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Via Email

May 24, 2022

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Roger Green, Vice Chair
Robert L. Brown, Commissioner
Sally Savage-Lebhart, Commissioner
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c/o Hannah Tamaddon
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**Re: Comment on Final Environmental Impact Report, Laguna Niguel
City Center Mixed Use**

Dear Chair Fisk, Vice Chair Green, and Honorable Members of the Planning
Commission:

I am writing on behalf of **Supporters Alliance for Environmental Responsibility**
("SAFER") regarding the Final Environmental Impact Report ("FEIR") prepared for
the Laguna Niguel City Center Mixed Use Project (SCH 2019110083), including all
actions related or referring to the proposed development of approximately 175,000
square feet of commercial and civic uses and 275 multifamily units, located in the
City of Arcadia, APN 656-242-18 ("Project").

After reviewing the FEIR, we conclude that the FEIR fails as an informational
document and fails to impose all feasible mitigation measures to reduce the Project's
impacts. SAFER requests that the Planning Commission not approve the Project
until City of Arcadia ("City") staff 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 environmental consulting firm Soil/Water/Air Protection Enterprise (“SWAPE”) (Exhibit A), expert wildlife biologist Shawn Smallwood (Exhibit B), and Certified Industrial Hygienist Francis “Bud” Offermann (Exhibit C). We incorporate the SWAPE, Smallwood, and Offermann comments herein by reference.

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I. Project Description.

The proposed project would include specialty retail, restaurants, office, a new community library, community-oriented event/programmable space, integrated residential apartment homes, and extensive walkable open spaces, paseos, and plazas. The project includes development of approximately 175,000 sf of commercial and civic uses and 275 multifamily residential units. Commercial uses include restaurants, retail, health/wellness focused retail and medical office, and creative office space. A maintenance facility, justice center, and library currently onsite would be demolished, and a new library would be constructed onsite. There are multifamily residential uses located immediately to the west of the project.

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The applicant is seeking the following approvals: (1) a General Plan Amendment to allow residential, (2) a Zoning change to Mixed-Use Town Center, (3) a Zoning Code Amendment, (4) a Vesting Tentative Tract Map, and (5) Site Development Permit. Construction of the Project would take approximately 36 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

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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 Significant Adverse Impacts Regarding Hazards and Hazardous Materials, Health Risks, and Greenhouse Gases.

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Matt Hagemann, P.G., C.Hg., and Dr. Paul E. Rosenfeld, Ph.D., of the environmental consulting firm SWAPE reviewed the EIR's analysis of the Project's impacts on hazards and hazardous materials, health risk, and greenhouse gases. SWAPE's comment letter and CVs are attached as Exhibit A and their comments are briefly summarized here.

1. The EIR Fails to Adequately Evaluate and Mitigate the Project's Potential Hazards and Hazardous Materials Impacts.

It is well-established that CEQA requires analysis of toxic soil contamination that may be disturbed by a Project, and that the effects of this disturbance on human health and the environment must be analyzed. CEQA requires a finding that a project has a "significant effect on the environment" if "the environmental effects of a project will cause substantial adverse effects on human beings, either directly or indirectly." PRC §21083(b)(3). As the California Supreme Court has held, "when a proposed project risks exacerbating those environmental hazards or conditions that already exist, an agency must analyze the potential impact of such hazards on future residents or users." *Cal. Building Industry Assn. v. Bay Area Air Quality Mgm't Dist.* (2015) 62 Cal.4th 369, 377. The existence of toxic soil contamination at a project site is a significant impact requiring review and mitigation in the EIR. *McQueen v. Bd. of Dirs.* (1988) 202 Cal.App.3d 1136, 1149; *Assoc. For A Cleaner Env't v. Yosemite Comm. College Dist. ("ACE v. Yosemite")* (2004) 116 Cal.App.4th 629. This mitigation may not be deferred until a future time after Project approval. *Sundstrom v. County of Mendocino* (1988) 202 Cal. App. 3d 296, 306; *Citizens for Responsible Equitable Env't'l Dev. v. City of Chula Vista* (2011) 197 Cal.App.4th 327, 330-31.

Here, the EIR violates CEQA because it defers the disclosure of contamination that is currently on the Project site and fails to disclose impacts of mitigation, such as air and greenhouse gas emissions that could result from excavation, transport, and disposal of contaminated soils. Ex. A, p. 1. The EIR and associated documents show that there are concentrations of perchloroethylene ("PCE") onsite which exceed Department of Toxic Substances Control residential screening levels. *Id.* at 2. PCE is a likely human carcinogen according to the U.S. EPA, and is a California Proposition 65-listed compound. *Id.* Proper notification of potentially exposed individuals is therefore required, including construction workers and future residents. *Id.* The City must revise the EIR to address these shortcomings.

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.¹

The EIR concludes that the Project would have a less-than-significant health risk impact, but did not prepare a Health Risk Assessment (“HRA”). Ex. A, p. 2; DEIR, p. 5.2-31 – 5.2 – 36. To reach its conclusion that impacts will be less-than-significant, the EIR relies on mitigation measures which it says will reduce particulate matter emissions, and on the lack of land uses such as chemical processing or warehousing, which generate substantial amounts of air pollutants. Ex. A at 2; DEIR at 5.2-36, 5.2-31. SWAPE identifies four main reasons for why the EIR’s evaluation of health risk impacts and subsequent less-than-significant conclusion is incorrect. Ex. A at 3-4.

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First, the use of a Local Significance Threshold (“LST”) analysis to determine health risk impacts as a result of the Project’s Toxic Air Contaminant (“TAC”) emissions is incorrect because the LST method only evaluates impacts from criteria air pollutants. *Id.* at 3. LST’s therefore cannot be used to determine whether TAC’s, specifically DPM, would result in a significant health risk impact to nearby sensitive receptors. *Id.* SWAPE states that this constitutes a gap in the EIR’s analysis of health risk impacts. *Id.*

Second, because the EIR did not prepare a quantified operational HRA, it failed to quantitatively evaluate TACs. Ex. A at 3. The Project has the potential to produce DPM emissions through the exhaust stacks from construction equipment over the 36 months of construction, as well as from the anticipated 26,214,739 VMT expected to be generated from operation. *Id.* at 3-4; DEIR at 3-24, Appendix C, p. 288, 300, 313. In failing to connect TAC emissions to potential health risks to nearby

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

receptors, the Project fails to meet the CEQA requirement that projects correlate increases in project-generated emissions to adverse impacts on human health cause by those emissions. Ex. A at 4; *See Sierra Club v. County of Fresno* (2018) 6 Cal.5th 502, 510.

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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. The OEHHA document recommends that all short-term projects lasting at least 2 months assess cancer risks. Ex. A at 4. Additionally, 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. *Id.* Based on its extensive experience, SWAPE reasonably assumes that the 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.

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Fourth, in failing to prepare an HRA, the EIR fails to compare excess health risks to SCAQMD’s threshold of 10 in one million. *Id.* A Revised EIR should be prepared to assess the health risks posed to nearby, existing sensitive receptors from Project construction and operation. *Id.*

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SWAPE prepared a screening-level HRA to evaluate potential impacts from Project construction using AERSCREEN, a screening-level air quality dispersion model. Ex. A at 4-9. SWAPE applied a sensitive receptor distance of 225 meters and analyzed impacts to individuals at different stages of life based on OEHHA and SCAQMD guidance utilizing age sensitivity factors. *Id.*

SWAPE found that the excess cancer risk at a sensitive receptor located approximately 225 meters away over the course of Project construction is approximately 69.1 in one million for infants and 60.2 in one million for children. *Id.* at 8. Moreover, **the excess lifetime cancer risk over the course of Project construction and operation of 30 years is approximately 139 in one million.** *Id.* The risks to infants, children and lifetime residents exceed SCAQMD’s threshold of 10 in one million.

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SWAPE’s analysis constitutes substantial evidence that the Project may have a significant health impact as a result of diesel particulate emissions. A Revised EIR must be prepared to properly assess and mitigate these impacts.

3. The EIR Failed to Adequately Analyze the Project's Greenhouse Gas Impacts and Thus the Project May Result in Significant Greenhouse Gas Emissions.

The EIR estimates that the Project would generate net annual GHG emissions of 11,651 metric tons of carbon dioxide equivalent per year ("MT CO₂e/year"), thus exceeding SCAQMD's bright-line threshold of 3,000 MT CO₂e/year. Ex. A at 9; DEIR at 5.7-23, Table 5.7-5. The EIR states that the Project would be consistent with CARB's 2017 Scoping Plan and SCAG's 2020-2045 RTP/SCS, but that GHG impacts would nevertheless be significant and unavoidable. Ex. A at 9; DEIR at 5.7-23, 5.7-24. However, SWAPE states that the EIR's analysis of GHG impacts and significant-and-unavoidable conclusion are incorrect for three reasons:

- (1) The EIR fails to implement all feasible mitigation measures;
- (2) The EIR fails to consider the performance-based standards under CARB's *Scoping Plan*; and
- (3) The EIR fails to consider the performance-based standards under SCAG's *RTP/SCS*.

SWAPE's analysis demonstrates potentially significant hazard and hazardous materials, health risk, and GHG impacts from the project that necessitate mitigation. A Revised EIR should be prepared which includes updated analyses of these impacts and proposes feasible measures to mitigate any significant impacts.

B. The Project Will Have Significant Adverse Biological Impacts That the EIR Fails to Adequately Analyze and Mitigate.

Dr. Shawn Smallwood, Ph.D. reviewed the EIR's analysis of the Project's biological impacts, including the Biological Survey and Jurisdictional Delineation completed for the Project by VCS Environmental. Dr. Smallwood's comment letter and CV are attached as Exhibit B and his comments are briefly summarized here.

1. The EIR is inadequate in its characterization of the existing environmental setting as it relates to wildlife.

Every CEQA document must start from a "baseline" assumption. The CEQA "baseline" is the set of environmental conditions against which to compare a project's anticipated impacts. *Communities for a Better Env't. v. So. Coast Air Qual. Mgmt. Dist.* (2010) 48 Cal. 4th 310, 321. Dr. Smallwood states that methods for establishing a baseline for biological resources typically include "surveys for the site for biological resources and review of literature, databases and local experts for

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documented occurrences of special-status species.” Ex. B, p. 1. He states that the EIR failed to complete these essential steps. *Id.* at 1-2. First of all, the VCS Environmental survey for wildlife was done by only one biologist, who Dr. Smallwood finds “was assigned too many tasks to perform any one of them very well.” *Id.* at 2. The VCS Environmental survey found 15 species of vertebrate wildlife in 2.67 hours. *Id.* Dr. Smallwood detected 36 species in the same amount of time at a nearby site during 2021, leading him to conclude that the VCS Environmental biologist likely would have discovered more species at the Project site had the survey been more focused. *Id.* Additionally, Dr. Smallwood points out that reconnaissance-level surveys, such as the one done by VCS Environmental, are cursory and “barely serve as an opening of a window into the biological resources of a site.” *Id.* Based on past research in California and modeling calculations, Dr. Smallwood estimates that the VCS Environmental survey likely “detected about a tenth of the species of vertebrate wildlife that actually use the site.” *Id.* at 2-3.

Dr. Smallwood also identified flaws in the EIR’s review of databases. Ex. B at 2-3. The VCS Environmental report relied only on the California Natural Diversity Data Base, failing to consult other key databases such as eBird and iNaturalist. *Id.* at 3-4. Dr. Smallwood reviewed these other databases and found that 3 special-status species had been reported on-site, 38 within 1.5 miles of the site, 5 within 1.5 and 3 miles, and 13 within 3 and 30 miles. *Id.* at 4. This is in stark contrast to the 7 species VCS Environmental reported as potentially occurring onsite. *Id.*

A skewed baseline such as the one used by the City here ultimately “mislead(s) the public” by engendering inaccurate analyses of environmental impacts, mitigation measures and cumulative impacts for biological resources. See *San Joaquin Raptor Rescue Center*, 149 Cal.App.4th 645, 656; *Woodward Park Homeowners*, 150 Cal.App.4th 683, 708-711. This inaccurate baseline and the species identified by Dr. Smallwood as potentially occurring onsite warrant discussion and analysis in a Revised EIR to ensure species are accurately detected and that any impacts are mitigated to a less than significant level.

2. The EIR fails to analyze the Project’s impact on lost breeding capacity.

Dr. Smallwood found that the Project would contribute to a decline in birds in North America, a trend that has been happening over the last approximately 50 years largely due to habitat loss and fragmentation and would be further exacerbated by this project. Ex. B at 9. Based on studies on the subject, Dr. Smallwood found that the reproductive capacity of the site would be lost, as the Project would prevent 1,659 fledglings per year, which would in turn contribute to the lost capacity of 1,888 birds per year. *Id.* This impact was not addressed in the EIR and the City must prepare a Revised EIR to analyze the impact.

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3. The EIR fails to analyze the project's impact on wildlife movement.

The EIR's assessment of whether the Project would interfere with wildlife movement is inaccurate and incomplete. Ex. B at 9-10. The VCS Environmental report states that the proximity of major roads and residential development make it unlikely that the Project site could provide significant function as a wildlife corridor or wildlife movement area. VCS Environmental report, p. D-12. VCS Environmental's report further states that impacts in this area will not be significant due to the Project area not being located within any contiguous native habitat corridors. *Id.* Dr. Smallwood finds it unclear how proximity to roads and residential development would prevent volant wildlife from reaching the site, and finds that VCS Environmental's characterization of the CEQA standard for assessing wildlife movement is incorrect. Ex. B at 10. He states:

The primary phrase of the CEQA standard goes to wildlife movement regardless of whether the movement is channeled by a corridor or some linkage. A site such as the proposed project site is critically important for wildlife movement because it composes an increasingly diminishing expanse of open space within a growing expanse of residential, commercial and industrial uses, forcing more species of birds to use the site for stopover and staging during migration, dispersal, and home range patrol (Warnock 2010, Taylor et al. 2011, Runge et al. 2014). The project would cut birds and bats off from stopover, staging and roosting opportunities, forcing them to travel even farther between remaining stopover areas along migration routes. The project would interfere with wildlife movement in the region.

Id. A Revised EIR should be prepared to properly analyze this impact.

4. The EIR fails to analyze the project's impacts on wildlife from additional traffic generated by the Project.

Although the VCS Environmental survey uses the proximity of major roads as a reason to dismiss the Project site's potential for wildlife movement, it fails to analyze the impacts on wildlife that will be caused by the traffic on the roadways servicing the Project. Vehicle collisions with special-status species is not a minor issue, but rather results in the death of millions of species each year. Dr. Smallwood explains:

In Canada, 3,562 birds were estimated killed per 100 km of road per year (Bishop and Brogan 2013), and the US estimate of avian mortality on roads is

2,200 to 8,405 deaths per 100 km per year, or 89 million to 340 million total per year (Loss et al. 2014). Local impacts can be more intense than nationally. The nearest study of traffic-caused wildlife mortality was performed along a 2.5 mile stretch of Vasco Road in Contra Costa County, California. Fatality searches in this study found 1,275 carcasses of 49 species of mammals, birds, amphibians, and reptiles over 15 months of searches (Mendelsohn et al. 2009). This fatality number needs to be adjusted for the proportion of fatalities that were not found due to scavenger removal and searcher error.

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Ex. B at 10-12. Using the EIR's estimates of VMT as a basis, Dr. Smallwood was able to predict the impacts to wildlife that could be caused by the project. *Id.* at 12. Using Project-specific information as well as data from the Mendelsohn et al. (2009) study, Dr. Smallwood calculates that operation of the Project over 50 years would cause an accumulated 718,212 wildlife fatalities. *Id.* He therefore states that "the project-generated traffic would cause substantial, significant impacts to wildlife." *Id.* at 13. A Revised EIR should be prepared which includes an analysis and mitigation of the result increased traffic from the Project will have on wildlife.

5. The EIR fails to adequately address the cumulative impacts of the Project on wildlife.

Lastly, Dr. Smallwood finds that the EIR inaccurately characterizes what qualifies as a cumulative impact. Ex. B at 13. The EIR states that because other nearby projects would be required to comply with existing regulations for biological resources and implement mitigation measures, the proposed Project would not have cumulatively considerable significant impacts on biological resources. *Id.* However, this "implies that cumulative impacts are really just residual impacts of incomplete mitigation of project-level impacts," in which case "cumulative effects analysis would be merely an analysis of mitigation efficacy." *Id.* Instead, CEQA Guidelines Section 15355 defines cumulative impacts as "the change in the environment which results from the incremental impact of the project when added to other closely related past, present, and reasonably foreseeable probable future projects." 14 CCR § 15355(b). The City must prepare a Revised EIR which adequately assesses cumulative biological impacts.

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As for the EIR's proposed mitigation measure to minimize impacts to wildlife, Dr. Smallwood states that while preconstruction surveys should be conducted, they represent only a "last-minute, one-time salvage and rescue operation[] targeting readily detectable nests or individual animals before they are crushed under heavy construction machinery." Ex. B at 13. These surveys would therefore fail to detect most species. *Id.* Dr. Smallwood recommends several measures, including detection

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surveys and compensatory mitigation, which should be considered in a revised EIR for the Project. *Id.* at 14.

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C. There is a Fair Argument that the Project May Have a Significant Health Risk Impact from 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 (May 23, 2022). 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 C.

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. C, 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 cancer risk, and commercial employees of the Project would be exposed to a 17.7 in one million risk, **even assuming** all materials are compliant with the California Air Resources Board’s formaldehyde airborne toxics control measure. *Id.* at 4-5. This potential exposure level exceeds the South Coast Air Quality Management District’s (“SCAQMD”) CEQA significance threshold for airborne cancer risk of 10 per million.

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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 12-13. These significant environmental impacts should be analyzed in a Revised EIR and mitigation measures should be imposed to reduce the risk of formaldehyde exposure.

IV. 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.

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Sincerely,



Amalia Bowley Fuentes
Lozeau Drury LLP