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January 15, 2019

Sent via Email

Steve Power, Principal Planner
Chula Vista Development Services Department
276 Fourth Avenue
Chula Vista, CA 91910
spower@chulavistaca.gov

Re: Bonita Glen Project Mitigated Negative Declaration

Dear Mr. Power:

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 ensuring well-ordered land-use planning and reducing the environmental impacts of development projects, such as the Bonita Glen Project (Project). In its Mitigated Negative Declaration (MND), the City of Chula Vista (City) has determined the Project has the potential to cause significant impacts on the environment, but that all such impacts will be reduced to a less-than-significant level after mitigation.

The City describes the Project as the construction of a mixture of three- and four-story residential buildings within a 149,913 square-foot building area on a currently undeveloped parcels containing grasslands and an ephemeral stream. The Project would include 231 parking spaces and nine deed-restricted affordable housing units that have been included to provide the Project applicant a height bonus in excess of City zoning standards. The City states construction will require 209,000 square feet of grading. The City does not describe any of the approvals the Project will require.

Southwest Carpenters presents the below comments in response to the MND.

Project Description

The City must ensure the public is made fully aware of all City, state, and federal approvals the Project requires. It is currently unclear what, if any, discretionary approvals the Project requires. This information is needed to understand the impacts of the Project and must be clearly included in a revised MND or EIR.

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WITTWER PARKIN LLP / 147 S. RIVER ST., STE. 221 / SANTA CRUZ, CA / 95060 / 831.429.4055

WWW.WITTWERPARKIN.COM / LAWOFFICE@WITTWERPARKIN.COM

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Aesthetics

The City does not fully describe baseline Project conditions or Project-related aesthetic impacts. Presumably, the City's zoning restrictions on building heights and are in place to prevent aesthetic impacts to views from Vista Drive. However, the City does not disclose this intent of the current zoning restrictions, nor does it evaluate the aesthetic impacts that will arise from relaxing these restrictions. Permitting buildings to be constructed in excess of height standards will cause severe aesthetic impacts to views along this portion of the Project that the City does not adequately consider or mitigate. This relaxing of regulations will permit taller and bulkier buildings than were previously allowed. This is especially the case considering the current conditions of the Project site, which currently exists as grassy, gently sloping open space. The Project represents a vast change from the status quo.

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Further, the City heavily downplays the high aesthetic value of the Project site, determining that the Project has no aesthetic value and, thus, no aesthetic impacts could possibly occur from the Project. The City reasons, "The project lacks visual quality, as it is characterized by disturbed vegetation with trash and several large pieces/piles of broken concrete debris observed on one side." (IS, p. 2.) However, as the City is aware, aesthetic qualities are subjective and should account for more than just certain, very limited features on the Project site, such as trash and concrete blocks. Contrary to the City's overly narrow discussion of the baseline aesthetic quality of the Project site, the Project site has high aesthetic value. (See Ex. A.) The Project site currently consists of grassy open space, with a green ephemeral stream running the entire length of the Project site. (See Ex. B.) Further, the Project site has a pleasing, gentle slope to it, with larger trees in the background as a backdrop. These views and features will be forever lost if the Project is constructed. The City's discussion entirely fails to credit the high baseline aesthetic value of the Project site in its MND, to the detriment of an informed public. Because the City's analysis fails to adequately and accurately evaluate baseline Project conditions or Project impacts, the MND fails as an informational document.

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The remainder of the City's discussion of aesthetic impacts fares no better. For instance, the City presents no evidence that adherence to "all applicable City regulations related to building and construction" would ensure aesthetic impacts during construction would be less than significant. It is highly unlikely that any of the City's construction regulations have in any way been designed to beautify the Project site. Regardless, the City presents no evaluation of these supposed regulations and, thus, its analysis is entirely unsupported by even a shred of evidence in the record. There simply is no basis to claim that nineteen months of construction would not result in significant aesthetic impacts. This construction will forever remove this flowing grassland and ephemeral stream, and construction equipment will persistently dot the

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scarred Project site during construction. Although the City does not state whether fencing will be erected, any fencing will be unsightly and block views of the Project site and the trees in the backdrop. These are significant and unavoidable impacts that form the backbone of the Project, and which will significantly and irreparably damage the continuity, features, and quality of this open space. These impacts require evaluation in an EIR.

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The City further determines that the operational features of the Project will cause less than significant impacts prior to mitigation. The Project would construct several buildings, up to 56 feet above grade, and will convert the Project site into bulky, massive apartments. The Project's sloping grasslands will be forever lost to asphalt and concrete, and views will be entirely blocked from all angles due to the tall, bulky Project buildings. Conversion of the Project site from open space to high-density residential uses will permanently and irreparably negatively alter the current aesthetic appeal to the Project site, replacing these aesthetic qualities with bulky, urbanized development. This is a significant and unavoidable effect of the Project that requires preparation of an EIR.

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Please revise the City's discussion of aesthetic impacts to ensure it accurately and fully describes baseline Project conditions, Project-related aesthetic impacts, and provides adequate, feasible mitigation.

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Air Quality

The City erroneously concludes the air quality impacts of the Project are not cumulatively considerable. The City must evaluate the impacts of the entire Project in conjunction with other past, present, and reasonably foreseeable future development. (14 Cal. Code Regs. § 15355.) Crucially, cumulative impacts "can result from individually minor but collectively significant projects taking place over a period of time." (14 Cal. Code Regs. § 15355(b).) Here, the City reasons:

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project-level thresholds of significance for criteria pollutants are relevant in the determination of whether a project's individual emissions would have a cumulatively significant impact on air quality . . . a project would only be considered to have a significant cumulative impact if the project's contribution accounts for a significant proportion of cumulative total emissions. Projects that propose development that is consistent with the growth anticipated by local plans . . . would not be considered to result in cumulatively considerable impacts from operational emissions.

(IS, pp. 12-13.)

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The City entirely fails to support its conclusions with evidence. Specifically, the City presents no evidence that the Project, in conjunction with other past, present, and reasonably foreseeable future development, would not result in cumulatively significant impacts, including an exceedance of regional growth estimates. The City presents *no evidence* that other projects, when combined with the Project, would not exceed these growth estimates. However, it is telling that the Project accounts for nearly one-quarter of the 801 units anticipated to be built annually. (See IS, p. 10.) Absent information indicating other past, present, and reasonably foreseeable future projects would not cumulatively exceed this growth forecast, the City's conclusions are baseless. Further, under the City's reasoning, it is extremely unlikely that it would ever find cumulatively considerable impacts, as, by the City's reasoning, only a project that *individually* exceeds these housing estimates would be significant. This is not the intent of the cumulative impacts analysis.

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Further, as the City indicates, it has failed to adequately consider cumulative air quality impacts of the Project in conjunction with other past, present, or reasonably foreseeable future development. Instead, the City reasons that only projects that exceed Project-specific direct and indirect impacts thresholds for criteria pollutants could be found to be cumulatively significant. This reasoning pays a disservice to the public and defeats the purpose of the cumulative impacts analysis. The City's analysis makes it clear that it never even considered the emissions of other projects to assess whether these emissions are cumulatively significant. However, as the San Diego Basin is in non-attainment for several harmful criteria pollutants, and the Project will only worsen air quality, it is evident that the Project *will* contribute to these cumulative air-quality violations.

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The City's mitigation measures aimed at addressing the severe localized air quality impacts of the Project fail the fundamental, and only, purpose of mitigation—to reduce the impacts of the *Project* on the *environment*. (See IS, p. 16.) Instead, the measures proposed by the City are only directed at reducing the impacts of the *Project* on future Project residents, leaving unmitigated all significant off-site localized air quality impacts. The City's failure to adopt all feasible mitigation measures to address these significant air quality impacts violates CEQA. Furthermore, the City's determination that these mitigation measures will reduce Project impacts to less than significant is completely unsupported by evidence in the record.

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Biological Resources

The City does not state whether it conducted adequate species surveys.¹ (See IS, p. 21.) Specifically, the City does not disclose whether it conducted species surveys during the flowering seasons. If the City did not conduct appropriate seasonal studies of grassland species, then flowering special-status species would have been unidentifiable, meaning the City's conclusions regarding species presence or absence would lack evidentiary support. Please disclose whether appropriate seasonal surveying was conducted.

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Images of the Project site suggest the Project will redirect the ephemeral stream from its current course, which currently includes flows to the eastern portion of the Project site. (See Ex. B.) Project imagery indicates this stream would be redirected to flow only north to south upon Project completion. (See MND, p. 27.) The City does not discuss this stream alteration anywhere in the MND or Initial Study.

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Cultural Resources

Mitigation Measure MM-CUL-2 is confusing. (IS, pp. 28-29.) This mitigation measure states a paleontological monitor, "shall be on site on at least a half-time basis during the original cutting of previously undisturbed sediments of moderately sensitive geologic formations . . . to inspect cuts for contained fossils." (IS, p. 29.) Directly following this statement, MM CUL-2 states the "monitor shall be on site during the original cutting of previously undisturbed sediments of moderate and high sensitivity geologic formations," suggesting that this monitoring would be required to be on a full-time, rather than half-time, basis. Please revise this mitigation measure to ensure clarity.

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Greenhouse Gases

The City straddles two positions in its greenhouse gas analysis. Whereas the City relies exclusively on the City's Climate Action Plan (CAP) to determine quantitative greenhouse gas emissions are less than significant under Threshold (a), the City then admits:

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The City's CAP is not considered a qualified GHG reduction plan in accordance with CEQA Guidelines, Section 15183.5, as it has not been adopted in a public process

¹ Throughout the MND and Initial Study, the city references technical studies and reports that were prepared for the Project, which the city never made available for review. Please post these studies online to allow members of the public to review these studies and reports to ensure the accuracy and adequacy of the City's environmental review.

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following environmental review. Consistency analysis was performed with the City's CAP . . . for informational purposes only and will not be used to determine significance.

(IS, p. 35.) Contrary to the City's reasoning, the requirements of Section 15183.5 apply equally to the City's setting of quantitative greenhouse gas thresholds. (See 14 Cal. Code Regs. § 15183.5(b)(1)(B).) Thus, the City's determination that Project greenhouse gas emissions are less than significant is not based on a valid threshold.

Regarding Threshold (b), the City's analysis relies exclusively on the AQ/GHG Technical Report, which was not provided to the public. The analysis in the Initial Study, itself, is conclusory. Thus, it is impossible to know whether there is any validity to the City's analysis under Threshold (b). Regardless, it is clear the City has evaluated the consistency of the Project with inapplicable, outdated plans not adopted by it and that are not designed to be applied at the Project, as opposed to the state- or regional-level. Thus, the City's evaluation of Project consistency with these plans is invalid and cannot be used to support the City's finding that Project's greenhouse gas impacts are less than significant prior to mitigation.

Hazards and Hazardous Materials

The City references a Phase I ESA that was not provided to the public. The discussion of baseline Project conditions in the MND, by itself, is limited and insufficient. (IS, p. 38.) For instance, the MND does not disclose whether any soils or other testing was conducted to ensure soils and other on-site features are uncontaminated. The discussion in the MND suggests that only a superficial evaluation of Project conditions occurred, and no soil sampling. If this is the case, the City has failed to conduct adequate baseline testing of the Project site.

For Threshold (c), the City incorrectly states the Project is not located within one-quarter mile of a school. Contrary to this conclusion, the Spectrum Preschool is located within one-quarter mile of the Project site. (See Ex. C.) Further, regarding the City's conclusion that the Project would not emit or handle hazardous emissions or materials within one-quarter mile of any other school, the City does not consider the potential of the Project to transport hazardous substances near these schools. Absent mitigation in the form of prescribed transportation routes, the City presents no evidence that hazardous materials will not be transported near these schools. Please revise the hazardous materials discussion to ensure it accurately considers these issues.

Hydrology and Water Quality

Regarding Threshold (b), the City states the Project would not significantly impact groundwater supplies because "no development or operational phase of the proposed project

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would require the *direct* use of groundwater supplies.” (IS, p. 44.) However, this does not resolve whether the Project would significantly impact groundwater supplies, as the City does not address whether the Project would rely on groundwater from other sources, whether these groundwater sources are being (or will be) used beyond their sustainable yield, or whether the Project could be adequately served by these sources. Please revise this discussion to ensure this information is sufficient to determine the Project would have less-than-significant impacts on groundwater resources.

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While the City realizes portions of the Project site fall within the 100-year floodplain, the City fails to address the potential of the Project to subject future on-site residents and structures to flooding, as required by the CEQA Guidelines and controlling caselaw. (See, e.g., 14 Cal. Code Regs. Appx. G § VIII(g), (i).) These impacts are implicit in the City’s analysis of flooding, which assumes flooding will occur on-site and flows will need to be captured to ensure the Project does not worsen flooding downstream.

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Noise

The City fails to evaluate Project noise impacts when compared to baseline conditions. In Table 13 of the Noise section of the Initial Study, the City confusingly shows noise impacts *decreasing* after construction of the Project. (IS, p. 54.) The City explains, “The slight decrease in noise level . . . at ST4 is due to the additional acoustical shielding provided by the project to roadways . . . to the north and northeast.” (IS, p. 54.) The installation of a sound wall is mitigation to reduce Project impacts. By presenting this mitigation measure as a design feature of the Project, the City masks the true impacts of the Project, in violation of CEQA. The City must evaluate the impacts of the Project assuming no acoustical shielding will be built.

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The City, again, fails to mitigate the significant noise impacts of the Project on the environment, and, instead, focuses on mitigating the impacts of the Project on the Project. Mitigation Measures MM-NOI-3 and MM-NOI-4 are only designed to reduce the impacts of the Project on future Project residents, but these mitigation measures do nothing to reduce impacts to off-site receptors. While the information presented in the MND indicates the Project will have significant impacts on off-site receptors during the operation of the Project, the City provides no mitigation to address these operational impacts. Thus, these impacts remain significant and unmitigated.

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Finally, the City entirely failed to consider whether the Project would either individually or cumulatively exceed the 45 dBA CNEL indoor noise threshold at off-site receptors. (IS, p. 57.) Please revise this discussion to provide an evaluation of these impacts.

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Public Services

The City's discussion of impacts to public services is universally conclusory and unsupported by evidence or facts. Moreover, the City's discussion of these impacts entirely fails to disclose or discuss cumulative impacts to these services. It is clear from the brevity of this discussion and its conclusory nature that the City has not studied impacts to public services. The conclusory nature of the City's discussion of these impacts makes it impossible to understand baseline Project conditions and Project impacts. Thus, the MND fails as an informational document.

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Regarding impacts to parks, the City does not disclose whether the City is currently experiencing a parks-to-residents deficit that the Project would individually or cumulatively contribute to, nor does the City state whether new development will adequately contribute to the creation of a minimum acreage of new parks per resident.

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Traffic

The City does not address significant traffic impacts to which the Project will contribute. For instance, Table 19 in the Traffic Section shows Bonita Road from I-805 southbound to I-805 northbound ramps will operate at level of service (LOS) "E." (IS, p. 69.) Chapter 5 of the City's General Plan Land Use Element (incorporated herein by reference) does not allow any roadway within the City to operate at an LOS of E. The lowest permissible LOS anywhere in the City is LOS D. Thus, according to the General Plan, the Project will create or contribute to an exceedance of the allowable LOS for this road section, which the City has failed to identify or mitigate.

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Regarding the potential of the Project to block emergency access or emergency routes, the City states, without evidence, "All construction within public roadways would not impede access or movement of emergency vehicles." (IS, p. 71.) Absent binding mitigation preventing such impediments to access, the City's conclusory statement is unsupported by evidence.

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Utilities

Regarding Threshold (a), the City provides no reference to, or analysis of, peak wet weather flows to the City's treatment plant, nor does the City indicate whether its facilities are capable of handling peak wet weather flows now or in the future. Information regarding peak wet weather flows is crucial to understanding whether the Project will cause or contribute to sanitary sewer overflows (SSOs). Without this information, the city's analysis is uninformative

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and fails to truly disclose whether the Project will result in significant impacts to wastewater treatment facilities.

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Regarding Thresholds (d) and (c), the City does not disclose the capacity of the Sweetwater Authority or Metro Collection System facilities. Absent information showing these facilities have adequate capacity, the City's analysis stating the Project will only occupy a small fraction of these facilities' capacities is meaningless. The City must evaluate and disclose whether these facilities are, or will be, beyond capacity.

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Thresholds

The City tacked a confusing, conclusory, disjointed "Thresholds" checklist to the end of its MND. This list contains significance thresholds the City should have fully evaluated. Instead, the City provides *no discussion* and *no evidence* regarding these thresholds and simply lists the topics of these thresholds in an uninformative checklist. For the City's discussion of these thresholds to be valid and comply with CEQA, the City would have needed to provide analytical and factual support for its checklist determinations. Because the City has not done so, this list only provides further evidence that the City's analysis violates CEQA and must be heavily revised.

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Energy Efficiency and Conservation

The City is required, and failed, to discuss whether the Project includes the wasteful consumption of energy that may be mitigated. The City's failure to consider mitigation in the form of rooftop solar and installing electric vehicle charging stations stands out as a lost opportunity at energy savings. The City must recirculate the MND or draft an EIR that contains an adequate discussion of this topic.

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Conclusion

Southwest Carpenters thanks the City for providing an opportunity to comment on the MND. Pursuant to Section 21092.2 of the Public Resources Code and Section 65092 of the Government Code, Southwest Carpenters request 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

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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:

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Nicholas Whipps
Ashley McCarroll
Wittwer Parkin LLP
147 S. River St., Ste. 221
Santa Cruz, CA 95060
nwhipps@wittwerparkin.com
amccarroll@wittwerparkin.com

Very truly yours,
WITTWER PARKIN LLP

Nicholas Whipps