

March 1, 2019

Sent via Email

Brian Norton, Senior Planner
Community and Economic Development Department
Planning Division
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Re: The Exchange Draft Environmental Impact Report

Dear Mr. Norton:

This law firm represents the Southwest Regional Council of Carpenters (Southwest Carpenters) and submits this letter on the above-referenced project on its behalf.

Southwest Carpenters represents 50,000 union carpenters in six states, including in Southern California, and has a strong interest in reducing the environmental impacts of development projects, such as The Exchange Project (Project). The City of Riverside (City) published an Initial Study in July 2018 and a Draft Environmental Impact Report (DEIR) in January 2019.

The Project involves the construction of mixed-use retail and commercial development on a 35.4-acre site, including construction of:

- 482 apartment dwelling units on 18.4 acres;
- various commercial, retail, restaurants, and a gas station on 7.6 acres;
- two hotel buildings on 7.4 acres;
- RV parking; and
- space for temporary outdoor entertainment and other on-site activities, to be held in the parking lot of the commercial space.

Project approvals include:

- General Plan Amendment (P18-0091);
- Zoning Code Amendment (P18-0092);
- Site Plan Review (P18-0093);

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- Tentative Parcel Map No. 37475 (P18-0099);
- Conditional Use Permits (P18-0094, P18-009S, P18-0096, P18-0097, and P18-0098);
- Design Review (P18-0101); and
- Grading Exception (P18-0424).

The City discloses the Project will also require other federal and state permits, such as a Streambed Alteration Agreement and a Section 404 permit. However, the City does not disclose what permitting or California Air Resources Board certification, if any, the gas station will require, or whether the Project will require an easement vacation of the now unused Vista Street, but both discretionary actions will likely be required. (4.4-8.)

Southwest Carpenters submitted comments on the Initial Study. We initially note the City has disregarded concerns raised regarding the City's determinations that the Project would have less-than-significant impacts regarding impacts to several categories and thresholds, including aesthetics, hazards and hazardous materials, public services, and wastewater capacity. These prior comments are incorporated herein by reference.

Greenhouse Gas Emissions

The City failed to provide a discussion of baseline greenhouse gas emissions from the Project site, as required by CEQA.

When a project will result in significant environmental impacts, CEQA requires the City to adopt mitigation to reduce impacts to the maximum extent feasible. Regarding greenhouse gas impacts, the City determined the Project would well exceed quantitative thresholds and that the Project would result in significant and unavoidable impacts after the implementation of mitigation. (ES-19.)¹ However, in response to the massive exceedance of this threshold, the City determined it would only require two mitigation measures, one to reduce energy use by five percent and another to reduce water consumption, which the City determined would reduce emissions by only 725 metric tons of carbon-dioxide equivalent (MTCO₂e) emissions per year. This would reduce Project emissions from a stunning 21,998 MTCO₂e per year to an equally stunning 21,273 MTCO₂e per year—a 3.6-percent reduction. (4.7-12, 4.7-14.)

It is clear from this that the City does not take seriously mitigation to combat greenhouse gas emission impacts, and such an approach fails the goals and purpose of the City's Climate Action Plan, as well as state and regional laws designed to reduce greenhouse gases. The City never explained why other practical mitigation measures would be infeasible, such as requiring

¹ Unless otherwise indicated, all references are to the Project DEIR.

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installation of solar panels on all rooftops and vehicle shade structures, installation of hundreds of EV chargers in anticipation of the state's 100-percent zero-emission vehicle standards, and purchase of carbon offsets. Regarding installation of solar panels, the City cannot claim this is infeasible, as installation of solar panels on residential buildings will become mandatory in 2020. The City's claim that no other feasible mitigation measures exist is conclusory and unsupported by evidence. (4.7-14.) And, the City's repeated claim that it does not have jurisdiction over mobile emissions notably neglects to consider the existence or use of carbon offsets.

Further, the City's analysis did not disclose whether it adequately accounted for the City's extremely high use of coal as an energy source. The City's use of coal far outstrips the state average and is excessive by all measures. If the greenhouse gas analysis did not account for emissions from this energy source, the City has failed to fully disclose the greenhouse gas impacts of the Project.

Finally, in its discussion of Project compliance with various plans and policies, the City relies on plans and policies either not created or adopted by it or that are not designed to be applied at the Project-level. Further, the City fails to support its consistency conclusions. (e.g. 4.7-16; Table 4.7-3.) For instance, regarding Measure T-6, the City concludes, without evidence, "Motor vehicles driven by residents would maintain proper tire pressure when vehicles are serviced." (4.7-16.) Not only does this not address vehicle tire pressure in the spanning years when vehicles are not serviced, but this statement lacks any evidence in the form of enforcement. There is neither a mitigation measure that requires this nor is there a requirement that vehicles being serviced will get their tire pressure checked, let alone filled. Regarding Measure T-7, the City states the Project will "Improve jobs-housing balance and reduce vehicle miles traveled by increasing household and employment densities." (4.7-17.) However, the City fails to explain how the Project which has a 10:1 population-to-jobs ratio, serves to improve the City's housing-to-jobs ratio. The City otherwise fails to disclose whether the City is jobs-poor and housing rich or provide any other evidence to suggest the Project will do anything but worsen the City's jobs-to-housing ratio.

Please disclose whether the DEIR accurately accounted for the City's coal usage in its discussion of greenhouse gas impacts. Furthermore, please attempt to provide some reasoning to support the City's determination that no other mitigation is feasible.

Air Quality

The City is required to disclose the environmental setting that existed at the Project site at the time it issued its Notice of Preparation for the Project. In the DEIR, the City did not disclose baseline emissions from the Project site.

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The City determined Project NO_x emissions would be significant and unavoidable after the implementation of mitigation measures, but that the Project would not exceed direct and indirect thresholds for ROG_s, CO, SO_x, PM₁₀ and PM_{2.5}. (4.2-20.) The City proposes minimal mitigation to address the significant and unavoidable NO_x impacts, including reducing energy use by five percent and applying water-saving measures. (4.2-21.) The City does not explain how, if at all, these measures address the significant and unavoidable NO_x impacts caused by the Project.

The City determined the Project would not exceed the one-hour standard for NO₂. (4.2-24; Table 4.2-13.) However, in arriving at this conclusion, the City appears to erroneously apply the basin-wide state criteria pollutant concentration limit of 0.18 parts per million at the project-level. (4.2-2; Table 4.2-1.) Further, the City ignores the stricter federal standard of 0.100 parts per million, which the City indicates the Project's emissions would meet or exceed. Southwest Carpenters is unaware of any guidance from the Southern California Air Quality Management District (SCAQMD) that would promote the use of regional NAAQS and CAAQS standards at the project-level. Project emissions analysis typically focuses on SCAQMD daily emission thresholds, expressed in pounds per day, to determine significance of Project impacts.

In Table 12 of the Initial Study, the City claimed Project particulate matter emissions would be exactly equal to the significance threshold. However, in the DEIR, the City indicated PM emissions would be well below this threshold. (4.2-17, 4.2-20.) Please explain the City's shift in these calculations. As mentioned in our Initial Study comments, the Project proposes massive quantities of grading that, if left unmitigated, would suspend tons of dust in the air. This, in combination with vehicle and other motor emissions, would likely suspend significant quantities of particulate matter in the air, directly adjacent to a school and other sensitive uses.

Regarding Impact AQ-5, the City fails to evaluate the impacts of the Project on the environment and, instead, evaluates the impacts of the Project on the Project. (4.2-26.) Please revise this analysis to provide a proper disclosure of Project impacts on the environment.

The City has failed to conduct an adequate cumulative impacts analysis. According to the City, "SCAQMD's approach" to cumulative air quality impacts dictates that these impacts would be significant only if the Project exceeded thresholds designed to evaluate the direct and indirect project-level impacts *or* any nearby projects are subject to a SCAQMD "regulatory program." (4.2-28.) This approach to analyzing cumulative air quality impacts is divorced from reason and runs directly counter to the purpose of the cumulative impacts analysis, to evaluate the impact of the project in conjunction with other past, present, and reasonably foreseeable future projects. Crucially, the cumulative impacts analysis is specifically designed to evaluate

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impacts that are minor, or less than significant, at the Project-level, but that are cumulatively considerable when considered in conjunction with other past, present, and reasonably foreseeable future projects. Instead, the City's analysis failed to disclose or evaluate the emissions of any other projects, and it failed to disclose whether any of these projects have been determined to result in significant and unavoidable impacts regarding any of the pollutants the City determined were cumulatively less than significant.

The City's claim that it need only analyze other projects within one mile of the Project is fiction and bears no reasonable connection to the nature of air emissions. Emissions from the Project, and others, can, and will travel hundreds of miles, mixing with other pollutants in the Southern California Air Basin. Furthermore, Southwest Carpenters is aware of no SCAQMD significance threshold that promotes the City's approach to its cumulative air quality impacts analysis. Even if SCAQMD were to advance such an approach, this threshold would still violate the mandate of CEQA to evaluate the individually minor but cumulatively considerable impacts of the Project. Please cite the exact SCAQMD-adopted rule or regulation that contains the City's claimed significance threshold.

Biological Resources

The City does not adequately evaluate whether the Project will be consistent with City policies designed to protect the environment. Specifically, while Policy LU-7.2 and OS-5.4 are designed to preserve and protect open space habitats, such as the Project, the City provides no discussion of the impacts of the Project regarding these policies. (4.3-18 – 4.3-19.) Since the Project causes the elimination, as opposed to preservation and protection, of open space habitat, the Project is presumably incontrovertibly in conflict with these policies.

Regarding the impacts to wildlife corridors, while the City initially admits the Project site serves as linkage and forage habitat for avian species, the City fails to discuss the potential direct, indirect, and cumulative impacts of the loss of this site on these species. (4.3-18 – 4.3-20.)

Finally, the City's discussion of cumulative impacts to biological resources failed to conduct any actual analysis to support its conclusions, and has the same flaws as its cumulative air quality impacts analysis. The City summarily states that impacts to biological resources will be less than significant because "impacts to such resources would be addressed on a case-by-case basis." (4.3-20.) This reasoning runs directly counter to the directive and purpose of the cumulative impacts analysis and must be revised, at minimum, to actually consider impacts arising from other past, present, and reasonably foreseeable projects.

Cultural Resources

CEQA requires that mitigation measures be fully enforceable and adequately descriptive, such that adherence to these measures would support the City's conclusion that this mitigation would serve to reduce the impacts of the Project. The City may not defer the formulation of mitigation measures.

Mitigation Measure CR-1 does not provide specific, enforceable mandates, such that adherence to this mitigation would demonstrably reduce Project impacts. (4.4-19 – 4.4-20.) This measure requires the subsequent formulation of protocols, “including the scheduling, safety, safety requirements, duties, scope of work, and Native American Tribal Monitors' authority to stop and redirect grading activities . . .” (4.4-20.) This measure further requires the formulation of “Protocols and stipulations that the developer, tribes, and project archaeologist/paleontologist shall follow in the event of inadvertent cultural resources discoveries . . .” (4.4-20.) This language impermissibly defers formulation of these mitigation measures. None of the language in Mitigation Measure CR-1 is enforceable, and it does not create standards that would evidence this measure would serve to reduce, rather than worsen, Project impacts.

Energy

The City discloses that 26 percent of its energy resources come from coal, which, even accounting for “clean,” reduced-sulfur, coal, is widely regarded by experts as one of the least efficient, most harmful, and dirtiest fuels on the planet. (4.5-4.) Yet, the City makes no effort to evaluate means by which the Project could reduce its reliance on such a terrible, outdated energy source, such as installation of solar panels on all rooftops and parking shade structures.

Regarding Impact E-1 and construction energy demand, the City shoots from the hip when it states, without evidence or mitigation, that “it is reasonable to assume contractors would avoid wasteful, inefficient, and unnecessary fuel consumption during construction to reduce costs.” (4.5-14.) Absent binding mitigation, the City cannot blindly assume contractors will conduct business the way the City hopes or assumes they will. Please revise this discussion to either assume contractors will not avoid wasteful, inefficient, and unnecessary fuel consumption, or otherwise support the City's assumption in the form of binding mitigation.

Geology and Soils

In the Initial Study, the City determined the Project would have a less than significant impact on soil erosion and loss of topsoil, and the City failed to discuss this impact in the DEIR. The City concluded “upon project completion, the site would not contain any loose or exposed

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topsoil, and conditions that would cause long-term erosion would not be present.” However, the City admitted in the Initial Study, “Construction activities may result in temporary erosion of topsoil during grading activities.” The Project will face an especially high risk of erosion and loss of topsoil during grading activities. The City recognizes this in its discussion of Hydrology and Water Quality impacts: “activities associated with the proposed project would have the potential to generate soil erosion and to increase sediment loads in stormwater runoff”; “Soil disturbance associated with site preparation and grading activities would result in looser, exposed soils, which are more susceptible to erosion.” (4.8-13 – 4.8-14.) It was erroneous for the City to discount these impacts in the Geology and Soils section of the DEIR, but to evaluate erosion as a significant impact in its Hydrology and Water Quality section.

Hydrology and Water Quality

CEQA requires the City to accurately the impacts of the Project prior to mitigation. Regarding Impact HWQ-4, the City states the Project would result in a less-than-significant flood risk prior to mitigation. (4.8-22.) However, portions of the Project site currently fall within the 100-year flood zone. (4.8-22.) The City determines impacts will be less than significant because the Project will include undergrounding of the existing concrete-lined channel running through the Project site, and “Drainage alterations on the project site would reduce the potential for flooding to occur.” (4.8-23.) As there exists a flood hazard as part of the baseline of the Project, all design features the City claims will reduce this flood hazard should be disclosed as mitigation, as opposed to being presented as design features of the Project. Please revise this evaluation to comply with CEQA.

Land Use

CEQA requires that the City provide a reasoned analysis of Project impacts and mitigation. Failure to provide such an analysis fails the substantive and informational purposes of CEQA.

The City states that, although the Project conflicts with the existing land use designations of the Project site, which designations are partially designed to protect the environmental values of this site, such conflict is less than significant. (4.9-6 – 4.9-7.) The City states this is so because the Project includes approval of General Plan and Zoning amendments, to name two. (4.9-6 – 4.9-7.) This analysis short circuits the analysis required by CEQA. The City’s evaluation of the consistency of the Project with the Project is meaningless. (*See, e.g.*, 4.9-9.) CEQA requires the City to disclose the significant and unavoidable conflicts with current land use designations and then mitigate these impacts to the greatest extent feasible. It is

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uninformative to conclude the Project will be consistent with land use designations designed specifically for the Project *after* Project approval.

Noise

The City's discussion of noise impacts failed to provide required information, and the City's conclusions are not supported by the evidence in the record. The City discloses that any noise levels above 55 dBA (day) or 45 dBA (night) exceed the City's residential noise threshold. (4.10-11.) This level is already greatly exceeded at every location measured by the City. (4.10-6.) Although the City has created an internal noise threshold, the City's analysis did not measure baseline noise conditions at any sensitive receptors surrounding the Project site.

Furthermore, the City's analysis of noise impacts revealed that many areas surrounding the Project site suffer from unacceptably high noise levels well in excess of City noise standards. (E.g., 4.10-6, 4.10-9.) However, the City somehow determines that cumulative noise impacts are less than significant, despite noise levels being 20 dBA higher than residential standards. (4.10-32 – 4.10-33.) To arrive at this conclusion, the City applied standards it uses to evaluate direct and indirect impacts, again claiming the *Project* will not individually raise noise levels above these thresholds. (4.10-32.) This analysis, again, writes the cumulative impacts analysis out of CEQA and must be revised.

Traffic

The City's conclusions in the DEIR must be supported by substantial evidence in the record. Failure to support the conclusions in the DEIR with evidence results in an abuse of discretion, in violation of CEQA.

In its traffic analysis, the City recognizes that several intersections operate, or will operate, at unacceptable levels of service. (E.g., 4.12-6.) The City repeatedly concludes that implementation of various mitigation measures will reduce impacts to less than significant. (E.g., 4.12-19, 4.12-28.) However, the City provides no evidence to support these conclusions. For instance, the City provides no evidence that implementation of these mitigation measures will actually reduce levels of service at these intersections to acceptable levels. Absent supporting evidence, the City's conclusions are conclusory. Please provide evidence sufficient to prove the mitigation measures will effectively reduce levels of service at all significantly impacted intersections to less than significant.

The City's reasoning regarding the effectiveness of portions of its mitigation is further suspect. The City claims, undisclosed City "programs are recognized as City policy and

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therefore assumed to be implemented as soon as fully funded.” (4.12-28, 4.12-31.) However, absent evidence that any of these “programs” have actually been formulated, are designed to specifically address impacts discussed in the DEIR, and that funding and implementation of these mitigation measures are binding on the City, a blanket claim of “City policy” is insufficient evidence to support a conclusion that Project impacts will be adequately addressed, or addressed at all. Please revise the DEIR to provide more evidence that supports the City’s conclusions.

Conclusion

Southwest Carpenters thanks the City for providing an opportunity to comment on the DEIR. Pursuant to Section 21092.2 of the Public Resources Code and Section 65092 of the Government Code, Southwest Carpenters requests notification of all CEQA actions and notices of any public hearings concerning this Project, including any action taken pursuant to California Planning and Zoning Law. In addition, pursuant to Public Resources Code section 21167(f), please provide a copy of each Notice of Determination issued by the City in connection with this Project and please add Southwest Carpenters to the list of interested parties in connection with this Project and direct all notices to my attention. Please send all notices by email or, if email is unavailable, by U.S. Mail to the following two addressees:

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Thank you for your consideration of these comments.

Very truly yours,
WITTWER PARKIN LLP

/s/
Nicholas Whipps