grade crossings.” The text of the Railroad Study specifically refers to the need for this fencing between the at-grade crossings at Franklin and Webster, but the accompanying diagrams show the improvement stopping at Broadway. The DEIR includes this mitigation in TRANS-3, but, following the diagrams rather than the text of the Study, ONLY for the section of the exposed rail lines west of Broadway (i.e., between Market Street and Broadway). TRANS-3 excludes the recommended mitigation east of Broadway. The DEIR provides no rationale for restricting this pedestrian safety improvement to the area west of Broadway, and RSWG can see no justification for it.

The following table from the Railroad Study summarizes the pedestrian traffic expected at five of the at-grade crossings with and without the ballpark, but makes no mention of the adjacent three at-grade crossings (Franklin, Webster and Oak Streets). It is hard for RSWG to understand why the consultant preparing the Railroad Study evaluated these five grade crossings (with 5,300 – 11,600 pedestrians estimated at each), but not the three immediately adjacent grade crossings, which could be expected to show as much if not more pedestrian traffic. This is particularly so as the intersections at Franklin, Webster and Oak streets lead directly to the Jack London Square area, with its bars, restaurants, and other attractions.² In short, the RSWG infers that the scope of the RSE study was artificially limited to these five crossings. The three additional crossings east of Broadway should have been studied and the Project’s impacts at those crossing analyzed.

Weekday Daily Crossings

Crossing	Development W/out Ballgame			Baseball Game		
	Pedestrians	Bicycles	Vehicles	Pedestrians	Bicycles	Vehicles
Market Street Crossing	4,100	--	18,200	6,800	--	3,900
Martin Luther King Jr Way Crossing	2,200	2,900	6,200	9,300	900	3,300
Clay Street Crossing	1,400	700	--	5,300	200	--
Washington Street Crossing	4,200	--	--	11,600	--	--
Broadway Crossing	5,900	--	--	9,400	--	--

Table from RSE “Railroad Study” identifying pedestrian volume at 5 of the 8 crossings that provide access to the Project. The crossings at Franklin, Webster and Oak Streets are omitted despite recommendations in the same document to extend the fencing to at least Franklin and Webster streets.

² It should be noted that the table states that it shows total weekday daily crossings, and apparently includes both crossings going to the ballpark and those returning from the ballpark. As explained earlier in this letter, one might expect a significant number of ballpark patrons to return to transit stations, including the Lake Merritt Station and the Oakland Amtrak Station, using crossings east of Broadway. Those numbers and resulting impacts are improperly omitted from the DEIR.

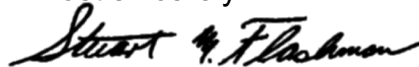
In Appendix TRA Part 2 (at p. 15 of 18, page 521 of the pdf file), the December 1, 2020 memo recommends that the applicant prepare and submit for City review a Diagnostic Review evaluating potential impacts at all at-grade crossings to determine whether there would be project-associated pedestrian safety impacts, and implement mitigation for any significant impacts identified. The RSWG believes that, rather than wait for such a post-approval study, which would violate CEQA (See, e.g., *Sundstrom v. County of Mendocino* (1988) 202 Cal.App.3d 296, 306 [mitigation measures based on post-approval studies are not acceptable mitigation for potential project impacts]), the EIR should now study the three additional grade crossings east of Broadway and if, as expected, those crossings also show significant pedestrian safety impacts, propose mitigating crossing improvements at all the railroad grade crossings between the Project site and Oak Street.

CONCLUSION

The RSWG agrees with the DEIR that the Project could potentially result in significant rail-crossing related pedestrian safety impacts, and that making improvement to the current pedestrian grade crossing of the Amtrak/UP rail tracks, along with related pedestrian safety improvements, would help mitigate those impacts. However, RSWG questions the DEIR's decision to limit those improvements to five current rail crossings. An additional three crossings, located east of those the DEIR identified for improvement, can also be expected to generate significant additional amounts of pedestrian traffic related to the Project. They would therefore also generate potentially significant pedestrian safety impacts and therefore would also warrant the same improvements to those grade crossings.

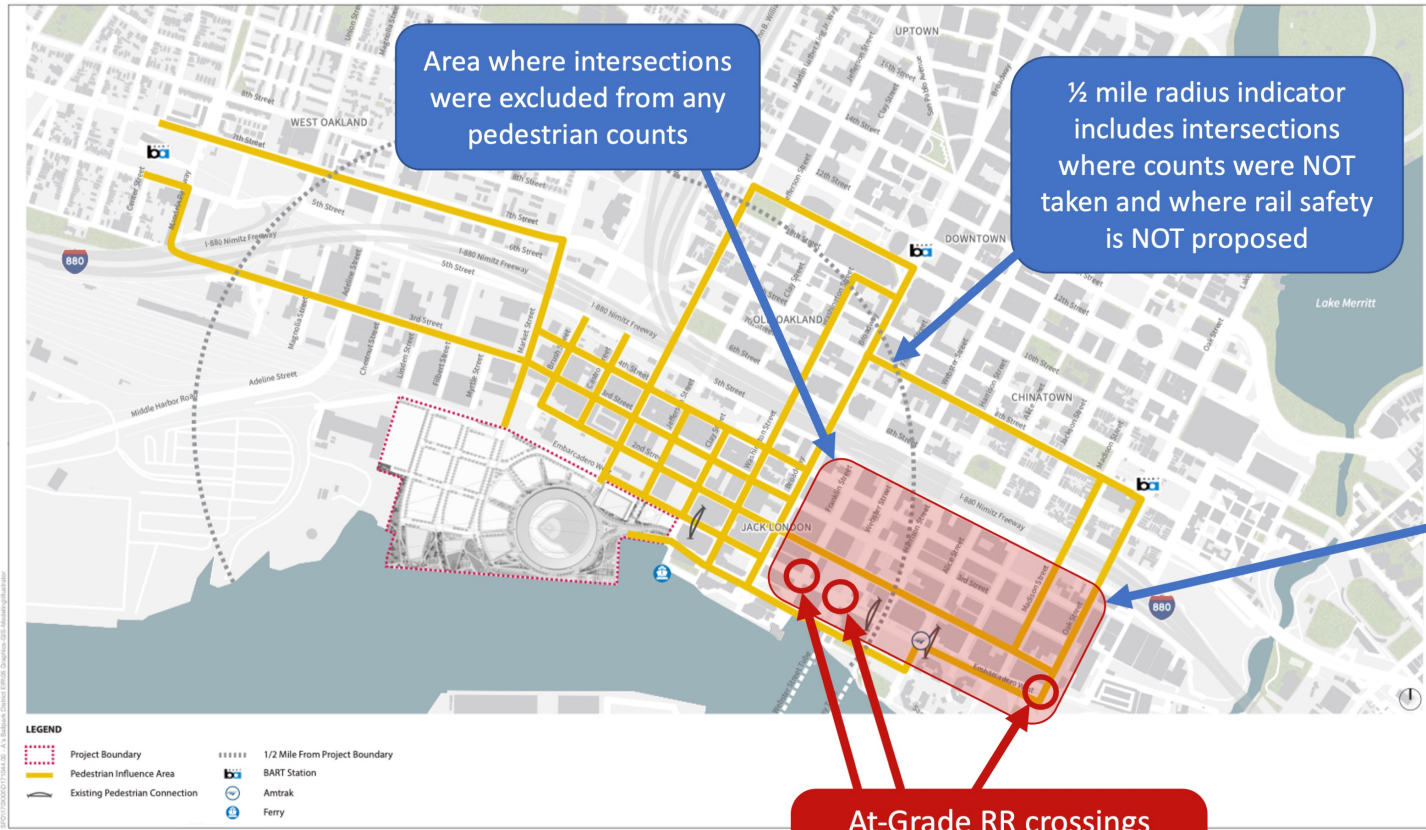
We look forward to seeing our comments responded to in the Final EIR for this important project. Please keep me informed of any further information on the Project or its environmental review.

Most sincerely



Stuart M. Flashman

Appendix A



SOURCE: Fehr & Peers, 2020

Oakland Waterfront Balpark District Project
Figure 4.15-4
 Pedestrian Influence Area

Bars, Restaurants and Entertainment Venues in the highlighted portion of the Jack London district where pedestrian counts were NOT taken and where rail safety mitigation is NOT proposed

- Belcampo
- Bicycle Coffee
- Blue Bottle Coffee
- Brooklyn West Winery
- Buckwild Brewing
- Chop Bar
- Dragon Gate Lounge
- Dyafa
- Esports Arena
- Eternal
- Farmhouse Kitchen
- Federation Brewing
- Forge Pizza
- Good to Eat Dumplings
- Grocery Café
- Heinholds Saloon
- Independent Brewing
- Merchant's Saloon
- Miette Bakery
- Minimo Wine Shop
- Nido
- Nido's Backyard
- Oakland Grill
- Oakland United Beerworks
- Original Pattern Brewing
- Peerless Coffee
- Seawolf
- Sierra Deli
- Tigers Taproom



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SOURCE: Fehr & Peers, 2020



Oakland Waterfront Ballpark District Project
 Figure 4.15-46
 Weekday Evening Arrivals - Pedestrians