

Final Environmental Impact Report

205 San Pedro Road Retail Project



Prepared by



In Consultation with



April 2021

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SECTION 1.0 INTRODUCTION

This document, together with the Draft Environmental Impact Report (Draft EIR), constitutes the Final Environmental Impact Report (Final EIR) for the 205 San Pedro Road Retail project.

1.1 PURPOSE OF THE FINAL EIR

In conformance with the California Environmental Quality Act (CEQA) and CEQA Guidelines, this Final EIR provides objective information regarding the environmental consequences of the proposed project. The Final EIR also examines mitigation measures and alternatives to the project intended to reduce or eliminate significant environmental impacts. The Final EIR is intended to be used by the City and any Responsible Agencies in making decisions regarding the project.

Pursuant to CEQA Guidelines Section 15090(a), prior to approving a project, the lead agency shall certify that:

- (1) The Final EIR has been completed in compliance with CEQA;
- (2) The Final EIR was presented to the decision-making body of the lead agency, and that the decision-making body reviewed and considered the information contained in the final EIR prior to approving the project; and
- (3) The Final EIR reflects the lead agency's independent judgment and analysis.

1.2 CONTENTS OF THE FINAL EIR

CEQA Guidelines Section 15132 specify that the Final EIR shall consist of:

- a) The Draft EIR or a revision of the Draft;
- b) Comments and recommendations received on the Draft EIR either verbatim or in summary;
- c) A list of persons, organizations, and public agencies commenting on the Draft EIR;
- d) The Lead Agency's responses to significant environmental points raised in the review and consultation process; and
- e) Any other information added by the Lead Agency.

1.3 PUBLIC REVIEW

In accordance with CEQA and the CEQA Guidelines (Public Resources Code Section 21092.5[a] and CEQA Guidelines Section 15088[b]), the City shall provide a written response to a public agency on comments made by that public agency at least 10 days prior to certifying the EIR. The Final EIR and all documents referenced in the Final EIR are available for public review at City Hall (333 90th Street) and the Serramonte Main Library (40 Wembley Drive) on weekdays during normal business hours. The Final EIR is also available for review on the City's website:

<https://www.dalycity.org/1008/205-San-Pedro-Road-Retail-Project>.

SECTION 2.0 DRAFT EIR PUBLIC REVIEW SUMMARY

The Draft EIR for the 205 San Pedro Road Retail project, dated February 2021, was circulated to affected public agencies and interested parties for a 30-day review period from February 22, 2021 through March 24, 2021. The City undertook the following actions to inform the public of the availability of the Draft EIR:

- A Notice of Availability of Draft EIR was published in the San Francisco Examiner;
- Notification of the availability of the Draft EIR was mailed to project-area residents and other members of the public who had indicated interest in the project, and posted at the project site and at surrounding parcels;
- Copies of the Draft EIR was made available on the City of Daly City's website:
<https://www.dalycity.org/DocumentCenter/View/4546/205-San-Pedro-Road-Retail-Project-Draft-EIR-PDF>

SECTION 3.0 DRAFT EIR RECIPIENTS

CEQA Guidelines Section 15086 requires that a local lead agency consult with and request comments on the Draft EIR prepared for a project of this type from responsible agencies (government agencies that must approve or permit some aspect of the project), trustee agencies for resources affected by the project, adjacent cities and counties, and transportation planning agencies.

The NOA for the Draft EIR was sent to owners and occupants adjacent to the project site and to adjacent jurisdictions. The following agencies received a copy of the Draft EIR from the City:

- Bay Area Rapid Transit
- Bay Area Air Quality Management District
- Bayshore Sanitary District
- City/County Association of Governments of San Mateo County (C/CAG)
- County of San Mateo Health Policy & Planning
- County of San Mateo Planning Department
- Greenbelt Alliance
- Housing Leadership Council of San Mateo County
- Jefferson Union High School District
- Metropolitan Transportation Commission
- Pacific Gas and Electric Company
- Regional Water Quality Control Board
- San Mateo County Transit District (SamTrans)
- San Francisco Public Utilities Commission

SECTION 4.0 RESPONSES TO DRAFT EIR COMMENTS

In accordance with CEQA Guidelines Section 15088, this document includes written responses to comments received by the City of Daly City on the Draft EIR.

During circulation of the Draft EIR, one comment letter was received from Arent Fox LLP writing on behalf of an adjacent business, City Toyota. The specific comments from this letter are presented with each response to that specific comment directly following. A copy of the letter is included in its entirety in Appendix A of this document.

ORGANIZATIONS, BUSINESSES, AND INDIVIDUALS

A. Arent Fox LLC on behalf of City Toyota (dated March 26, 2021)

We represent City Toyota, which adjoins the site of the proposed project on the south, and which has major concerns about the impacts of the proposed project. As you know, in our letter of July 22, 2020, we raised a variety of issues concerning the proposed project that we believed should be addressed in the EIR. These issues included:

- Aesthetic impacts, including visual impact on City Toyota
- Noise, including impacts to exterior areas of the City Toyota site
- Air Quality, including construction dust impacts on City Toyota's inventory displayed outdoors
- Traffic Safety, including particularly problems related to entry/exit into this very tight site so close to a major intersection. In connection with these questions, we also attached a report from a traffic engineer addressing these issues, which suggested an alternative, and several mitigation measures, that would have addressed these serious safety concerns.

Although the EIR did address some of these issues, many were ignored or dismissed with minimal discussion. As a result, the EIR fails to provide sufficient information about the impacts of the project, and this deficient document should be revised and recirculated, for the reasons explained below.

Comment A.1: Project description/land use policies: Although the EIR includes a description, which includes some aspects of the project, it fails to describe others clearly, and to note some of the ways that the project is not consistent with generally applicable land use rules for this site.

The EIR generally describes the site as being .1 acre in size, with a building coverage of 28%, and a height of 24 feet, and also describes very generally the various land use rules applicable to this site. However, the lack of detail obscures some of the ways the project differs from the City's expectations for development at this site. For example, under the applicable "BC" zoning, there is typically a requirement that a development site have a minimum area of 5000 sf. Describing the site's area as .1 acre obscures that the actual area is about 4300 sf, which is well less than the 5000 sf typically required in this district. Also, the BC zoning requires a site coverage between 35-60%, while this project (presumably as a result of its substandard lot size?) has a coverage of only 28%. While the City might be able to approve this project because this small site may have been created prior to the adoption of these rules regarding lot size and coverage, these non-conformities should be clearly noted in the EIR.

Response A.1: The comments pertain to the project's conformance with the City's development regulations that apply to the site, and not with any particular physical changes the project may cause to the environment either from its construction or long-term occupancy and operation. A discussion of the project in relation to the City's Municipal Code will be available in the Staff Report prepared for the City Council hearing on the project, scheduled for April 26th, 2021. No further response is required.

Comment A.2: In addition, this one story retail space has a proposed height of 24 feet. While this height is within the applicable height limit, that height limit contemplates that buildings would be two stories tall. As a one-story retail building, this is far taller than the approximately 12 feet anticipated in the BART Area Specific Plan for a one level retail space. This extraordinary and unnecessary height for a one-story retail space is an important factor in the project's aesthetic/visual impacts, as discussed below.

Response A.2: The environmental effects of a 24 foot tall building have been disclosed and evaluated where applicable in the EIR. There is no basis to conclude the project's visual impacts, at 24 feet, would differ from what the EIR has discussed if the proposed building volume was occupied with one or two stories, the building mass would remain unchanged at 24 feet. The comment that the proposed height is extraordinary and unnecessary reflects the opinion of the author and nothing about a 24-foot tall building is extraordinary in the site's setting, where much taller buildings are common.

Comment A.3: Compliance with CEQA Procedures: CEQA requires that a notice of availability of the DEIR be mailed to nearby property owners. Although a City Toyota employee happened to discover a notice posted on about March 3, on a pole near the site, they have no record of ever having received any mailed notice of the EIR's availability. The City should review its notice activities in this case and confirm that all the required notices were properly posted and mailed. While a City Toyota employee happened to see the posted notice on March 3, other potentially affected parties may not have been so fortunate. If there was any deficiency in notice procedures, the comment period must be extended.

Response A.3: CEQA Guidelines Section 15087 provides that a lead agency give notice of the EIR's availability by at least one of the following procedures:

- (1) publication in a newspaper of general circulation
- (2) Posting of the notice on and off the site in the area where the project is located
- (3) Direct mailing to owners and occupants of property contiguous to the parcel, as identified in the last equalized assessment roll.

The City has complied by implementing all three of the procedures identified above, as documented in Sections 2 and 3, above.

Comment A.4: Aesthetic/Visual Impacts: As we noted in our comment on the NOP, this project will severely impact the visibility of City Toyota, particularly for traffic that is southbound on San Pedro. The fact that this proposed building is almost twice the height that a one level retail building needs to be magnifies this potential impact. In the EIR, this impact on City Toyota's visibility is dismissed as being not an environmental impact because it is an impact on private property. We believe that oversimplifies the issue. Visibility is a major factor in the success and even viability of an automobile sales business, and City Toyota is a very important sales tax revenue source for the City. Thus, a project that substantially diminishes the visibility of City Toyota will impact the City's revenues, and if the impact was severe enough it could even lead to a relocation of the dealership outside Daly City, which would not only result in a severe loss of City revenues but also a condition of blight of this site, and blight has been recognized as a potential CEQA impact in some circumstances.

The visual impact of the project on City Toyota's visibility should have been recognized as a potential environmental impact. The financial impact of this physical impact is relevant to a determination that this impact should be treated as significant. This would have led to a consideration of potential mitigation measures, which could have included a reduction in height of the project to a level more typical for a one level retail building (e.g., 12 feet). Such a height reduction is certainly feasible. (Note, even without this visual obstruction being identified as an environmental impact per se, the City could still require such a height reduction to 12 feet as part of the design review process.)

Response A.4: As noted in the Draft EIR, economic effects are not significant effects under CEQA, unless it is demonstrated that the lost revenue or business disruption will translate to actual physical changes will have a significant effect on the physical environment.¹ No substantial evidence has been provided that the project would result in the involuntary closure of City Toyota, and that the closure of City Toyota would result in the physical deterioration of the adjacent building (of which City Toyota is apparently a tenant, not owner), and a long-term vacancy leading to physical deterioration of the affected property or structure. The comment's suggestion that the project height could be reduced as part of the design review process, irrespective of the EIR's conclusion the proposed height will not result in significant environmental impacts, is noted.

Comment A.5: Construction Noise: The EIR includes some evaluation of the impact of construction noise on the nearby City Toyota building, but improperly excludes any discussion of the noise impacts on the large exterior area of City Toyota property, which is much closer to the project than City Toyota's actual building. In the automotive sales business, customers and sales staff may spend much of their time in the outside areas, looking at various car models and discussing their features, and therefore much of the sales process occurs outside in areas that are likely to be impacted by construction noise. The DEIR should be revised to address this noise impact on outdoor activities, and if it is shown to be potentially significant, additional mitigation measures should be evaluated.

Response A.5: The CEQA Guidelines state that a project will normally be considered to have a significant impact if noise levels conflict with adopted environmental standards or plans. As discussed under Impact NOI-1 of the Draft EIR, the project is consistent with Daly City standards regarding construction noise. Furthermore, the City Toyota site is within the City's 70 to 75 dBA CNEL noise level contours due to nearby roads, highways, and BART tracks, and average construction noise at City Toyota would range between 59 and 77 dBA, which would not constitute a substantial increase in existing noise levels. Construction noise, which would be temporary and relatively short given the very small nature of the site and proposed building (about the size of a single family house) would be further reduced by the conditions of approval imposed on the project. Considering the noisy baseline conditions and minimal scope of construction activity given the scale of the project, no additional noise mitigation measures are warranted.

¹ Maintain Our Desert Environment v. Town of Apple Valley (2004) 124 Cal.App.4th 430, 446

Comment A.6: Transportation and Traffic Safety: The EIR does include some examination of the transportation and safety issues we raised in our NOP comment letter, but ignores or improperly downplays others. These problems include the following:

The traffic analysis is based on a use of the land use classification for “shopping center”. This small, 1204 sf retail space isolated on a corner is nothing like a shopping center, and the transportation analysis should have at least evaluated other classifications for the purpose of calculating trip generation. The questionable conclusion that this building would only generate 45 vehicle trips per day becomes part of the basis for concluding that the project would not have significant impacts on traffic safety. Given the broad range of possible retail uses, a broader range of ITE categories should have been evaluated. For example, if this project ended up being used as a coffee shop, it is difficult to understand how such a business could be viable with only 45 car trips a day.

Response A.6: The “Shopping Center” category (ITE Land Use 820) is used by transportation engineering professionals for general retail when the use is unknown. Most other ITE retail land uses are very specific and should not be used unless the final land use is determined. Given the range of retail uses that could occupy the building over its lifespan, with varying trip generation characteristics, the use of shopping center as a generic retail use is appropriate and reasonable. CEQA does not require evaluation of the highest possible potential trip generating occupancy when a building may be occupied by a variety of uses over the decades a building will exist.

Comment A.7: The Access analysis concludes that the proposed parking arrangement, with one-way entry on Hill, and one-way exit via a right turn out onto San Pedro, would not result in any traffic safety issues. However, in reaching this conclusion, the analysis failed to consider a number of issues. For example, the placement of the theoretical entry driveway on Hill, adjacent to the left turn lane on Hill (intended for left turns onto San Pedro), increases the possibility that persons seeking to access the project site from Hill could use a left turn to access the driveway. Whether a person could or would make a left turn from Hill into the entry driveway, and the implications of that were not discussed. For example, a car making such a left turn into the project driveway would be vulnerable to collision with a car that made a right turn from San Pedro, especially since the lack of any setback of the project from the corner would inhibit the visibility from the vehicle turning from San Pedro. This lack of visibility for cars making right turns into Hill is partly the result of the project’s lack of any setbacks from the street. City Toyota’s building is set back approximately 6 feet from the street and there is no explanation of why such setbacks should not be required in this case. (Note, a car could also make a left turn from San Pedro into Hill, and run into a similar issue of a collision with a car turning either left or right into the project driveway.) This problem would be exacerbated if the entry to the parking lot was backed up due to cars maneuvering in the project’s tiny parking lot (as discussed below).

City Toyota’s traffic expert suggested as a mitigation a raised median on Hill that would prevent such left turns into the project from Hill Street, but because the left turn issue was not analyzed, this mitigation, or other possible ways to limit such potentially dangerous left turns, was ignored.

Also, buses make right or left turns into Hill from San Pedro, in the direction of the BART station, and would almost immediately be in contact with vehicles trying to enter the site from Hill (we are

attaching a short video illustrating how such turning buses would almost immediately be in the area where vehicles could be trying to enter the project.

Response A.7: Vehicles would be permitted to make a left-turn in the left-turn lane on Hill Street onto the project site. Vehicles turning right from San Pedro Road onto Hill Street would be traveling at low speeds and would be able to see if vehicles are queuing within the entry driveway. Similarly, in the unlikely event that there are backed-up vehicles queuing along Hill Street, vehicles turning left from San Pedro Road would be able to see vehicles queuing along Hill Street. Since these queues would only occur if there is a vehicle waiting to enter while another vehicle is backing out of the first parking space, this would be a rare occurrence given the size of the building and related trip generation. Additionally, due to the very small size of the proposed project, the project is only expected to generate two inbound trips during the PM peak hour. This equates to one vehicle entering every 30 minutes. Due to the low number of expected trips, queuing onto Hill Street is very unlikely to occur.

Comment A.8: The Access analysis assumes that all drivers would automatically respect the one-way entry from Hill, the one-way exit onto San Pedro, and the right turn only exit onto San Pedro. However, because of the nature of the street system in the immediate area, it is possible and even likely that some drivers would ignore these directions, and therefore the EIR's analysis should have noted this possibility and considered ways to mitigate these reasonably anticipated actions by drivers ignoring the planned turning directions. These could include physical measures that would make these dangerous maneuvers more difficult, or perhaps as suggested by City Toyota's traffic expert, the addition of signage to highlight the potential legal penalties for such improper turns.

Response A.8: This comment speculates drivers will ignore or misread one-way directional signage and enter the site in the wrong direction. The project proposes to install clear signage indicating that only right-turns are permitted for the exit-only driveway along San Pedro Road. A "DO NOT ENTER" sign would be posted at the exit driveway as well. The driveway would be designed to orient vehicles to be perpendicular with San Pedro Road. It is expected that future visitors will abide by the posted signage and exit right only. Illegal actions by future visitors to the project site are outside the scope of CEQA, and no further response is required. The suggestion to include additional physical measures will be considered by the decision-makers.

Comment A.9: The EIR ignores the issue that vehicles attempting to enter the project from Hill- by either a right hand or left hand turn- may often be prevented from completing the entry due to the narrow driveway being blocked by cars maneuvering in the parking lot. When this occurs, vehicles will be left protruding into the traffic lanes on Hill Street, potentially blocking traffic and perhaps creating hazards. The EIR compares the access situation of this project to nearby gas stations located on corner sites, but these gas stations have wider entry driveways and do not have any parking located so as to potentially result in obstruction to those driveways. Thus comparing the access situation of this project to nearby gas stations is misleading and

Vehicles exiting the site onto San Pedro would be at an angle almost facing oncoming (northbound) traffic, and would potentially need to swing into the center lane to complete the turn, increasing potential risks.

Traffic including buses traveling on Hill from the BART station already backs up waiting to turn at San Pedro, result in problems for buses turning into Hill from San Pedro. Such problems would likely increase as BART and other traffic returns to pre Covid pandemic levels. This problem could be exacerbated by cars on Hill waiting to make left turns into the project driveway.

Response A.9: Contrary to the comment letter’s assertion, operational issues related to vehicle queuing at the project driveways were analyzed and discussed on pages 47 through 49 of the Draft EIR. Based on trip generation rates provided by the Institute of Transportation Engineers, the project is expected to have one inbound vehicle during the AM peak hour and two inbound vehicles and three outbound vehicles during the PM peak hour. During the PM peak hour, the inbound and outbound trips are equivalent to one vehicle entering the site every 30 minutes and one vehicle leaving the project site every 20 minutes. Due to the project’s low traffic volumes, queuing backing onto Hill Street would be a rare occurrence, and vehicles entering and exiting the site would not experience substantial delays. Furthermore, the angled parking spaces and driveway widths are consistent with Daly City standards and provide adequate width and sight distance for vehicles to enter and exit the site appropriately. Exiting vehicles would be oriented to be perpendicular with San Pedro Road and have adequate sight distance along San Pedro Road to locate a gap in traffic to turn right onto San Pedro Road. When the driveway is temporarily blocked by cars waiting at the red light, vehicles exiting the driveway would have to wait until the queue dissipates and then wait for an adequate gap in the traffic stream before turning right on San Pedro Road. Because there is a traffic signal at the upstream intersection of Junipero Serra Boulevard and San Pedro Road, traffic arrives in platoons, leaving plenty of gaps in the traffic stream for cars to safely exit the driveway, even if they have to swing into the center lane. These situations are not uncommon and exist at many driveways.

Queuing associated with the bus stop located on San Pedro Road was analyzed on page 48 of the Draft EIR and found to be temporary and insubstantial.

This comment also references problems increasing due to traffic levels returning to pre-COVID pandemic levels. However, as noted on page 45 of the Draft EIR, the baseline existing traffic conditions are based on traffic counts conducted in October 2019, prior to the implementation of COVID-related stay-in-place measures.

Comment A.10: Alternatives: The consideration of project alternatives to that would avoid or reduce potentially significant impacts is a fundamental aspect of the CEQA process. The EIR, we believe improperly for the reasons stated above, failed to identify as significant traffic impacts related to access to and from the project’s parking area, and did not evaluate a no (or reduced) parking alternative, which the City Toyota’s expert had suggested. (See our NOP comments.) Based on the EIR’s conclusion as to the low number of daily vehicles trips, and the transit rich nature of the area, such a no or reduced parking option might have been feasible, and should not have been rejected without further analysis. Another possible alternative might be one that provided setbacks to increase visibility for vehicles turning onto Hill Street, and which reduced the project’s height to a more reasonable and appropriate 12 feet.

Response A.10: The transportation comments are addressed in Responses A.6 through A.9. Contrary to the comment letter’s assertion, both a reduced scale and no parking alternative

were analyzed on page 57 of the Draft EIR. These options were found to be infeasible due to the small scale of the proposed project (which is already below the intensity permitted by the City's General Plan and Municipal Code), and that reducing or removing parking would result in the project not satisfying the parking requirements established in the City's Municipal Code. Furthermore, reducing or removing the surface parking lot would allow for a greater building intensity that would exacerbate the aesthetic, construction, and transportation issues raised by the comment letter above.

Comment A.11: Although the EIR seemed to go out of its way to obscure the fact, this is a very problematic project. The site is too small, and its location right at a busy corner will likely result in aesthetic and traffic issues that the EIR fails to evaluate properly. The BART Area Specific Plan envisioned this site to be developed with the rest of the block and not as a small isolated stand-alone building. The Specific Plan encouraged that property be aggregated for better coordination of development, not be developed in random small pieces.

Response A.11: The Draft EIR objectively evaluated the environmental effects of constructing a 1,204 square foot retail building, on a vacant site, in what is a busy, urban environment. The comment that the site is considered too small, and in a poor location, is noted, and will be considered by the decision-makers. The feasibility of the site to be combined with adjacent property for better coordinated development is unknown, and would involve the owner of the property on which the City Toyota dealership is located. The EIR was prepared to evaluate the project application filed with the City, and the commentor's opinion about other planning options for the site is noted.

Comment A.12: The DEIR is deficient in its failure to provide the full land use context of this project site. It fails to fully consider the aesthetic and noise impacts of this project on its neighbor, City Toyota. In particular, it utterly fails to seriously acknowledge and evaluate the potential traffic safety impacts of introducing new driveways on busy roads so close to a major intersection, without any measures to prevent very predictable behavior by drivers.

Response A.12: Aesthetic issues raised in the comment letter are addressed under Response A.4. Construction-related noise issues raised in the comment letter are addressed under Response A.5. The transportation issues raised in the comment letter are addressed in Responses A.6 through A.9.

Comment A.13: Moreover, the project really fails to achieve the goals it sets out. Any economic benefits that might possibly accrue from development of this small site (even assuming that development of this small project is economically viable) would be far outweighed by the potential impact on City Toyota, one of the City's major revenue generators. At a minimum, the EIR should be revised as suggested above to fully identify and seek to mitigate the project's environmental impacts.

Sincerely, Steve Atkinson

Response A.13: As noted in Response A.4, economic effects are not significant effects under CEQA, unless it is demonstrated that the lost revenue or business disruption will translate to actual physical changes that will have a significant effect on the physical environment. No revisions to the Draft EIR are required.

Appendix A: Draft EIR Comment Letters

March 26, 2021

VIA E-MAIL

Brian Paland, Assistant Planner
Daly City Planning & Zoning
333 90th Street
Daly City, CA 94015

Steve Atkinson

Counsel
415.805.7971 DIRECT
415.757.5501 FAX
steve.atkinson@arentfox.com

Reference Number
039906.00000

Re: 205 San Pedro Road Retail Project: Comment on Draft EIR

Dear Mr. Paland:

We represent City Toyota, which adjoins the site of the proposed project on the south, and which has major concerns about the impacts of the proposed project.

As you know, in our letter of July 22, 2020, we raised a variety of issues concerning the proposed project that we believed should be addressed in the EIR. These issues included:

- Aesthetic impacts, including visual impact on City Toyota
- Noise, including impacts to exterior areas of the City Toyota site
- Air Quality, including construction dust impacts on City Toyota's inventory displayed Outdoors
- Traffic Safety, including particularly problems related to entry/exit into this very tight site so close to a major intersection. In connection with these questions, we also attached a report from a traffic engineer addressing these issues, which suggested an alternative, and several mitigation measures, that would have addressed these serious safety concerns.

Although the EIR did address some of these issues, many were ignored or dismissed with minimal discussion. As a result, the EIR fails to provide sufficient information about the impacts of the project, and this deficient document should be revised and recirculated, for the reasons explained below.

Project description/land use policies

AFDOCS/2393813.1
AFDOCS/23931838.1

Although the EIR includes a description, which includes some aspects of the project, it fails to describe others clearly, and to note some of the ways that the project is not consistent with generally applicable land use rules for this site.

The EIR generally describes the site as being .1 acre in size, with a building coverage of 28%, and a height of 24 feet, and also describes very generally the various land use rules applicable to this site. However, the lack of detail obscures some of the ways the project differs from the City's expectations for development at this site. For example, under the applicable "BC" zoning, there is typically a requirement that a development site have a minimum area of 5000 sf. Describing the site's area as .1 acre obscures that the actual area is about 4300 sf, which is well less than the 5000 sf typically required in this district. Also, the BC zoning requires a site coverage between 35-60%, while this project (presumably as a result of its substandard lot size?) has a coverage of only 28%. While the City might be able to approve this project because this small site may have been created prior to the adoption of these rules regarding lot size and coverage, these non-conformities should be clearly noted in the EIR.

In addition, this one story retail space has a proposed height of 24 feet. While this height is within the applicable height limit, that height limit contemplates that buildings would be two stories tall. As a one-story retail building, this is far taller than the approximately 12 feet anticipated in the BART Area Specific Plan for a one level retail space. This extraordinary and unnecessary height for a one-story retail space is an important factor in the project's aesthetic/visual impacts, as discussed below.

Compliance with CEQA Procedures

CEQA requires that a notice of availability of the DEIR be mailed to nearby property owners. Although a City Toyota employee happened to discover a notice posted on about March 3, on a pole near the site, they have no record of ever having received any mailed notice of the EIR's availability. The City should review its notice activities in this case and confirm that all the required notices were properly posted and mailed. While a City Toyota employee happened to see the posted notice on March 3, other potentially affected parties may not have been so fortunate. If there was any deficiency in notice procedures, the comment period must be extended.

Aesthetic/Visual Impacts

As we noted in our comment on the NOP, this project will severely impact the visibility of City Toyota, particularly for traffic that is southbound on San Pedro. The fact that this proposed building is almost twice the height that a one level retail building needs to be magnifies this potential impact. In the EIR, this impact on City Toyota's visibility is dismissed as being not an environmental impact because it is an impact on private property. We believe that oversimplifies

the issue. Visibility is a major factor in the success and even viability of an automobile sales business, and City Toyota is a very important sales tax revenue source for the City. Thus, a project that substantially diminishes the visibility of City Toyota will impact the City's revenues, and if the impact was severe enough it could even lead to a relocation of the dealership outside Daly City, which would not only result in a severe loss of City revenues but also a condition of blight of this site, and blight has been recognized as a potential CEQA impact in some circumstances.

The visual impact of the project on City Toyota's visibility should have been recognized as a potential environmental impact. The financial impact of this physical impact is relevant to a determination that this impact should be treated as significant. This would have led to a consideration of potential mitigation measures, which could have included a reduction in height of the project to a level more typical for a one level retail building (e.g., 12 feet). Such a height reduction is certainly feasible. (Note, even without this visual obstruction being identified as an environmental impact per se, the City could still require such a height reduction to 12 feet as part of the design review process.)

Construction Noise

The EIR includes some evaluation of the impact of construction noise on the nearby City Toyota building, but improperly excludes any discussion of the noise impacts on the large exterior area of City Toyota property, which is much closer to the project than City Toyota's actual building. In the automotive sales business, customers and sales staff may spend much of their time in the outside areas, looking at various car models and discussing their features, and therefore much of the sales process occurs outside in areas that are likely to be impacted by construction noise. The DEIR should be revised to address this noise impact on outdoor activities, and if it is shown to be potentially significant, additional mitigation measures should be evaluated.

Transportation and Traffic Safety

The EIR does include some examination of the transportation and safety issues we raised in our NOP comment letter, but ignores or improperly downplays others. These problems include the following:

- The traffic analysis is based on a use of the land use classification for "shopping center". This small, 1204 sf retail space isolated on a corner is nothing like a shopping center, and the transportation analysis should have at least evaluated other classifications for the purpose of calculating trip generation. The questionable conclusion that this building would only generate 45 vehicle trips per day becomes part of the basis for concluding that the project would not have significant impacts on traffic safety. Given the broad range of possible retail uses, a broader range of ITE categories

should have been evaluated. For example, if this project ended up being used as a coffee shop, it is difficult to understand how such a business could be viable with only 45 car trips a day.

- The Access analysis concludes that the proposed parking arrangement, with one-way entry on Hill, and one-way exit via a right turn out onto San Pedro, would not result in any traffic safety issues. However, in reaching this conclusion, the analysis failed to consider a number of issues. For example, the placement of the theoretical entry driveway on Hill, adjacent to the left turn lane on Hill (intended for left turns onto San Pedro), increases the possibility that persons seeking to access the project site from Hill could use a left turn to access the driveway. Whether a person could or would make a left turn from Hill into the entry driveway, and the implications of that were not discussed. For example, a car making such a left turn into the project driveway would be vulnerable to collision with a car that made a right turn from San Pedro, especially since the lack of any setback of the project from the corner would inhibit the visibility from the vehicle turning from San Pedro. This lack of visibility for cars making right turns into Hill is partly the result of the project's lack of any setbacks from the street. City Toyota's building is set back approximately 6 feet from the street and there is no explanation of why such setbacks should not be required in this case. (Note, a car could also make a left turn from San Pedro into Hill, and run into a similar issue of a collision with a car turning either left or right into the project driveway.) This problem would be exacerbated if the entry to the parking lot was backed up due to cars maneuvering in the project's tiny parking lot (as discussed below).

City Toyota's traffic expert suggested as a mitigation a raised median on Hill that would prevent such left turns into the project from Hill Street, but because the left turn issue was not analyzed, this mitigation, or other possible ways to limit such potentially dangerous left turns, was ignored.

Also, buses make right or left turns into Hill from San Pedro, in the direction of the BART station, and would almost immediately be in contact with vehicles trying to enter the site from Hill (we are attaching a short video illustrating how such turning buses would almost immediately be in the area where vehicles could be trying to enter the project.)

- The Access analysis assumes that all drivers would automatically respect the one-way entry from Hill, the one-way exit onto San Pedro, and the right turn only exit onto San Pedro. However, because of the nature of the street system in the immediate area, it is possible and even likely that some drivers would ignore these directions, and therefore the EIR's analysis should have noted this possibility and considered ways to mitigate these reasonably anticipated actions by drivers ignoring the planned turning directions. These could include physical measures that would make these dangerous maneuvers

more difficult, or perhaps as suggested by City Toyota's traffic expert, the addition of signage to highlight the potential legal penalties for such improper turns.

- The EIR ignores the issue that vehicles attempting to enter the project from Hill- by either a right hand or left hand turn- may often be prevented from completing the entry due to the narrow driveway being blocked by cars maneuvering in the parking lot. When this occurs, vehicles will be left protruding into the traffic lanes on Hill Street, potentially blocking traffic and perhaps creating hazards. The EIR compares the access situation of this project to nearby gas stations located on corner sites, but these gas stations have wider entry driveways and do not have any parking located so as to potentially result in obstruction to those driveways. Thus comparing the access situation of this project to nearby gas stations is misleading and
- Vehicles exiting the site onto San Pedro would be at an angle almost facing oncoming (northbound) traffic, and would potentially need to swing into the center lane to complete the turn, increasing potential risks.
- Traffic including buses traveling on Hill from the BART station already backs up waiting to turn at San Pedro, result in problems for buses turning into Hill from San Pedro. Such problems would likely increase as BART and other traffic returns to pre Covid pandemic levels. This problem could be exacerbated by cars on Hill waiting to make left turns into the project driveway.

Alternatives

The consideration of project alternatives to that would avoid or reduce potentially significant impacts is a fundamental aspect of the CEQA process. The EIR, we believe improperly for the reasons stated above, failed to identify as significant traffic impacts related to access to and from the project's parking area, and did not evaluate a no (or reduced) parking alternative, which the City Toyota's expert had suggested. (See our NOP comments.) Based on the EIR's conclusion as to the low number of daily vehicles trips, and the transit rich nature of the area, such a no or reduced parking option might have been feasible, and should not have been rejected without further analysis. Another possible alternative might be one that provided setbacks to increase visibility for vehicles turning onto Hill Street, and which reduced the project's height to a more reasonable and appropriate 12 feet.

Conclusion

Although the EIR seemed to go out of its way to obscure the fact, this is a very problematic project. The site is too small, and its location right at a busy corner will likely result in aesthetic and traffic

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issues that the EIR fails to evaluate properly. The BART Area Specific Plan envisioned this site to be developed with the rest of the block and not as a small isolated stand-alone building. The Specific Plan encouraged that property be aggregated for better coordination of development, not be developed in random small pieces.

The DEIR is deficient in its failure to provide the full land use context of this project site. It fails to fully consider the aesthetic and noise impacts of this project on its neighbor, City Toyota. In particular, it utterly fails to seriously acknowledge and evaluate the potential traffic safety impacts of introducing new driveways on busy roads so close to a major intersection, without any measures to prevent very predictable behavior by drivers.

Moreover, the project really fails to achieve the goals it sets out. Any economic benefits that might possibly accrue from development of this small site (even assuming that development of this small project is economically viable) would be far outweighed by the potential impact on City Toyota, one of the City's major revenue generators. At a minimum, the EIR should be revised as suggested above to fully identify and seek to mitigate the project's environmental impacts.

Sincerely,

A handwritten signature in blue ink, appearing to read "Steve Atkinson".

Steve Atkinson

July 22, 2020

Brian Paland
City of Daly City - Planning Division
333 90th Street
Daly City, CA 94015

Steve Atkinson

Counsel
415.805.7971 DIRECT
415.757.5501 FAX
steve.atkinson@arentfox.com

Re: 205 San Pedro Road Project - Comments on Notice of Preparation

Dear Mr. Paland:

We represent City Toyota, which owns and operates the Toyota dealership on the property immediately adjacent to the 205 San Pedro Site. The following comments are with regard to the Notice of Preparation of an EIR that was sent out in June.

Counsel for City Toyota has previously (2017) taken the position that a CEQA exemption was not appropriate for this project, and therefore we agree that an EIR should be prepared for the 205 San Pedro project. As noted before, the City had previously recognized that the project, if approved, should implement conditions to mitigate certain traffic impacts, and as discussed further below, the conditions previously proposed would not effectively mitigate the significant traffic safety impacts.

We agree that the Draft EIR should include an evaluation of the project's aesthetics impacts. This is a prominent site, at a major intersection, and the project likely will have a visual impact disproportionate to the small site. As noted previously, the aesthetic analysis should consider how the project will block the view of City Toyota, including the large brand monument sign required by the manufacturer, for traffic southbound on San Pedro. In weighing the significance of such impact, the EIR should properly take into account the economic impact on City Toyota, and the potential impact on the City's significant revenues from this dealership use, if the dealership is required to relocate the sales department due to the new project's impacts on the dealership signage and Toyota Motor Sales stringent requirements for a dealership sales department visibility and accessibility.

As stated in the NOP, the EIR should address the Noise and Energy impacts of this project. Noise impact should definitely include noise from construction activities. In addition, the EIR should

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evaluate the air quality impacts from construction, including impact of dust and other contaminants on adjacent properties, including City Toyota. Dirt and debris from construction could have a negative impact of City Toyota's inventory, which has to be presented to potential vehicle purchasers in a pristine condition.

As noted in correspondence previously submitted on behalf of City Toyota (see attached 2017 letter from traffic engineer Tom Brohard and Associates), a primary concern has been that this project, located as it is at a major intersection, will likely have significant impacts on traffic safety. The "setting" section should thoroughly describe the area road network, one of the consequences of which is that a vehicle approaching the project site may have to follow a somewhat circuitous route to the proposed one way entry from Hill St., and likewise any vehicle exiting the site using the proposed right turn only exit may have to engage in several manoeuvres to go in its ultimate chosen direction. This in turn will create incentives for vehicles to ignore the intended right turn only entry and exit. Also, the proposed entrance and exit are too close to the existing busy intersection.

For these reasons, any assessment of the traffic safety impacts of the project should factor in the reality that persons accessing the project site will often ignore these directional entry and exit signs unless physical barriers prevent them from doing so. Merely installing entry and exit only signs, and stating that left turns are prohibited, will not be effective real world mitigation. Also, the small size and constrained dimensions of the proposed parking area raises the distinct possibility that vehicles wishing to turn into the site will stack up on Hill St. because of a lack of open parking spaces creating further traffic disruption. In addition, vehicles approaching or leaving the project site are likely to try to cut through the City Toyota property as a short cut to their chosen direction, creating safety impacts on the City Toyota property itself. From a preliminary perspective, we question whether there are any feasible mitigations that could eliminate such significant traffic safety impacts, and thus these impacts may be both significant and unmitigable.

The transportation evaluation must also consider construction period impacts. Due to the very constrained site, there does not appear to be any practical way to stage materials or provide worker parking on site. Mitigation if any for such impacts must be identified. Also, delivery of construction materials to the site raises the potential for substantial interference with this busy intersection, which typically has substantial bus, and other traffic related to the nearby Colma BART station.

The transportation analysis must also consider the interaction between vehicle traffic accessing the site and existing bus stops and bus traffic. Also, the analysis must consider the impact, during the project's operation, of deliveries, garbage pickup etc. The constrained dimension of the traffic aisle raises the potential that vehicles seeking to turn into the project site will be unable to do so, and thus will disrupt traffic flow on Hill St.

Finally, while we agree that the transportation analysis should assess the project's trip generation, it must also include VMT analysis based on a recent change in state law.

For a project of this nature, which may have significant unmitigable traffic safety impacts, the identification and assessment of alternative to the project is particularly important. Given the nature of the traffic safety issues based on the location, it is unclear what such an alternative might be, other than perhaps a project, which would not provide any parking. In any event, the level of analysis of such alternative must be specific enough to be able to draw a reliable conclusion as to whether or not it would fully or partially mitigate the project's traffic safety impacts.

Please do not hesitate to contact me if you wish to discuss any of the points raised in this letter. We will be reviewing the draft EIR very carefully to be sure that it properly address the project's impacts, including most important on the traffic situation in this area, and in particular on City Toyota.

Sincerely,



Steve Atkinson

Attachments: Brohard & Associates Letter

Tom Brohard and Associates

November 10, 2017

Mr. Michael P. Durkee
Attorney at Law
NOSSAMAN LLP
50 California Street, 34th Floor
San Francisco, CA 94111

**SUBJECT: Review of November 13, 2017 Design Review Committee Memo
Regarding 205 San Pedro Road in Daly City – Traffic Issues**

Dear Mr. Durkee:

I, Tom Brohard, P.E., have reviewed the Design Review Committee Memorandum (DRC Memo) prepared for the November 13, 2017 meeting of the Design Review Committee regarding the proposed new retail/office building at 205 San Pedro Road. As shown on the enclosed resume, I have served many communities in California as Contract City Traffic Engineer during my 45+ year career. During this time, I have reviewed hundreds of development projects and have recommended Conditions of Approval and Mitigation Measures to address potentially significant traffic safety impacts.

From the DRC Memo, this 1,204 square-foot, one-story building is proposed to be located at the southwest corner of San Pedro Road and Hill Street. A total of five parking spaces are required by the City Zoning Ordinance. Vehicle circulation within the site includes a one-way driveway entering from Hill Street and exiting onto San Pedro Road. Page 2 of the DRC Memo states "Motorists exiting the site at this location are only allowed to make a right turn from the project driveway. Per the California Vehicle Code, vehicles are not permitted to cross solid parallel double yellow lines which represent a raised island. To warn motorists exiting the subject site onto San Pedro Road of this condition, the Traffic Engineer has placed a Condition of Approval on the project that it provide a sign notifying motorists that left turns from the driveway are an infraction of the California Vehicle Code. As requested by the City Traffic Engineer, the Conditions of Approval and Mitigation Measures relating to traffic safety include:

6. The applicant shall provide a sign at the parking lot exit on San Pedro Road notifying motorists that left turns from the driveway are an infraction of the California Vehicle Code.

29. The applicant shall provide treatment to prohibit northbound vehicles on Hill Street from making a left turn into the site.

32. The applicant shall remove the pavement legends "EXIT ONLY" and "ENTRY ONLY" on San Pedro Road and Hill Street, respectively, and install signs to restrict movements.

33. The applicant shall add two straight arrows in the parking lot to indicate the direction of travel.

Mr. Michael P. Durkee
205 San Pedro Road Design Review Committee Memo – Traffic Issues
November 10, 2017

The proposed Conditions of Approval and Mitigation Measures listed above are intended to address the potential for collision and risk of hazardous traffic conditions at the Proposed Project site, but are just a starting point for entry and exit treatments at the site because they fall short of preventing left turns out of the exit driveway on San Pedro Road. Left turns from the Proposed Project's exit driveway located within 75 feet of the existing traffic signal would be unexpected by San Pedro Road motorists, creating a significant potential for collisions and risk of hazardous traffic conditions.

From my review of Google Earth aerial photos, reflective and non-reflective raised pavement markers have been used to simulate lane lines on San Pedro Road adjacent to the Proposed Project. Caltrans has recently eliminated the use of non-reflective raised pavement markers in the California Manual on Uniform Traffic Control Devices and has begun the process of replacing them with wider painted stripes on all State Highways. Most local agencies are expected to follow this practice. With that in mind and with the inferior visibility of raised pavement markers from the Proposed Project driveway even with the supplemental signs, the simulated double-double median must be replaced with a raised median. To physically prohibit left turns out of the exit driveway, and fully mitigate the hazardous traffic conditions caused by the Proposed Project, Daly City must require the Project Proponent to add this Mitigation Measure as a Condition of Approval.

If you have questions regarding these comments, please call me at your convenience.

Respectfully submitted,

Tom Brohard and Associates



Tom Brohard, PE
Principal

Enclosure



Tom Brohard, PE

- Licenses:** 1975 / Professional Engineer / California – Civil, No. 24577
1977 / Professional Engineer / California – Traffic, No. 724
2006 / Professional Engineer / Hawaii – Civil, No. 12321
- Education:** 1969 / BSE / Civil Engineering / Duke University
- Experience:** 45+ Years
- Memberships:** 1977 / Institute of Transportation Engineers – Fellow, Life
1978 / Orange County Traffic Engineers Council - Chair 1982-1983
1981 / American Public Works Association – Life Member

Tom is a recognized expert in the field of traffic engineering and transportation planning. His background also includes responsibility for leading and managing the delivery of various contract services to numerous cities in Southern California.

Tom has extensive experience in providing transportation planning and traffic engineering services to public agencies. Since May 2005, he has served as Consulting City Traffic Engineer for the City of Indio. He also currently provides “on call” Traffic and Transportation Engineer services to the Cities of Big Bear Lake and San Fernando. In addition to conducting traffic engineering investigations for Los Angeles County from 1972 to 1978, he has previously served as City Traffic Engineer in the following communities:

- o Bellflower..... 1997 - 1998
- o Bell Gardens..... 1982 - 1995
- o Huntington Beach..... 1998 - 2004
- o Lawndale..... 1973 - 1978
- o Los Alamitos..... 1981 - 1982
- o Oceanside..... 1981 - 1982
- o Paramount..... 1982 - 1988
- o Rancho Palos Verdes..... 1973 - 1978
- o Rolling Hills..... 1973 - 1978, 1985 - 1993
- o Rolling Hills Estates..... 1973 - 1978, 1984 - 1991
- o San Marcos..... 1981
- o Santa Ana..... 1978 - 1981
- o Westlake Village..... 1983 - 1994

During these assignments, Tom has supervised City staff and directed other consultants including traffic engineers and transportation planners, traffic signal and street lighting personnel, and signing, striping, and marking crews. He has secured over \$10 million in grant funding for various improvements. He has managed and directed many traffic and transportation studies and projects. While serving these communities, he has personally conducted investigations of hundreds of citizen requests for various traffic control devices. Tom has also successfully presented numerous engineering reports at City Council, Planning Commission, and Traffic Commission meetings in these and other municipalities.

Tom Brohard and Associates

In his service to the City of Indio since May 2005, Tom has accomplished the following:

- ❖ Oversaw preparation and adoption of the 2008 Circulation Element Update of the General Plan including development of Year 2035 buildout traffic volumes, revised and simplified arterial roadway cross sections, and reduction in acceptable Level of Service criteria under certain conditions.
- ❖ Oversaw preparation of fact sheets/design exceptions to reduce shoulder widths on Jackson Street and on Monroe Street over I-10 as well as justifications for protected-permissive left turn phasing at I-10 on-ramps, the first such installations in Caltrans District 8 in Riverside County; reviewed plans and provided assistance during construction of both \$2 million projects to install traffic signals and widen three of four ramps at these two interchanges under Caltrans encroachment permits.
- ❖ Reviewed traffic signal, signing, striping, and work area traffic control plans for the County's \$45 million I-10 Interchange Improvement Project at Jefferson Street.
- ❖ Reviewed traffic impact analyses for Project Study Reports evaluating different alternatives for buildout improvements of the I-10 Interchanges at Jefferson Street, Monroe Street, Jackson Street and Golf Center Parkway.
- ❖ Oversaw preparation of plans, specifications, and contract documents and provided construction assistance for over 50 traffic signal installations and modifications.
- ❖ Reviewed and approved over 1,200 work area traffic control plans as well as signing and striping plans for all City and developer funded roadway improvement projects.
- ❖ Oversaw preparation of a City wide traffic safety study of conditions at all schools.
- ❖ Obtained \$47,000 grant from the California Office of Traffic Safety and implemented the City's Traffic Collision Database System. Annually reviews "Top 25" collision locations and provides traffic engineering recommendations to reduce collisions.
- ❖ Prepared over 900 work orders directing City forces to install, modify, and/or remove traffic signs, pavement and curb markings, and roadway striping.
- ❖ Oversaw preparation of engineering and traffic surveys to establish enforceable speed limits on over 400 street segments.
- ❖ Reviewed and approved traffic impact studies for more than 35 major projects and special events including the annual Coachella and Stagecoach Music Festivals.
- ❖ Developed and implemented the City's Golf Cart Transportation Program.

Since forming Tom Brohard and Associates in 2000, Tom has reviewed many traffic impact reports and environmental documents for various development projects. He has provided expert witness services and also prepared traffic studies for public agencies and private sector clients.