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*Via Email*

December 9, 2021

Chair Ryan Baldino and  
Honorable Members of the Planning  
Commission  
City of El Segundo  
Development Services Department  
350 Main Street  
El Segundo, CA 90245

Paul Samaras, AICP  
City of El Segundo  
Development Services Department  
350 Main Street  
El Segundo, CA 90245  
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**Re: Comment on Final Environmental Impact Report, Pacific Coast  
Commons Specific Plan (SCH# 2020050508)**

Dear Chair Baldino, Honorable Members of the Planning Commission, and Mr. Samaras:

I am writing on behalf of **Supporters Alliance For Environmental Responsibility** (“SAFER”) regarding the Final Environmental Impact Report (“FEIR”) prepared for the Project known as Pacific Coast Commons Specific Plan, aka SCH# 2020050508, including all actions related or referring to the proposed demolition of existing surface parking lots and construction of a new mixed use development located at 401-575 N. Pacific Coast Highway (PCH) and the parking lot on 600-block of PCH in the City of El Segundo (“Project”).

After reviewing the FEIR, we conclude that the FEIR fails as an informational document, fails to adequately analyze the Project’s environmental impacts, and fails to impose all feasible mitigation measures to reduce the Project’s impacts. SAFER requests that the Planning Division address these shortcomings in a revised environmental impact report (“REIR”) and recirculate the REIR prior to considering approvals for the Project.

This comment has been prepared with the assistance of Certified Industrial Hygienist, Francis “Bud” Offermann, PE, CIH (Exhibit A). Mr. Offermann’s comments are incorporated herein by reference.

**I. PROJECT DESCRIPTION**

The Specific Plan area for this Project consists of eight parcels which total 6.385 gross acres. Current developments onsite include the Fairfield Inn and Suites Hotel and the

Aloft Hotel, as well as surface parking lots. The Project would redevelop existing surface parking lots and a portion of the Fairfield Inn and Suites Hotel and would create five new land use districts. The site is bounded by Los Angeles International Airport to the north and residential communities to the east and south.

The Specific Plan allows for the following: (1) the continued operation of the Fairfield Inn and Suites Hotel and Aloft Hotel, which contain 596 rooms within 288,767 square feet of hotel development; (2) 327,021 square feet of residential development for 263 new housing units, including 257 multi-family apartments and six condominium/townhomes; (3) 11,252 square feet of new commercial/retail uses; and (4) three new parking structures that would contain approximately 792 parking stalls. Construction activities would last approximately 34 months.

## II. LEGAL BACKGROUND

CEQA requires that an agency analyze the potential environmental impacts of its proposed actions in an environmental impact report (“EIR”) (except in certain limited circumstances). *See, e.g.* Pub. Res. Code § 21100. The EIR is the very heart of CEQA. *Dunn-Edwards v. BAAQMD* (1992) 9 Cal.App.4th 644, 652. “The ‘foremost principle’ in interpreting CEQA is that the Legislature intended the act to be read so as to afford the fullest possible protection to the environment within the reasonable scope of the statutory language.” *Communities for a Better Environment v. Calif. Resources Agency* (2002) 103 Cal. App. 4th 98, 109.

CEQA has two primary purposes. First, CEQA is designed to inform decision makers and the public about the potential, significant environmental effects of a project. 14 Cal. Code Regs. (“CEQA Guidelines”) § 15002(a)(1). “Its purpose is to inform the public and its responsible officials of the environmental consequences of their decisions before they are made. Thus, the EIR ‘protects not only the environment but also informed self-government.’” *Citizens of Goleta Valley v. Board of Supervisors* (1990) 52 Cal.3d 553, 564. The EIR has been described as “an environmental ‘alarm bell’ whose purpose it is to alert the public and its responsible officials to environmental changes before they have reached ecological points of no return.” *Berkeley Keep Jets Over the Bay v. Bd. of Port Comm’rs.* (2001) 91 Cal. App. 4th 1344, 1354 (“*Berkeley Jets*”); *County of Inyo v. Yorty* (1973) 32 Cal.App.3d 795, 810.

Second, CEQA requires public agencies to avoid or reduce environmental damage when “feasible” by requiring “environmentally superior” alternatives and all feasible mitigation measures. CEQA Guidelines § 15002(a)(2) and (3); *see also, Berkeley Jets*, 91 Cal.App.4th at pp. 1344, 1354; *Citizens of Goleta Valley*, 52 Cal.3d at 564. The EIR serves to provide agencies and the public with information about the environmental impacts of a proposed project and to “identify ways that environmental damage can be avoided or

significantly reduced.” CEQA Guidelines §15002(a)(2). If the project will have a significant effect on the environment, the agency may approve the project only if it finds that it has “eliminated or substantially lessened all significant effects on the environment where feasible” and that any unavoidable significant effects on the environment are “acceptable due to overriding concerns.” Pub. Res. Code § 21081; 14 Cal.Code Regs. § 15092(b)(2)(A) & (B). The lead agency may deem a particular impact to be insignificant only if it produces rigorous analysis and concrete substantial evidence justifying the finding. *Kings County Farm Bureau v. City of Hanford* (1990) 221 Cal.App.3d 692, 732.

While the courts review an EIR using an “abuse of discretion” standard, “the reviewing court is not to ‘uncritically rely on every study or analysis presented by a project proponent in support of its position. A ‘clearly inadequate or unsupported study is entitled to no judicial deference.’” *Berkeley Jets*, 91 Cal. App. 4th at p. 1355 (emphasis added) (quoting *Laurel Heights Improvement Assn. v. Regents of University of California* (1988) 47 Cal. 3d 376, 391 409, fn. 12). As the court stated in *Berkeley Jets*:

A prejudicial abuse of discretion occurs “if the failure to include relevant information precludes informed decisionmaking and informed public participation, thereby thwarting the statutory goals of the EIR process.” (*San Joaquin Raptor/Wildlife Rescue Center v. County of Stanislaus* (1994) 27 Cal.App.4th 713, 722; *Galante Vineyards v. Monterey Peninsula Water Management Dist.* (1997) 60 Cal. App. 4th 1109, 1117; *County of Amador v. El Dorado County Water Agency* (1999) 76 Cal. App. 4th 931, 946.)

More recently, the California Supreme Court has emphasized that:

When reviewing whether a discussion is sufficient to satisfy CEQA, a court must be satisfied that the EIR (1) includes sufficient detail to enable those who did not participate in its preparation to understand and to consider meaningfully the issues the proposed project raises [citation omitted], and (2) makes a reasonable effort to substantively connect a project's air quality impacts to likely health consequences.

*Sierra Club v. Cty. of Fresno* (2018) 6 Cal.5th 502, 510 (2018), citing *Laurel Heights Improvement Assn. v. Regents of University of California* (1988) 47 Cal.3d 376, 405. “Whether or not the alleged inadequacy is the complete omission of a required discussion or a patently inadequate one-paragraph discussion devoid of analysis, the reviewing court must decide whether the EIR serves its purpose as an informational document.” *Sierra Club v. Cty. of Fresno*, 6 Cal.5th at 516. Although an agency has discretion to decide the manner of discussing potentially significant effects in an EIR, “a reviewing court must determine whether the discussion of a potentially significant effect is sufficient or insufficient, i.e., whether the EIR comports with its intended function of including ‘detail sufficient to enable those who did not participate in its preparation to understand and to consider meaningfully the issues raised by the proposed project.’” 6 Cal.5th at 516, citing *Bakersfield Citizens for*

*Local Control v. City of Bakersfield* (2004) 124 Cal.App.4th 1184, 1197. “The determination whether a discussion is sufficient is not solely a matter of discerning whether there is substantial evidence to support the agency’s factual conclusions.” 6 Cal.5th at 516. Whether a discussion of a potential impact is sufficient “presents a mixed question of law and fact. As such, it is generally subject to independent review. However, underlying factual determinations—including, for example, an agency’s decision as to which methodologies to employ for analyzing an environmental effect—may warrant deference.” *Sierra Club v. Cty. of Fresno*, 6 Cal.5th at 516. As the Court emphasized:

[W]hether a description of an environmental impact is insufficient because it lacks analysis or omits the magnitude of the impact is not a substantial evidence question. A conclusory discussion of an environmental impact that an EIR deems significant can be determined by a court to be inadequate as an informational document without reference to substantial evidence.

*Sierra Club v. Cty. of Fresno*, 6 Cal.5th at 514. We find that the FEIR prepared by the City here is inadequate for the reasons set forth below.

### III. DISCUSSION

#### A. There is Substantial Evidence that the Project Will Have a Significant Health Risk Impact from its Indoor Air Quality Impacts.

Certified Industrial Hygienist, Francis “Bud” Offermann, PE, CIH, has conducted a review of the proposed Project and relevant documents regarding the Project’s indoor air emissions. Indoor Environmental Engineering Comments (Exhibit A). Mr. Offermann concludes that it is likely that the Project will expose residents and commercial employees of the Project to significant impacts related to indoor air quality, and in particular, emissions of the cancer-causing chemical formaldehyde. Mr. Offermann is a leading expert on indoor air quality and has published extensively on the topic. Mr. Offermann’s expert comments and curriculum vitae are attached as Exhibit A.

Mr. Offermann explains that many composite wood products used in building materials and furnishings commonly found in offices, warehouses, residences, and hotels contain formaldehyde-based glues which off-gas formaldehyde over a very long time period. He states, “[t]he primary source of formaldehyde indoors is composite wood products manufactured with urea-formaldehyde resins, such as plywood, medium density fiberboard, and particleboard. These materials are commonly used in building construction for flooring, cabinetry, baseboards, window shades, interior doors, and window and door trims.” Ex. A, p. 2-3.

Formaldehyde is a known human carcinogen. Mr. Offermann states that future residents of the Project would be exposed to a 120 in one million risk, assuming all materials are compliant with the California Air Resources Board's formaldehyde airborne toxics control measure. *Id.* at 4. As for commercial employees, he estimates an exposure level of 17.7 in one million. *Id.* at 5. These potential exposure level exceeds the South Coast Air Quality Management District's ("SCAQMD") CEQA significance threshold for airborne cancer risk of 10 per million.

Mr. Offermann concludes that these significant environmental impacts should be analyzed in the EIR and mitigation measures should be imposed to reduce the risk of formaldehyde exposure. *Id.* Mr. Offermann identifies mitigation measures that are available to reduce these significant health risks, including the installation of air filters and a requirement that the applicant use only composite wood materials (e.g. hardwood plywood, medium density fiberboard, particleboard) for all interior finish systems that are made with CARB approved no-added formaldehyde (NAF) resins or ultra-low emitting formaldehyde (ULEF) resins in the buildings' interiors. *Id.* at 12.

Mr. Offermann also notes that because of the Project's close proximity to roads with moderate to high traffic and to air traffic from the nearby Los Angeles International Airport, the project is sound impacted. It will therefore require a "mechanical supply of outdoor air ventilation to allow for a habitable interior environment with closed windows and doors," so as to allow occupants the discretion to control exterior noise. *Id.* at 11.

The City has a duty to investigate issues relating to a project's potential environmental impacts, especially those issues raised by an expert's comments. *See Cty. Sanitation Dist. No. 2 v. Cty. of Kern*, (2005) 127 Cal.App.4th 1544, 1597-98 ("under CEQA, the lead agency bears a burden to investigate potential environmental impacts"). In addition to assessing the Project's potential health impacts to residents and employees, Mr. Offermann identifies the investigatory path that the City should be following in developing an EIR to more precisely evaluate the Project's future formaldehyde emissions and establishing mitigation measures that reduce the cancer risk below the SCAQMD level. Such an analysis would be similar in form to the air quality modeling and traffic modeling typically conducted as part of a CEQA review.

The failure to address the project's formaldehyde emissions is contrary to the California Supreme Court's decision in *California Building Industry Ass'n v. Bay Area Air Quality Mgmt. Dist.* (2015) 62 Cal.4th 369, 386 ("*CBIA*"). At issue in *CBIA* was whether the Air District could enact CEQA guidelines that advised lead agencies that they must analyze the impacts of adjacent environmental conditions on a project. The Supreme Court held that CEQA does not generally require lead agencies to consider the environment's effects on a project. *CBIA*, 62 Cal.4th at 800-801. However, to the extent a project may exacerbate existing adverse environmental conditions at or near a project site, those would still have to be considered pursuant to CEQA. *Id.* at 801 ("CEQA calls upon an agency to evaluate

existing conditions in order to assess whether a project could exacerbate hazards that are already present”). In so holding, the Court expressly held that CEQA’s statutory language required lead agencies to disclose and analyze “impacts on *a project’s users or residents* that arise *from the project’s effects* on the environment.” *Id.* at 800 (emphasis added).

The carcinogenic formaldehyde emissions identified by Mr. Offermann are not an existing environmental condition. Those emissions to the air will be from the Project. Residents and commercial employees will be users of the Project. Rather than excusing the City from addressing the impacts of carcinogens emitted into the indoor air from the project, the Supreme Court in *CBIA* expressly finds that this type of effect by the project on the environment and a “project’s users” must be addressed in the CEQA process.

The Supreme Court’s reasoning is well-grounded in CEQA’s statutory language. CEQA expressly includes a project’s effects on human beings as an effect on the environment that must be addressed in an environmental review. “Section 21083(b)(3)’s express language, for example, requires a finding of a ‘significant effect on the environment’ (§ 21083(b)) whenever the ‘environmental effects of a project will cause substantial adverse effects *on human beings*, either directly or indirectly.” *CBIA*, 62 Cal.4th at 800 (emphasis in original). Likewise, “the Legislature has made clear—in declarations accompanying CEQA’s enactment—that public health and safety are of great importance in the statutory scheme.” *Id.*, citing e.g., §§ 21000, subds. (b), (c), (d), (g), 21001, subds. (b), (d). It goes without saying that the future residents and employees of the Project are human beings and the health and safety of those residents and workers is as important to CEQA’s safeguards as that of other nearby residents currently living near the project site.

The City’s EIR must disclose and mitigate the potential environmental impacts to future users of the building.

**B. There is Substantial Evidence that the Project will have Significant Adverse Air Quality, Health Risk, and Greenhouse Gas Impacts**

**1. The DEIR Relied on Unsubstantiated Input Parameters to Estimate Project Emissions and Thus the Project May Result in Significant Air Quality Impacts.**

The Southwest Regional Council of Carpenters submitted a public comment on April 12, 2021 which was supported by the comments of expert environmental consulting firm SWAPE. (Exhibit B). Matt Hagemann, P.G., C.Hg., and Dr. Paul E. Rosenfeld, Ph.D., of the environmental consulting firm SWAPE reviewed the DEIR’s analysis of the Project’s impacts on air quality, health risk, and greenhouse gases. SAFER joins the Carpenters’ comment and SWAPE’s comment, the latter of which is incorporated by reference herein.

SWAPE found that the DEIR incorrectly estimated the Project's construction and operational emissions and therefore cannot be relied upon to determine the significance of the Project's impacts on local and regional air quality. The DEIR relies on emissions calculated from the California Emissions Estimator Version CalEEMod.2016.3.2 ("CalEEMod"). DEIR, p. 4.2-1. This model, which is used to generate a project's construction and operational emissions, relies on recommended default values based on site specific information related to a number of factors. SWAPE comment, p. 1. CEQA requires any changes to the default values to be justified by substantial evidence. *Id.* at 1-2.

SWAPE reviewed the DEIR's CalEEMod output files and found that the values input into the model were inconsistent with information provided in the DEIR. *Id.* at 2. As a result, the DEIR's air quality analysis cannot be relied upon to determine the Project's emissions.

Specifically, SWAPE found that the following values used in the DEIR's air quality analysis were either inconsistent with information provided in the DEIR or otherwise unjustified:

1. Underestimated Land Use Sizes. SWAPE comment, p. 2.
2. Failure to Model All Required Demolition. *Id.* at p. 3-4.
3. Unsubstantiated Changes to Acres of Grading Values. *Id.* at 4-5.
4. Unsubstantiated Changes to Material Moisture Content Bulldozing Values. *Id.* at 5-6.
5. Unsubstantiated Changes to Material Silt Content Values. *Id.* at 6-7.
6. Unsubstantiated Changes to Hauling Trip Numbers. *Id.* at 7-8.
7. Unsubstantiated Changes to Architectural and Area Coating Areas. *Id.* at 8-9.
8. Underestimated Operational Vehicle Trip Rates. *Id.* at 10-11.
9. Unsubstantiated Changes to Energy Use Values. *Id.* at 11.
10. Unsubstantiated Changes to Wastewater Treatment System Percentages. *Id.* at 12.
11. Incorrect Application of Construction-Related Mitigation Measures. *Id.* at 13-14.
12. Incorrect Application of Mobile-Related Operational Mitigation Measures. *Id.* at 14-15.

As a result of these errors in the DEIR, the Project's construction and operational emissions were underestimated and cannot be relied upon to determine the significance of the Project's air quality impacts.

## **2. There is Substantial Evidence that the Project May Have a Significant Health Impact as a Result of Diesel Particulate Emissions.**

One of the primary emissions of concern regarding health effects for land development projects is diesel particulate matter ("DPM"), which can be released during Project construction and operation. DPM consists of fine particles with a diameter less than 2.5 micrometers including a subgroup of ultrafine particles (with a diameter less than 0.1

micrometers). Diesel exhaust also contains a variety of harmful gases and cancer-causing substances. Exposure to DPM is a recognized health hazard, particularly to children whose lungs are still developing and the elderly who may have other serious health problems. According to the California Air Resources Board (“CARB”), DPM exposure may lead to the following adverse health effects: aggravated asthma; chronic bronchitis; increased respiratory and cardiovascular hospitalizations; decreased lung function in children; lung cancer; and premature deaths for those with heart or lung disease.<sup>1</sup>

The DEIR concluded that the mitigated excess cancer risk posed by the Project to nearby sensitive receptors would not exceed the SCAQMD significance threshold of 10 in one million, and that the Project would result in a less-than-significant operational health risk impact. SWAPE comment, p. 15; DEIR, p. 4.2-38. SWAPE identifies four main reasons for why the DEIR’s evaluation of health risk impacts and less-than-significant conclusion is incorrect.

First, the DEIR’s construction HRA is incorrect due to its reliance on an exhaust PM<sub>10</sub> estimate from a flawed air model. SWAPE comment, p. 16. The DEIR’s HRA uses an underestimated DPM concentration, and therefore underestimates the Project’s cancer risk and cannot be relied upon to determine impacts of the Project. *Id.*

Second, the DEIR did not evaluate the Project’s toxic air contaminants (TACs) and associated health risk impacts. *Id.* The Traffic Impact Analysis indicates the generation of an estimated 2,517 average daily vehicle trips, but the DEIR fails to discuss potential TACs associated with Project operation or indicate the levels at which pollutants would trigger adverse health effects. *Id.* In failing to connect TAC emissions to potential health risks to nearby receptors, the Project fails to meet the CEQA requirement that projects correlate increases in project-generated emissions to adverse impacts on human health caused by those emissions. *See Sierra Club v. County of Fresno* (2018) 6 Cal.5th 502, 510.

Third, the California Department of Justice recommends the preparation of a quantitative HRA pursuant to the Office of Environmental Health Hazard Assessment (“OEHHA”), the organization responsible for providing guidance on conducting HRAs in California, as well as local air district guidelines. OEHHA released its most recent guidance document in 2015 describing which types of projects warrant preparation of an HRA. *See* “Risk Assessment Guidelines Guidance Manual for Preparation of Health Risk Assessments.” OEHHA, February 2015, *available at*: [http://oehha.ca.gov/air/hot\\_spots/hotspots2015.html](http://oehha.ca.gov/air/hot_spots/hotspots2015.html). The OEHHA document recommends that if a project is expected to last over 6 months, the exposure should be evaluated throughout the project using a 30-year exposure duration to estimate individual cancer risks. SWAPE letter, p. 16. Based on its extensive experience, SWAPE reasonably assumes that the

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<sup>1</sup> *See* CARB Resources - Overview: Diesel Exhaust & Health, available at <https://ww2.arb.ca.gov/resources/overview-diesel-exhaust-and-health>).



Project will last at least 30 years, and therefore recommends that health risk impacts from the project be evaluated. *Id.* A Revised EIR is therefore required to analyze these impacts.

Fourth, the FEIR fails to evaluate the “*cumulative* lifetime cancer risk to nearby, existing receptors as a result of Project *construction and operation together.*” SWAPE comment, p. 17 (emphasis in original). A Revised EIR should be prepared to quantify the cumulative excess cancer risk posed by the Project’s construction and operation to nearby, existing receptors, and compare it to the SCAQMD threshold of 10 in one million. *Id.*

SWAPE prepared a screening-level HRA to evaluate potential impacts from Project construction using AERSCREEN, a screening-level air quality dispersion model. SWAPE comment, p. 17. SWAPE applied a sensitive receptor distance of 125 meters and analyzed impacts to individuals at different stages of life based on OEHHA and SCAQMD guidance utilizing age sensitivity factors. *Id.* at 17-19. SWAPE found that the excess cancer risks at a sensitive receptor located approximately 125 meters away over the course of Project construction and operation is **approximately 79 in one million**. *Id.* at 19. This risk appreciably exceeds SCAQMD’s threshold of 10 in one million.

SWAPE’s analysis constitutes substantial evidence that the Project may have a significant health impact as a result of diesel particulate emissions. SWAPE recommends that an updated EIR be prepared which includes “a quantified air pollution model as well as an updated, quantified refined health risk assessment which adequately and accurately evaluates health risk impacts associated with both Project construction and operation.” *Id.*

### **3. The DEIR Failed to Adequately Analyze the Project’s Greenhouse Gas Impacts and Thus the Project May Result in Significant Greenhouse Gas Emissions.**

The DEIR estimates that the Project would generate net annual GHG emissions of 2,920.96 metric tons of carbon dioxide equivalent per year (“MT CO<sub>2</sub>e/year”). The DEIR also relies on the Project’s consistency with the City of El Segundo Climate Action Plan, SCAG’s 2020-2045 *RTP/SCS*, CALGreen, CARB’s *Scoping Plan*, and the General Plan’s Air Quality Element, as well as EO S-3-05 and SB 32 to conclude the Project would have less-than-significant GHG impacts. SWAPE comment, p. 20; DEIR, p. 4.6-29 – 4.6-48. However, SWAPE states that the DEIR’s conclusion about a less-than-significant greenhouse gas impact is incorrect for several reasons:

1. The DEIR’s quantitative GHG analysis relies upon an incorrect and unsubstantiated air model;
2. The DEIR’s quantitative GHG analysis relies upon an outdated threshold;
3. The DEIR’s unsubstantiated air model indicates a potentially significant impact;
4. The DEIR fails to consider the performance-based standards under CARB’s *Scoping Plan*; and

5. The DEIR fails to consider the performance-based standards under SCAG's *RTP/SCS*.

SWAPE comment, p. 20-27. SWAPE's analysis demonstrates potentially significant health risk and GHG impacts from the project that necessitate mitigation, and it proposes several feasible mitigation measures from CAPCOA's *Quantifying Greenhouse Gas Mitigation Measures* to reduce these impacts. *Id.* at 27. In addition to implementing these measures, the Revised EIR should include an updated air quality, health risk, and GHG analysis.

## I. CONCLUSION

For the foregoing reasons, SAFER believes that the EIR is wholly inadequate. SAFER urges the Planning Commission to refrain from recommending certification of the FEIR or recommending approval of the Project in order to allow staff additional time to address the concerns raised herein. Thank you for considering our comments and please include this letter in the record of proceedings for this project.

Sincerely,



Rebecca Davis