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Via Email and Overnight Mail

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Re: Antioch Planning Commission Hearing, Agenda Item 6-1; Wildflower Station Townhomes 2 Multifamily Residential Project (TM-02, AR-23-05)

Dear Chair Riley, Vice-Chair Webber, Commissioners, Mr. Scudero, and Ms. Merideth:

We are writing on behalf of **Contra Costa Residents for Responsible Development** ("Contra Costa Residents") to provide comments on Agenda Item 6-1, the Wildflower Station Townhomes 2 Multifamily Residential Project (TM-02, AR-23-05) ("Wildflower Townhomes Project" or "Project") proposed by DeNova Homes, Inc. ("Applicant"). The Project consists of a vesting tentative map to create 19 residential lots for 19 townhome buildings, containing 159 residential units total.¹

¹ City of Antioch, Wildflower Townhomes Section 15183 Consistency Memorandum, p. 2.

The Project site is a 10.35 acre undeveloped site located east of Hillcrest Avenue and west of Wildflower Station Place in the City of Antioch (“City”).² The Staff Report claims that the Project is exempt from further CEQA review pursuant to CEQA Guidelines Section 15183 because it was adequately analyzed by the Antioch Housing, Environmental Hazards, and Environmental Justice Elements Project Environmental Impact Report (“Housing Element EIR”).³ As such, the Staff Report asks the Commission to recommend that the City Council approve the Project’s Vesting Tentative Subdivision Map (“VTSM”), and Design Review (“DR”).⁴

On July 15, 2025, Contra Costa Residents submitted comments, supported by expert evidence, explaining that the Project is likely to result in peculiar impacts that were not identified or analyzed in the Housing Element EIR or the 15183 Consistency Memorandum, thereby requiring preparation of a full EIR. Specifically, Contra Costa Residents’ expert reports included evidence demonstrating that the Project may result in potentially significant and peculiar impacts on air quality, public health, and noise. The City failed to analyze noise impacts specific to the Project, while our noise expert identified significant construction noise and vibration impacts that are unique to the Project site and were not addressed in the Housing Element EIR. Additionally, neither the Consistency Memorandum nor the Housing Element EIR included emissions modeling to assess potential air quality and public health impacts.

The Commission’s Staff Report includes responses to these comments (“Responses”).⁵ However, the City’s responses fail to resolve the deficiencies in the Project’s impact analysis. As discussed in detail below, the Project will result in significant, site-specific air quality, public health, and noise impacts that were not previously analyzed in the Housing Element EIR. In addition, the City has failed to provide substantial evidence demonstrating that Housing Element policies and/or standards will substantially mitigate these Project-specific impacts. These comments are supported by additional expert evidence. Contra Costa Residents’ air quality and public health experts Matt Hagemann, P.G., C.Hg, and Paul Rosenfeld, Ph.D. of Soil Water Air Protection Enterprises (“SWAPE”), provide substantial

² *Id.*

³ City of Antioch, Wildflower Townhomes Staff Report to the Antioch Planning Commission Regular Meeting of August 2025 (“Wildflower Staff Report”), p. 9, available at: <https://www.antiochca.gov/fc/government/agendas/PC/staff-reports/082025-6-1.pdf>.

⁴ Wildflower Staff Report, p. 1.

⁵ Wildflower Staff Report, Attachment E, p. E29.

evidence demonstrating that the Project will have peculiar air quality and public health impacts from construction-related diesel particulate matter (“DPM”) emissions that the Housing Element EIR did not address.⁶ Contra Costa Residents’ noise consultant, Jack Meighan, demonstrates that the City lacks substantial evidence to conclude that the Project’s noise levels will not exceed General Plan policies or result in peculiar noise impacts because it failed to conduct a noise attenuation study.⁷

The City has failed to provide substantial evidence demonstrating that the Project will not result in significant site-specific environmental impacts. Contra Costa Residents’ expert consultants have also provided substantial evidence that the Project will result in significant impacts that neither the Housing Element EIR nor the 15183 Consistency Memorandum addressed. As a result, the Project is not exempt from further CEQA review and the City must prepare an EIR that analyzes all of the Project’s potentially significant environmental impacts before the Commission may consider approving the Project or its entitlements.

I. STATEMENT OF INTEREST

Contra Costa Residents is an unincorporated association of individuals and labor organizations that may be adversely affected by the potential public and worker health and safety hazards, and the environmental and public service impacts of the Project. The coalition includes the International Brotherhood of Electrical Workers Local 302, Plumbers & Steamfitters Local 159, Sheet Metal Workers Local 104, Sprinkler Fitters Local 483, along with their members, their families, and other individuals who live and work in the City of Antioch and Contra Costa County.

Contra Costa Residents’ individual members live, work, recreate, and raise their families in the City of Antioch and surrounding communities. Accordingly, they would be directly affected by the Project’s environmental, health, and safety impacts. Individual members may also work on the Project itself. They will be first in line to be exposed to any health and safety hazards that exist on site.

⁶ See **Exhibit A**, SWAPE, Comments on Wildflower Townhomes 8.20 Planning Commission Hearing Staff Report (August 18, 2025) (“SWAPE Comments”).

⁷ See **Exhibit B**, Jack Meighan, Comments on Wildflower Townhomes 8.20 Planning Commission Hearing Staff Report (August 18, 2025) (“Meighan Comments”).

Contra Costa Residents also has an interest in enforcing environmental laws that encourage sustainable development and ensure a safe working environment for its members. Environmentally detrimental projects can jeopardize future jobs by making it more difficult and more expensive for businesses and industries to expand in the region, and by making the area less desirable for new businesses and new residents. Indeed, continued environmental degradation can, and has, caused construction moratoriums and other restrictions on growth that, in turn, reduce future employment opportunities.

II. THE PROJECT INVOLVES POTENTIALLY SIGNIFICANT OR PECULIAR IMPACTS THAT PRECLUDE RELIANCE ON CEQA GUIDELINES SECTION 15183 EXEMPTION

CEQA Guidelines Section 15183 provides an exemption for projects which are consistent with the development density established by existing zoning, community plan or general plan policies for which an EIR was certified, *except as necessary to evaluate whether there are project-specific significant impacts which are peculiar to the project or project site.*⁸ In relying on section 15183 to approve a project, a lead agency may not forgo further analysis of potentially significant impacts unless it makes certain findings. An agency is required to perform further analysis as to impacts that (1) are peculiar to the proposed project or parcel, (2) were not analyzed as significant effects in a prior EIR for the zoning, community or general plan with which the project is consistent, (3) are potentially significant off-site or cumulative impacts that were not discussed in the prior EIR, or (4) are previously identified significant impacts which, due to substantial new information not known at the time the EIR was certified, are determined to have a more severe impact than discussed in the prior EIR.⁹

Under section 15183(f), an effect of a project on the environment is not considered peculiar to the project or project site if “uniformly applied development policies or standards have been previously adopted ...with a finding that the development policies or standards will substantially mitigate the environmental effect when applied to future projects, unless substantial new information shows that the policies or standards will not substantially mitigate the environmental effect.”¹⁰

⁸ 14 CCR § 15183(a).

⁹ 14 CCR § 15183(b)(1)-(4).

¹⁰ 14 CCR § 15183(f).

Agency determinations under Guidelines section 15183 are reviewed under the substantial evidence standard.¹¹ In determining whether an agency's findings concerning the use of a statutory exemption from CEQA may be upheld, courts review the administrative record to see that substantial evidence supports each element of the exemption.¹² This includes the determination that "uniformly applied development policies or standards" will substantially mitigate the project's environmental effects.¹³ Agency findings must specifically address the effect of uniform policies and standards on potential environmental impacts.¹⁴

In addition, CEQA Guidelines Section 15168's two-step inquiry of a program EIR's applicability to later activities holds that "if a later activity would have effects that were not examined in the program EIR, a new initial study would need to be prepared leading to either an EIR or a negative declaration." The City insists that, pursuant to sections 15162 and 15183, the Project is within the scope of the program EIR and no subsequent EIR is required. "Whether a later activity is within the scope of a program EIR is a factual question that the lead agency determines based on substantial evidence in the record."¹⁵

Contra Costa Resident's previous comments explained that the 15183 Consistency Memo failed to examine several of the Project's significant impacts related to air quality, health risks, transportation, and noise that were not analyzed in the Housing Element EIR and are thus peculiar to the proposed Project. In response to these comments, the City revised its 15183 Consistency Memorandum and now reasserts that the Project would not result in any significant or peculiar environmental impacts that require the preparation of an EIR.

The City's response fails to address the concerns in Contra Costa Residents' comments, and its conclusion that the Project will not result in significant and peculiar impacts is not supported by substantial evidence. As the comments below demonstrate, there is substantial evidence that the Project will result in significant and peculiar impacts to air quality, public health, and noise that the Housing Element EIR and the City's responses and the revised Consistency Memorandum fail to address. This evidence precludes the City from relying on the CEQA

¹¹ *Lucas v. City of Pomona* (2023) 92 Cal.App.5th 508, 538, citing *Concerned Dublin Citizens v. City of Dublin* (2103) 214 Cal.App.4th 1301, 1311; see also, *Hilltop Group v. County of San Diego* (2024) 99 Cal.App.5th 890, 909-10.

¹² *Lucas*, 92 Cal.App.5th at 538.

¹³ 14 CCR § 15183(f).

¹⁴ *Hilltop Group*, 99 Cal.App.5th at 918.

¹⁵ CEQA Guidelines § 15168.

Guidelines Section 15183 exemption to avoid further CEQA review. In order to comply with CEQA, the City must prepare an EIR that analyzes the Project's potentially significant and peculiar impacts.

A. The Project's Diesel Particulate Matter Emissions Will Have Significant, Unmitigated Air Quality and Public Health Impacts That are More Severe Than Analyzed in The Housing Element EIR

Contra Costa Residents' previous comments demonstrated that the City lacks substantial evidence to conclude that the Project would not result in significant air quality or public health impacts peculiar to the Project or Project site. The Housing Element EIR did not evaluate Project-specific emissions, and the City did not conduct any emissions modeling to assess the potential impacts from the Project's construction or operation.

The City's response continues to ignore potentially significant and site-specific air quality and health risks associated with DPM emissions during construction. In particular, the City failed to prepare a health risk analysis ("HRA"). Contra Costa Residents' air quality experts, SWAPE, conducted a screening-level HRA for the Project¹⁶ and found that the Project would emit approximately 31 pounds of DPM during its 565-day construction period and an additional 20 net pounds annually during operation.¹⁷ Based on these emissions, SWAPE calculated lifetime cancer risks (30 years) of 16.3 in one million.¹⁸ This exceeds the Bay Area Air Quality Management District's ("BAAQMD") significance threshold of 10 in one million.¹⁹ This is a significant and peculiar air quality and public health risk that was not addressed in the Housing Element EIR or the City's 15183 Consistency Memo.²⁰ Because of this, SWAPE explains that a refined HRA should be conducted to adequately and accurately evaluate the Project's potential health risks from DPM emissions.²¹

The City also fails to provide substantial evidence demonstrating that the Project's DPM emissions will be reduced to less-than-significant levels. The City has not identified or committed to any Project-specific mitigation measures to address

¹⁶ SWAPE Comments, pp. 1-6.

¹⁷ SWAPE Comments, p. 2.

¹⁸ SWAPE Comments, p. 6.

¹⁹ *Id.*

²⁰ *Id.*

²¹ *Id.*

these emissions. Instead, the City asserts that general compliance with existing air quality regulations is sufficient to avoid significant impacts. As SWAPE explains, if the City's refined HRA finds that the Project would result in significant health risk impacts, then mitigation measures should be incorporated to reduce DPM emissions to the greatest extent feasible, as required by CEQA.²² SWAPE goes on to identify several feasible, cost-effective mitigation measures that the City could implement to substantially reduce DPM emissions.²³

There is substantial evidence that the Project will result in significant and site-specific air quality and health risk impacts. These impacts were not addressed in the Housing Element EIR or the City's 15183 Consistency Memorandum. The City has also failed to propose any DPM specific mitigation measures or provide any evidence to demonstrate that impacts from DPM emissions will be mitigated to the greatest extent feasible. Accordingly, the City cannot rely on the CEQA Guidelines Section 15183 exemption. The City must prepare an EIR that evaluates the Project-specific, significant air quality and health risk impacts and proposes mitigation measures that will reduce impacts to the greatest extent feasible, as required by CEQA.

B. The Project Will Have Significant, Unmitigated Noise Impacts That are More Severe Than Analyzed in The Housing Element EIR

Contra Costa Residents' and its noise expert's previous comments demonstrated that the City lacks substantial evidence to conclude that the Project will not result in significant and peculiar noise impacts to existing sensitive receptors. The City failed to conduct any site-specific noise analysis to evaluate the Project's potential to generate excessive construction noise or vibration. Our noise expert also provided substantial evidence showing that the Project is likely to result in significant construction and vibration impacts that are peculiar to the Project-site.

In response, the City claims that the Project's noise impacts will not be peculiar because construction noise would be mitigated through compliance with the City of Antioch Code of Ordinance and General Plan policies. Specifically, the City asserts that compliance with General Plan Policy 11.8.2 ("Policy") will substantially mitigate impacts. But, the City also claims that the Project does not need to prepare a noise attenuation study—as required under subsection (f) of the

²² *Id.*

²³ SWAPE Comments, pp. 7-8.

Policy—because “the City has determined that the Project would not result in a significant increase in noise and because the project is not located in an area exceeding the General Plan noise standards.”²⁴ This response is inadequate, unsupported, and misrepresents the housing Element EIR’s own findings.

The Housing Element EIR explicitly states that “[i]ndividual housing developments proposed under the Project would result in a potentially significant impact if they cause a new exceedance of the General Plan noise objectives, or an audible (3.0 dBA) increase in noise in areas where the General Plan noise objectives are already exceeded as the result of existing development....”²⁵ In such cases, “General Plan Policy 11.8.2(f) requires a detailed noise attenuation study to be prepared by a qualified acoustical engineer to determine appropriate mitigation and ways to incorporate such mitigation into project design and implementation.”²⁶ Yet the City has provided no analysis to determine whether either of these conditions apply to the Project.²⁷ Instead, it simply asserts, without baseline noise measurements or supporting data, that the Project would not trigger these thresholds.²⁸

As Mr. Meighan explains, site-specific baseline noise measurements are essential to determining whether the Project will exceed General Plan noise thresholds or cause a significant increase in ambient noise.²⁹ Site-specific noise levels vary significantly based on factors such as surrounding land uses, topography, traffic patterns, and building design.³⁰ Absent this data, the City lacks the substantial evidence necessary to determine whether the Project will comply with General Plan noise standards, and therefore cannot justify its conclusion that a noise attenuation study is not necessary.³¹

Moreover, Mr. Meighan’s previous comments provided substantial evidence that the project may result in significant construction-related noise and vibration impacts. The City has failed to provide any evidence to rebut this analysis. Instead, it relies solely on the assertion that compliance with the City of Antioch Code of Ordinances and General Plan policies will be sufficient to reduce noise impacts to

²⁴ Wildflower Staff Report, Attachment E, p. E61.

²⁵ Housing Element EIR, p. IV.L-10.

²⁶ Housing Element EIR, p. IV.L-13.

²⁷ Meighan Comments, p. 1.

²⁸ Meighan Comments, p. 1.

²⁹ Meighan Comments, p. 1.

³⁰ *Id.*

³¹ *Id.* at pp. 1-2.

less-than-significant levels. While the Housing Element EIR generally found that compliance with these standards could mitigate impacts, the City has not demonstrated that it is complying with these policies. Specifically, it has failed to prepare the noise attenuation study required by Policy 11.8.2(f), nor has it provided any site-specific analysis or data to justify its conclusion that the study is unnecessary. Without this, the City lacks substantial evidence to support its determination that the Project's noise impacts will not be significant or peculiar to the site.

Because the City has failed to demonstrate—based on substantial evidence—that the Project will not result in significant and peculiar noise impacts, it cannot rely on the CEQA Guidelines Section 15183 exemption. The City must prepare an EIR that includes an analysis of the Project-specific noise impacts.

III. THE CITY LACKS SUBSTANTIAL EVIDENCE TO MAKE THE REQUIRED FINDINGS TO APPROVE THE PROJECTS ENTITLEMENTS

The Project requires the City to approve a VTSM for condominium purposes that would subdivide the project site for the development of 19 townhome buildings totaling 159 residential units.³² However, as discussed above, the City has failed to adequately address Contra Costa Residents' previous comments and thus still fails to adequately analyze or mitigate several new Project-specific environmental impacts that were not addressed by the Housing Element EIR. As a result, the City cannot make the requisite findings to approve the Project's VTSM.

California's Subdivision Map Act precludes the approval of a tentative map where the design or improvement of the proposed subdivision is not consistent with the applicable general plan, is likely to cause substantial environmental damage, or is likely to cause serious public health problems.³³

Additionally, Antioch Municipal Code Section 9-4.323 states that a VTSM may be made conditional or denied if any of the following is determined:

- A failure to do so would place the residents of the subdivision or the immediate community, or both, in a condition dangerous to their health or safety, or both; or

³² Wildflower Staff Report, p. 1.

³³ Government Code § 66474(b), (e) and (f).

- The condition or denial is required in order to comply with state or federal laws.

As detailed in our comments and those of our experts, there is substantial evidence that the Project may result in several potentially significant environmental impacts peculiar to the Project, including: (1) construction noise and vibration, and (2) air quality and related health risks. These impacts remain unaddressed and could pose serious risks to public health and safety—both for future subdivision residents and the surrounding community. Therefore, the City cannot make the required findings under the Subdivision Map Act and Antioch's Municipal Code to approve the VTSM until all of the Project's potentially significant impacts are thoroughly analyzed and effectively mitigated.

IV. CONCLUSIONS

As discussed herein, the City lacks substantial evidence to rely on a CEQA Guidelines Section 15183 exemption for Project approval. The Project will result in potentially significant impacts which are peculiar to the Project and Project site and will require mitigation. Therefore, the Commission cannot approve the Project until the City complies with CEQA by preparing an EIR.

Sincerely,



Alaura McGuire

Attachments
ARM:acp