

Grassroots Community Group of Alhambra

A 501(c)(3) non-profit corporation

P.O. Box 1235, Alhambra, CA 91802

October 16, 2019

To:

Mr. Paul Lam

Alhambra Community Development Department

111 S. First Street

Alhambra, CA 91801

via e-mail: plam@cityofalhambra.org

email subject line: DEIR Comments-The Villages at the Alhambra

Ref: Comments by Grassroots Alhambra (GRA) on the Draft Environmental Impact Report (DEIR) for the proposed Project titled “The Villages at the Alhambra”

Dear Paul:

Grassroots Alhambra (GRA), on its own and on behalf of its members, timely provides the following comments, due on October 17 before 5 PM, based on its review of the draft Environmental Impact Report (DEIR) for the project titled “The Villages at the Alhambra,” Case Number: RP-17-1, CU-17-9, V-17-10, V-17-11, & TT-74194, State Clearinghouse No. 2017101025 (hereafter, “Project”).

The Project location is 1000 South Fremont Avenue; 2215 West Mission Road; 629, 635, 701, 825 and 1003 South Date Avenue; Alhambra, CA 91803. In the interest of brevity, we will not repeat the description of the Project as noted in the DEIR. Importantly, the Project will include 516 new, for-sale, residential dwelling units in five-story stacked flat and townhome configurations; 545 new rental apartments in five-story stacked flat configurations; and 4,347 total parking spaces to accommodate all new uses. The DEIR contemplates two different buildout scenarios for the Project: under Buildout Scenario 1, the Project would be developed as a single entity with completion projected for 2028; under Buildout Scenario 2, the Project would be phased with partial buildout of 516 condominium and townhouse units in the North Plan Area completed in 2024 and the remaining 545 apartment units in the South and Corner Plan Areas completed by 2028.

GRA is a 400-strong community group with most of its members residing in Alhambra, including many in the neighborhood (and therefore directly affected) by this Project. GRA also speaks on behalf of its members who reside elsewhere in the City who will also be affected any time they wish to transit through this part of the City, as well as by the adverse air quality and greenhouse gas impacts due to this Project.

It is clear to us that this Project is likely to be the single largest Project that might be constructed in Alhambra in the next decade or more – and it is by far also the single largest Project that has been contemplated in the City in the last several decades.

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Our comments do not address each and every technical deficiency in the DEIR; nor do they address the many typographical or other errors in the DEIR. We understand that the DEIR's scope is narrow by design – i.e., that it is required pursuant to the California Environmental Quality Act (CEQA). As such, it is not the purpose of the DEIR to address broader policy and other concerns – such as conformance to the recently renewed General Plan (GP) for the City or even broader public policy goals that are important to the citizens of Alhambra.¹ While we allude to some of the related Policy issues in these comments, we do so given the inextricable intertwining of policy and CEQA impacts/analyses. Separately, GRA will continue to make additional public policy-related comments, either orally or in written form as this Project morphs/advances/is recast.²

Unfortunately, even by its narrow standards of CEQA conformance, the DEIR is flawed for the reasons stated in the rest of our comments. In specific instances, we note that the documents provided for public review are simply incomplete. Based on the noted deficiencies, it is GRA's opinion that:

- (i) the City provide a complete document record associated with the Project;
- (ii) prepare a revised DEIR; and
- (iii) recirculate this revised DEIR for comment.

GRA believes that with some additional changes to size, scope, and timing, this Project has the potential to be an overall benefit to the City and its citizens along with the Project proponents – i.e., a classic win-win-win scenario. However, that potential trifecta is not reachable with the Project as proposed and this DEIR. We encourage the City and the Project proponent to make the necessary changes to making this a winning Project. Without changes, we do not believe that this Project will meet the needs of Alhambrians now or in the future – and that it will simply perpetuate the inequity that has characterized so much of Alhambra's historical development – namely saddling the citizens with all the negatives of “development” (importantly, but not just limited to traffic, air quality, etc.) while the Project proponents – who, in this case, are not current Alhambra residents, decamp with unstated and substantial profits.

¹ One of the major public policy issue raised by the Project is simply the matter of financing – i.e., who is/are the entities that will own and/or finance this project. We are particularly concerned about ownership and its transparency – especially in light of the fiasco of the “Lowe's” project across the street whose owner Mr. Charles Gabay is under Federal indictment.

² For the record, we would be remiss in not addressing the murky underpinnings of this Project, however. This includes the granting of a General Plan Text Amendment in 2006 (“GP Amendment”) that, under the guise of the approval process for a much smaller development of 351 dwelling units, lacked the necessary community discussion for implications should the project be re-proposed. Notably, this GP Amendment makes no provision for affordable housing, and accordingly the project provides no affordable set-asides out of the thousand-plus unit development. Area 3 Superfund site, vapor intrusion, and air quality issues related to dwelling units were also entirely ignored. The mayor at the time of GP Amendment approval was and continues to serve as a real estate broker within the city and also currently serves as a paid consultant for the Project proponent.

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Sincerely,

A handwritten signature in cursive script that reads "Eric Sumada".

President
Grassroots Community Group of Alhambra
(626) 589-0440

enclosure: Attached Additional Comments

GRA Additional Comments

I. The DEIR Is Poorly Organized

One of the goals of any EIR is the proper communication of the impacts of a proposed project. To that end, it is a communication tool. The DEIR fails on this account, especially due to the poorly organized Appendix materials, which are repeatedly referenced in the main body of the EIR but are difficult to find in the large (5,213 pdf pages) Appendix. The Appendix does not have a table of contents, much less a hyper-linked one. It contains Appendices within Appendices (see, for example, the many “Appendix XX” designations in the Kimley-Horn traffic analysis report, itself an (unnamed?) Appendix – which begins abruptly on pdf page 360 of the Appendix document. There is no separation in the Appendix between public comment letters provided during the Scoping process, specialist consultant reports, etc.³ There are simply examples and not meant to be an exhaustive critique of a very poorly dumped set of Appendix materials.

We ask that the entire DEIR Appendix materials be properly reformatted with a hyper-linked table of contents so that anyone can jump to the proper technical analysis contained in the Appendices.

II. The DEIR Was Prepared with Inadequate Public Participation

While we appreciate the efforts made by the City and the Project proponent, we do not believe that enough public input was solicited on the Project, given its location, size, and importance. Just a few open-houses on the Project premises is not adequate public outreach. We expect that for Projects of this size, that the proponent will make at least the following efforts: (i) hold numerous neighborhood meetings, at the neighborhoods, that are within the impact radius of the project; (ii) the impact radius should include at least those citizens who will be directly affected by traffic, air

³ We note the following disorganized and abrupt transitions in the Appendix document (all pages refer to pdf page number of the page prior to the transition):

- Between various agency comments and city of Alhambra citizen’s/business comments, p. 21;
- Between the Scoping/Checklist and the Walker Consultant’s Shared Parking Analysis, p. 135;
- Between the parking analysis and a Tree Survey, p. 156;
- Between the tree survey and the Air Quality Data (actually simply CalEEMOD model runs, with even the City’s name – Alhambra – misspelled on many pages), p. 159;
- Between the construction traffic impacts analysis and the Kimley-Horn Traffic Impact Analysis, p. 359;
- Between various Dowling Report(s) and Synchro 9 Report(s), at p. 704; p. 807; p. 905; p. 1003; p. 1135; p. 1233; p. 1347; p. 1462; p. 1559; p. 1676; p. 1761; p. 1855;
- Between the traffic analysis and the Historical Resource Technical Report, p. 2065;
- Between the historical resource report and the Archaeological and Tribal/Cultural Resources Assessment, p. 2192;
- Between the archaeological/tribal/cultural report and the Paleontological Resources Technical Report, p. 2287;
- Between the paleontological report and Preliminary Geotechnical Assessment, p. 2320;
- Between the geotechnical assessment and the Greenhouse Gas Data, p. 2379;
- Between the greenhouse gas data and the Revised Phase I Environmental Site Assessment (Haro Environmental), p. 2504;
- ...and so on and so forth right on through the very end of the document.

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quality, and noise, including during construction; (iii) discuss the details of the traffic, air quality and other impacts with all directly affected citizens.

We also note that the DEIR does not address many of the public comments made by citizens who live in the proximate area – especially relating to traffic.⁴ GRA’s comments, also part of the public record, made during the public scoping process for the EIR are not addressed. We note for the record that in contrast to the highly specific and individualized comments made by GRA and the many citizen comments, the handful of pro-Project “letters” in the record are identical form-letter copies, with just the address and names changed.

Clearly, there is public concern with this Project. The City should take such concerns seriously and conduct a much broader and more effective public outreach program and then issue a revised DEIR before proceeding further.

III. The Traffic Impact Analysis is Fatally Flawed

It is clear, as the DEIR itself acknowledges that traffic impacts in the area, already in above-capacity conditions even under current, baseline conditions, will become worse, even with the mitigation steps that are contemplated.

Even so, we believe that the traffic analysis presented in the DEIR is fatally flawed for the following reasons.

At the outset of the traffic analysis, the DEIR states that “[T]he scope of analysis for the Traffic Impact Analysis (TIA) was developed in consultation with the City of Alhambra and the analysis was conducted in accordance with County of Los Angeles and Congestion Management Program (CMP) guidelines.”⁵ However, we found no documentation whatsoever within the DEIR or the Appendix materials regarding the “...consultation with the City of Alhambra...” This is a critical omission and we ask that the City immediately provide for the public record all written and oral communications associated with this “consultation.”

We also do not find in the description above, any approvals (as opposed to consultation) provided by the City to the DEIR consultants and sub-consultants relating to the traffic analysis approach. We ask the City to confirm/deny if the City provided any approvals in this regard.

Contrary to what is now required for CEQA traffic analyses in California, the traffic analysis is not vehicle miles travelled (VMT) based.⁶ Rather it is based on the current and older level-of-

⁴ See, various letters from members of the public as well as GRA comments, provided in the Appendix materials to the DEIR.

⁵ DEIR, p. IV.N-1.

⁶ See, for example, <http://opr.ca.gov/ceqa/updates/sb-743/>. In particular, see the December 2018 Guidance provided by the State of California, Governor’s Office of Planning and Research (OPR). http://opr.ca.gov/docs/20190122-743_Technical_Advisory.pdf.

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service (LOS) and delay approach. While we have no problem using the LOS/delay approach for non-CEQA purposes – i.e., for showing conformance with the City’s General Plan, etc., we do not believe it is appropriate to not base the traffic analysis on the VMT method. We are aware that CCR 15064.3(c), the section quoted in the DEIR in several instances,⁷ has the language “[A] lead agency may elect to be governed by the provisions of this section immediately. Beginning on July 1, 2020, the provisions of this section shall apply statewide...” which seems to be the basis that the DEIR’s traffic analysis uses the current, older LOS/delay method and not the VMT method – but we do not believe that this approach is consistent with the intent of CCR 15064.3 or is even legal.⁸

Not using the VMT-method of traffic analysis for this massive (which even the DEIR admits, per CCR 15064.3(c) is required after July 1, 2020), just because this DEIR is being issued for comment in September 2019 – i.e., around 9 months before the July 1, 2020 mandated deadline) is egregious because there is little chance that any project construction will begin before July 1, 2020 – setting aside litigation risk.

We ask the City to identify in CCR 15064.3 where it mentions, much less allows the use of the LOS/delay method, which has been used in the traffic impact analysis.

We ask the City to defend the use of the older Institute of Traffic Engineers (ITE) manual data and assumptions using in the current traffic analysis. “Weekday daily, AM, and PM peak period trips were estimated for the Project using trip generation rates from the Institute of Transportation Engineers (ITE) publication entitled Trip Generation, 9th Edition and from the Los Angeles County Traffic Impact Analysis (TIA) Report Guidelines.”⁹ Why was the most recent, i.e., ITE Trip Generation Manual 10th Edition¹⁰ not used for the analysis.

The traffic analysis states, in relation to potential mitigation, “[T]he installation of traffic signals could be used to mitigate the impacted intersections at Date Avenue/Orange Street and W Mission Road/Date Avenue. Striping changes could be used as a potential mitigation measure at the impacted intersection of W Valley Boulevard/I-710 SB On Ramp. Road widening could be used as a potential mitigation measure to mitigate the impacted intersections at S Fremont Avenue/W Mission Road, S Fremont Avenue/Orange Street, S Fremont Avenue/W Commonwealth Avenue, S Fremont Avenue/W Valley Boulevard, S Marengo Avenue/W Mission Road, S Fremont Avenue/W Hellman Avenue, and W Valley Boulevard/Westmont Drive.”¹¹ (emphasis added) We

⁷ See, for example, FN1 on p. IV.N-1, text on p. IV.N-27, and text on p. IV.N-72.

⁸ As an aside, and for the record, we believe that having the July 1, 2020 requirement to switch the traffic analysis to the VMT method, is perhaps one of the drivers of the schedule of this Project’s CEQA reviews – i.e., finalization of the EIR.

⁹ DEIR, IV.N-16.

¹⁰ <https://www.ite.org/technical-resources/topics/trip-and-parking-generation/trip-generation-10th-edition-formats/>

¹¹ Kimley-Horn and Associates report, p. 10.

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ask for all documents relating to how these “could be” recommendations by Kimley-Horn were evaluated by the City, its traffic engineers, and the Project proponent.

IV. The Geotechnical Analysis in the DEIR is Fatally Flawed

The DEIR states, in relation to the parking garages at the site, that “[P]rovision of 1,135 parking spaces for residents and guests in 2.25-level below-grade parking garages for stacked flat units, individual garages for townhomes, and on-street parking within the North Plan area.”¹² (emphasis added). We presume that the 2.25-level stated above means two and a quarter stories below ground. While this description does not state how many feet below ground this corresponds to, we guesstimate that it would be in the range of 20-25 feet or so, when all is said and done. We ask the City to confirm the exact depth below ground that the parking structures and their construction will extend.

We also find the following important qualifier in the geotechnical analysis for the Project: “[T]he structures are anticipated to be constructed at or near existing site grades. Based on the experience of this firm, excavations on the order of five to eight feet below grade are anticipated for removal and recompaction of existing site soils.”¹³ (emphasis added). Based on this and the paragraph above, we do not believe that the geotechnical analysis for the Project is consistent with the actual depth of construction for the Project.

V. The DEIR Does Not Properly Address Existing Contamination of Groundwater and Health Risks at the Project Site

The DEIR recognizes that the Project site is located within a Superfund site.¹⁴ Having said that, however, the DEIR obfuscates the issue. The DEIR states:

“Of the above seven listed SLIC cases, five of those are closed. For the closed 1000 South Fremont Avenue case, the property was divided into two sites, Site A and Site B (see Appendix I for location details¹⁵). Site A encompasses the majority of the 1000 South Fremont property and has been closed with unrestricted future land use, which means that all uses can be proposed for this location. Site B is located near the southeast corner of the property adjacent to the north of the 2215 West Mission property and has been closed with restricted future land use. Restrictions

¹² DEIR, p. 2. Incidentally, this appears to be the only mention of the below-grade garage in the body of the DEIR.

¹³ Preliminary Geotechnical Assessment, Section 3.0 “Project Scope,” March 7, 2018, Appendix materials, pdf p. 2321.

¹⁴ DEIR, IV.H-11. “The Project Site is located within the southwest portion of the San Gabriel Valley Superfund Fund Site – Area 3 Operable Unit (Area 3). Area 3 is one of 8 Operable Units identified by U.S. EPA for the San Gabriel Valley Superfund Sites and is known as the San Gabriel Valley Area 3 Superfund Site.”

¹⁵ As an example of the poor organization mentioned earlier, we challenge the City to find this referenced Appendix I in the mass of Appendix materials. We believe found it after considerable effort – that should not be required.

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include the type of land use that can be built on the site, such as no residential uses.”¹⁶ (emphasis added)

Importantly, the DEIR does not state or mention that the closure referenced above is only for soils and not groundwater. The revised Phase I Site Assessment is a bit more careful and properly qualifies this closure: “...It should be noted that the closures at the Site are for soil only as the Site remains within the NPL listed Area 3.”¹⁷ This is also clearly noted in the two Regional Water Quality Control Board letters.¹⁸

The DEIR further misleads when it states that: “The Phase I Environmental Site Assessment concluded that no recognized environmental conditions (RECs) associated with current uses of the Project Site and the surrounding land uses pose a risk at the Project Site....”¹⁹ This is simply factually untrue. The revised Phase I Site Assessment has at least 2 RECs – one designated as a “controlled” REC.²⁰

Continuing its obfuscation, the DEIR states: “[E]xisting remediation activities and related institutional controls are in place at the Project Site to contain and clean up contamination in the soils and groundwater beneath the site resulting from historic land uses on-site and in the surrounding area. The Project’s site design is consistent with applicable land use limitations in place as a result of this contamination.”²¹ We ask the City to explain what “related institutional controls” pertain to groundwater as noted in this statement.

¹⁶ DEIR, IV.H-11,12.

¹⁷ Revised Phase I Site Assessment, Appendix materials, p. 2511.

¹⁸ Revised Phase I Site Assessment, Appendix materials, p. 3309, p. 3312. We note that an earlier letter from the Regional Water Quality Control Board (2013) for a portion of the site explicitly required mitigation prior to any residential uses. GRA intends to open discussions with this agency and the US EPA as to how and why the so-called No Further Requirement letters to the property owners will protect any future residents at the Project.

Of even more concern, the City is effectively on notice, per the Revised Phase I Site Assessment, the Regional Water Quality Control Board letters of 2013 and 2017 attached to the Revised Phase I Site Assessment, and the health risk assessment provided in the Revised Phase I Site Assessment, that residential uses south of Mission Road could be incompatible with the levels of PCE and TCE (as well as other contaminants) present in groundwater underneath the area. Discussing Site B, a portion of the Project Site, the May 24, 2016 Equipoise Soil Closure Risk Evaluation, beginning pdf p. 3352 states:

“[T]herefore, potential risks are projected to future site users associated with soil vapors reported in Site B under unrestricted land use conditions. Risk management may be necessary to mitigate potential unrestricted land use and subsequent receptor exposure potential.” (pdf p. 3381)

¹⁹ DEIR, I-33.

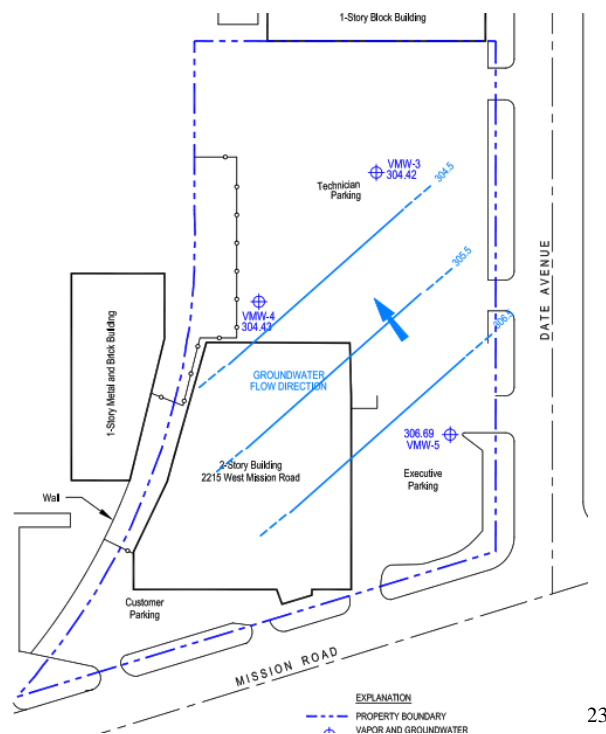
²⁰ Revised Phase I Site Assessment, Appendix materials, p. 2509, p. 2512.

²¹ DEIR, I-33.

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The risk assessment supporting the soil closure is also outdated. As an example, it uses an inhalation cancer unit risk factor for tetrachloroethylene (PCE), one of several carcinogenic pollutants in groundwater of $5.9E-06$ (ug/m^3)⁻¹. See Appendix materials pdf p. 3596 and p. 3622. This has now increased to $6.1E-06$ (ug/m^3)⁻¹.²² Since the predicted incremental cancer risk value is exactly 1 in a million, the EPA's threshold for protection, the increase in the unit risk factor alone, all other assumptions held constant, will increase the incremental cancer risk to greater than the EPA's allowable value.

Finally, and just purely in order to illustrate the somewhat confusing and indifferent technical work pertaining to the geohydrology underlying the site, we excerpt from two figures provided as part of the revised Phase I Site Assessment. First is a figure excerpted below from a portion of the site showing that the groundwater flow at the site is towards the north-west (the blue arrow), based on an analysis of just the groundwater levels in the three indicated wells.



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The next is an excerpt from a broader groundwater contour map, also part of the revised Phase I Site Assessment, shown below. Note the direction of groundwater flow, indicated by the red arrows – which indicate flow opposite to that shown in the Figure above. We believe the figure below is correct. By including “analysis” such as the figure above simply undermines the DEIR. We ask the City, as Lead Agency, to thoroughly vet what is being presented in the DEIR.

²² <https://oehha.ca.gov/chemicals/tetrachloroethylene>

²³ Revised Phase I Site Assessment, Appendix materials pdf p. 3322.



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VI. The DEIR Improperly Glosses Over the Project's Impact on Groundwater

In relation to the impact of the Project itself on local groundwater, the DEIR states: “[T]he Project would be expected to result in a substantial reduction in the amount of impervious surface on the site due to the inclusion of extensive green space, landscaping, and stormwater infiltration BMPs as required under the City’s LID Ordinance, thereby increasing opportunities for groundwater recharge in comparison to the existing conditions... Therefore, the Project would not substantially deplete groundwater supplies or interfere substantially with groundwater recharge, yields, or flow directions. Impacts would be less than significant.”²⁵ We disagree that groundwater flow (or “flow directions, as quoted above) will not be impacted as a result of the recharge due to the project noted above. The DEIR contains no technical support, such as modeling, as basis for this statement.

Importantly, we believe that the iVImpact of the additional recharge should be analyzed thoroughly because not only with this additional recharge deliver more water to the current groundwater table in the local area, it will push contaminated groundwater further to the south and south-east – directly under large swaths of residences and residential receptors located south of

²⁴ Revised Phase I Site Assessment, Appendix materials, p. 3291.

²⁵ DEIR, p. I-37.

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Mission Road. This crucial environmental impact due to the Project has simply not been analyzed in the DEIR.

VII. The DEIR Does Not Address the Particularized Impacts of the Project on Air Quality

We agree with the DEIR's conclusion that air quality in the air and in the region will be adversely affected by the Project and that this will be true even after mitigation measures which are included in the DEIR.

Nonetheless, we believe that the DEIR's air quality impacts discussions do not provide a fuller picture of the true and adverse impacts from this Project with any particularity at all.

Many harmful air pollutants will result from the Project, during its construction phases as well as during operations (due, in part, to the additional traffic associated with the Project). These include the so-called criteria pollutants such as oxides of nitrogen (NOx), a entire family of volatile organic compounds (VOCs), carbon monoxide (CO), sulfur dioxide (SO₂), primary (i.e., directly-emitted) particulate matter of different sizes (such as PM₁₀ and PM_{2.5}), ozone (formed in the atmosphere from pre-cursor NOx and VOCs), and secondary PM_{2.5} (from pre-cursor NOx and SO₂); various hazardous air pollutants such as due to gasoline and diesel combustion (i.e., diesel particulate matter, benzene, 1,3-butadiene, toluene, xylenes, various metals); and greenhouse gases (carbon dioxide, CO₂; nitrous oxide, N₂O; and methane, CH₄). We ask the City to confirm.

Yet, in spite of these many and varied air pollutants which will be emitted from the project, and notwithstanding the fact that all of them are regulated, except for the greenhouse gases, due to their adverse impacts on human health and the environment – the DEIR's air quality analysis, while attempting to quantify the increases in the emissions of (some) of these pollutants – is completely silent and does not address the specific health impacts of the increased concentrations of these pollutants in the ambient air (i.e., what impacted residents will actually be breathing) as a result of the project. Just stating that the mass of pollutant X will increase by Y pounds or tons per year is not sufficient to show the impact of that increase on the concentration increases. That requires air quality modeling – using EPA approved models such as AERMOD or CALPUFF (which go unmentioned entirely in the DEIR) for the so-called non-photochemical pollutants as well as CMAQ or CAMx (also conspicuous by their absence in the DEIR) for the phot-chemically driven pollutants such as ozone and secondary PM_{2.5}. Given that the DEIR provides no discussion of the particular harm due to the increases in the levels of the pollutants from the project, as opposed to generic discussion of the harm due to air pollution and air pollutants, the DEIR, in our opinion is fatally deficient. The additional analysis should be included in the revised DEIR.

VIII. The DEIR Lacks of Any Discussion of Affordable Housing, and Its Role as a Mitigation Measure

We did not find any discussions relating to affordable or inclusionary housing in the large, market-rate Project – in effect a rate of zero for anything other than straight market rate units. Not only does this omission show a flagrant disregard for a major current policy concern in the City and its citizens, the Project proponents should propose (and a revised DEIR should analyze the CEQA

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impacts of) a meaningful level of set-asides for affordable and inclusionary housing. We recommend that at least 35%, if not more, of the total number of both for-sale and for-rent units be so set-aside – with such units sprinkled throughout the Project and not segregated in any manner.

We believe, based on research, that including such housing is actually a Mitigation Measure for transportation, air quality, greenhouse gas and other impacts (which depend on transportation and VMT), based on current research. While we are aware and agree that this Project is not located within a transit priority area,²⁶ nonetheless it purports to enhance connectivity to transit, i.e., it is like a transit-oriented-development (TOD). Locating affordable units in such TODs has shown to benefit not only housing goals but also VMT reduction.²⁷ Researchers at UC Davis note “...building TODs at higher densities can accommodate both low- and high-income residents and make substantial progress toward both VMT reduction and affordable housing goals.” We ask that the revised DEIR explicitly include and analyze the impacts of different levels of set-aside percentages, starting at 35% and going higher.

IX. The DEIR’s Commercial Parking Analysis is Fatally Flawed

The parking study cites the variance approved in 2004 that reduced the amount of required office space parking of 4,206 spaces that would normally be required per the AMC to 3,049 based on the demand study at that time. The purpose of this comparison is not clear and relevance to the current analysis is not made, given that the DEIR goes on to cite its own shared parking analysis by Walker Consultants²⁸ and to claim an additional 28% reduction (836 less spaces) over the Variance for a total of 2,213 spaces. We did not find sufficient justification for this claim. The stated “shared analysis” can realistically take credit for shared capacity to accommodate overflow residential parking needs on weekends and evenings when office use is not heavy. But the office space sizing is driven by the peak daytime need, which is not quantified sufficiently beyond the 2004 variance. As just one example, the analysis done by Walker Consultants bases a 20% reduction for health club parking based on its own experience without a qualified reference. It also offers justification for the 28% reduction by stating “It is important to note that when one use peaks (office), another use may be in a lull (health club). These relationships, in part, are what allow for the reduction in the number of spaces needed.” Yet this is clearly not the case as shown in Walker Consultants’ own Figure 2 of their report.

X. Mitigation Measures in the DEIR Are Not Enforceable

²⁶ DEIR, p. II-5. “The Project Site is not located within a “transit priority area” as defined in California Public Resources Code (PRC) Section 21099 because it is not located within 0.5 mile of the intersection of two bus routes having a frequency interval of 15 minutes or less during peak commuting hours.”

²⁷ <https://ncst.ucdavis.edu/project/sustainability-building-affordable-housing-transit-oriented-developments-tods>

²⁸ DEIR Appendix Materials, Walker Consultants, Memorandum, prepared for “internal project team consumption,” January 7, 2019

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Mitigation measures proposed by the Project proponent are summarized in Table I-1.²⁹

First, it is striking that even though the DEIR concludes that air quality impacts from the Project will be “significant and unavoidable,”³⁰ the DEIR proposes just one single mitigation measure, AQ-MM-1.³¹ Yet, a straightforward reading of this single mitigation measure shows that it is, in part simply wrong, and on the whole, unenforceable. It requires the use of EPA’s Tier 3 construction equipment emission standards. It is not clear why it does not require the even-better Tier 4 standards.³² In addition it requires that only model year 2007 and later haul road trucks will be used. In other words, trucks that are already 12 years old now and will be even older when construction is initiated. The DEIR does not provide any rationale as to why such old equipment should be part of mitigation of adverse air impacts.

Second, we reviewed the various mitigation measures proposed to minimize construction-related noise³³ – a particularly important issue given the many residences south of Mission Road. Our review indicates that, as written, NOI-MM-1, NOI-MM-2, NOI-MM-3, NOI-MM-8, and NOI-MM-9 contain such generalized and vague language as to be unenforceable. Such terms include:

(for NOI-MM-1) “...as far as possible from the nearest off-site land uses...” – frankly we are not sure what “nearest off-site land uses” even means;

(for NOI-MM-2) how will “...avoid operating several pieces of equipment simultaneously, as feasible...” be enforced?

(for NOI-MM-3) “flexible sound control curtains” is not defined and therefore not enforceable;

(for NOI-MM-8) how will “...as far from sensitive receptors as possible...” noted in this mitigation measure be enforced when there are residences directly across Mission Road to the south?

(for NOI-MM-9) The qualifier “...especially when such equipment has line of sight to nearby noise-sensitive receptors...” appears to be a well-designed loop-hole to make this mitigation measure meaningless.

Third, as we have noted above, the DEIR readily admits that transportation/traffic impacts from the Project will be “significant and unavoidable.”³⁴ Yet, the DEIR proposes only three mitigation measures: a single lane addition only if Buildout Scenario 1 is used (see TR-MM-1); and 2 new lights (see TR-MM-2 and TR-MM-3). As we have noted previously, the Project’s own traffic consultant’s report contains a much longer set of potential mitigation measures:

²⁹ Beginning DEIR, p. I-15.

³⁰ Under Buildout Scenario 2, see DEIR, p. I-17.

³¹ DEIR, p. I-17.

³² See 40 CFR Part 1039. See also <https://www.epa.gov/regulations-emissions-vehicles-and-engines/regulations-emissions-heavy-equipment-compression>

³³ DEIR, p. I-41 through I-44.

³⁴ DEIR, p. I-50 and I-51.

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“[T]he installation of traffic signals could be used to mitigate the impacted intersections at Date Avenue/Orange Street and W Mission Road/Date Avenue. Striping changes could be used as a potential mitigation measure at the impacted intersection of W Valley Boulevard/I-710 SB On Ramp. Road widening could be used as a potential mitigation measure to mitigate the impacted intersections at S Fremont Avenue/W Mission Road, S Fremont Avenue/Orange Street, S Fremont Avenue/W Commonwealth Avenue, S Fremont Avenue/W Valley Boulevard, S Marengo Avenue/W Mission Road, S Fremont Avenue/W Hellman Avenue, and W Valley Boulevard/Westmont Drive.”³⁵

It is not clear why, at a minimum, all of these suggestions were not implemented as mitigation measures for transportation/traffic.

Collectively, it is our opinion that mitigation measures that are proposed do not go far enough – especially for aspects such as air quality and traffic, where the impacts are significant and unavoidable.” In fact, perhaps some of the impacts could be avoided if more mitigation was included in the DEIR. This makes the mitigation discussion inadequate.

³⁵ Kimley-Horn and Associates report, p. 10.