

**TECHNICAL APPENDIX O:
RESPONSES TO COMMENTS**

to the

Final Environmental Impact Report



*University Towne Center
Revitalization Project*

SCH No. 2002071071 LDR No. 41-0159/PTS No. 2214

Prepared By:

HELIX Environmental Planning, Inc

7578 El Cajon Boulevard, Suite 200, La Mesa, California 91941

Prepared For:

Westfield Corporation

402 West Broadway, Suite 2050, San Diego, California 92101

March 2008

LIST OF PERSONS, ORGANIZATIONS, AND PUBLIC AGENCIES THAT COMMENTED ON THE DRAFT EIR

A draft version of the EIR for the proposed UTC Revitalization project (SCH #2002071071) was circulated for public review from August 9, 2007 to October 10, 2007. During the public review period a total of 78 letters or messages of public comment were received. Agencies, organizations/special interest groups and individuals submitting comments on the project are listed below, and organized by category.

NUMBER DESIGNATION	FEDERAL AGENCIES	ADDRESS	PAGE
1	United States Marine Corps	Marine Corps Air Station P.O. Box 452000 San Diego, CA 92145	8

NUMBER DESIGNATION	STATE AGENCIES	ADDRESS	PAGE
2	Office of Planning and Research	1400 10 th Street P.O. Box 3044 Sacramento, CA 95812-3044	10
3	Department of Transportation	District 11 4050 Taylor Street, MS 240 San Diego, CA 92110	12
4	Department of Toxic Substances Control	5796 Corporate Avenue Cypress, CA 90630	22
5	Native American Heritage Commission	915 Capitol Mall Room 364 Sacramento, CA 95814	26

NUMBER DESIGNATION	COUNTY, CITY, AND OTHER LOCAL AGENCIES	ADDRESS	PAGE
6	Metropolitan Transit Service	1255 Imperial Avenue, Suite 100 San Diego, CA 92101	30
7	San Diego Association of Governments	401 B Street, Suite 800 San Diego, CA 92101	32
8	San Diego County Regional Airport Authority	P.O. Box 82776 San Diego, CA 92138	34
9	University City Planning Group	c/o Linda Colley, Chairperson	46

NUMBER DESIGNATION	ORGANIZATIONS	ADDRESS	PAGE
10	Friends of Rose Canyon	6804 Fisk Avenue San Diego, CA 92122	129
11	La Jolla Village Community Council	8840-302 Villa La Jolla Drive La Jolla, CA 92037	133
12	Move San Diego	C/o Carolyn Chase P.O. Box 99179 San Diego, CA 92169	137
13	San Diego County Archaeological Society	P.O. Box 81106 San Diego, CA 92138	145
14	Shute, Mihaly & Weinberger, LLP (representing Friends of Rose Canyon)	396 Hayes Street San Francisco, CA 94102	146
15	U.S. Green Building Council	San Diego Chapter P.O. Box 420162 San Diego, CA 92142	209
16	Vista La Jolla Homeowners Association	None provided	210

NUMBER DESIGNATION	INDIVIDUALS	ADDRESS	PAGE
17	Matt Ashby	Email: ashbym@taxon.com	211
18	Luciana Astiz	Email: lastiz@ucsd.edu	212
19	Denice Bernetsky	5871 Tulane Street San Diego, CA 92122	213
20	C. Bischoff	Email: cgbischoff@aol.com	214
21	Kim Bolivar	Email: kimbolivar1@hotmail.com	215
22	Robert Byrnes	4018 Nobel Drive #305 San Diego, CA 92122	216
23	David Chait	Email: davidchait2@yahoo.com	217
24	Ann Collins	5586-2 Renaissance Avenue San Diego, CA 92122	218
25	John Costello	Email: jcostell@san.rr.com	221
26	L. Dang	Email: elledang@hotmail.com	222
27	LaRu DeKock	Email: Ldekock@san.rr.com	223
28	Laxmi DeLeo	Email: njoylaxmiluv@yahoo.com	224
29	Judith Dolan	4639 Governor Drive San Diego, CA 92122	225
30	Jack Forman	4165 Porte de Palmas, #195 San Diego, CA 92122	226
31	Susan Foster	3190 Mercer Lane San Diego, CA 92122	228
32	Phil Fowler	Email: Pfowler@TorreyPinesBank.com	229
33	Nancy Frederich	Email: garynancy30@hotmail.com	230

NUMBER DESIGNATION	INDIVIDUALS	ADDRESS	PAGE
34	Rick Garland	Email: cgarland@earthlink.net	231
35	Cheryl Geyerman	Email: CAG@adi-sandiego.com	232
36	Blossom Glasser	3890 Nobel Drive, #308 San Diego, CA 92122	233
37	Robert Gottlieb	Email: rcgottlieb@iee.org	235
38	Patricia Gregory	Email: pats_gila_girl@yahoo.com	236
39	Michele and Richard Hagstrom	Email: the sags@san.rr.com	237
40	Tom Hale	Email: thale@san.rr.com	239
41	Shalom Halevy	Email: shalevy@mathwizards.com	240
42	Diane Hanlon	7746 Camino Noguera San Diego, CA 92122	241
43	Brian Hassler	2912 Fried Avenue San Diego, CA 92122	242
44	Marilyn Hauck	Email: MaHauck@san.rr.com	243
45	Jim and Sue Heleniak	5429 Curie Way San Diego, CA 92122	244
46	Nancy Ivey	Email: nancyi@iveyenginerring.com	245
47	Susan Jeannette	Email: sky4health@sbcglobal.net	246
48	Adam Lakritz	4435 Nobel Drive, #30 San Diego, CA 92122	247
49	Judith Landau	5989 Agee Street San Diego, CA 92122	249
50	David Laney	Email: dclaney@gmail.com	250

NUMBER DESIGNATION	INDIVIDUALS	ADDRESS	PAGE
51	Geoffrey Laundry	Email: gelaun@mac.com	251
52	Sue LeMontre	4815 E Alder Drive San Diego, CA 92116	252
53	Richard and Julie Medlock	5710 Bloch Street San Diego, CA 92122	253
54	Brandalyn Patton	3727 Camino Del Rio South, #100 San Diego, CA 92108	254
55	Tom Petrie	Email: petrie@fusion.gat.com	255
56	Carole Pietras	6917 Lipmann Street San Diego, CA 92122	256
57	Shelly Plumb	5952 Scripps Street San Diego, CA 92122	257
58	Jane Richardson	Email: JER@ntrs.com	258
59	Beverlee and Steve Ring	4151 Tamilynn Court San Diego, CA 92122	259
60	Allan Sathyadev	2545 San Clemente Terr San Diego, CA 92122	260
61	Fred Saxon	Email: fsaxon@yahoo.com	261
62	Shira Scott	Email: spscott@mail.sdsu.edu	262
63	Kathleen Scully	5503 Dalen Avenue San Diego, CA 92122	263
64	Carinne Senske	Email: rememberriver@san.rr.com	264
65	Stephanie Sexton	Email: ssexton@san.rr.com	265
66	Conor Soraghan	Email: csoragha@hotmail.com	266
67	Anne St. Louis	Email: amstlouis@earthlink.com	267

NUMBER DESIGNATION	INDIVIDUALS	ADDRESS	PAGE
68	Don Steele	3436 Millikin Avenue San Diego, CA 92122	268
69	Pam Steinberg	4185 Porte de Merano, #155 San Diego, CA 92122	270
70	David and Ivonne Stewart	Email: cyberchou@san.rr.com	271
71	Elizabeth Stiles	Email: ecstiles@gmail.com	272
72	John Streb	2621 Denver Street, #D San Diego, CA 92110	273
73	Jerry Streichler	4007 Porte de Palmas, #66 San Diego, CA 92122	274
74	A. Verna	5157 Dawne Street San Diego, CA 92177	275
75	Linda Weaver	4275 Executive Square, Suite 750 La Jolla, CA 92037	276
76	Stephanie Webber	Email: swebber@san.rr.com	277
77	Kevin Wirsing	3276 Willard Street San Diego, CA 92122	278
78	Susan Worsham	4571 Robbins Street San Diego, CA 92122	279

Each of these letters was assigned a number designation, as noted above, with each comment in the letter numbered beginning with the number one. Each letter is reprinted herein, along with a written response.

The following pages provide the comment letter on the left side, with each specific comment numbered in the left-hand margin, and correspondingly numbered responses to each comment on the right-hand side. Each comment and response is designated by both the letter assigned to that piece of correspondence, as well as the number assigned to the comment (e.g., 1.1, 1.2 and so on).

Where similar comments were received from multiple sources, the reader may be referred to another applicable response. For comments that required modifications to correct or clarify information in the Draft EIR, that fact is so stated, and the changes are identified via strike-out underline pages in this Final EIR. In some cases, comments and responses provide additional information, which is now a part of the Final EIR.

COMMENTS

RESPONSES



UNITED STATES MARINE CORPS
MARINE CORPS AIR STATION
P.O. BOX 452000
SAN DIEGO, CA 92145-2000

11103
CP&L/2214
September 14, 2007

CITY OF SAN DIEGO
DEVELOPMENT SERVICES CENTER
ATTN MARTHA BLAKE
1222 FIRST AVENUE MS 501
SAN DIEGO CA 92101

RE: UNIVERSITY COMMUNITY PLAN; UNIVERSITY TOWNE CENTER
REVITALIZATION PROJECT DRAFT ENVIRONMENTAL IMPACT REPORT; EAST OF
GENESSE AVENUE, SOUTH OF LA JOLLA VILLAGE DRIVE, WEST OF TOWNE
CENTER DRIVE, AND NORTH OF NOBEL DRIVE, SCH NO. 2002071071, PN
2214, APN 345-090-07, -08, -13, -14, -15 & -16

Dear Ms. Blake,

This is in response to the request for review of the Draft
Environmental Impact Report for the University Towne Center
Revitalization Project and the following comments have been
provided in enclosure (1).

Thank you for the opportunity to review this Draft Environmental
Impact Report. If we may be of any further assistance, please
contact Mr. Juan Lias at (858) 577-6603.

Sincerely,

A handwritten signature in cursive script, appearing to read "C. L. Thornton".

C. L. THORNTON
Community Plans and Liaison Officer
By direction of the Commanding Officer

Copy to:
University Community Planning Group, Chair, Linda Colley
San Diego County Regional Airport Authority, Linda Johnson

COMMENTS

RESPONSES

11103
CP&L/2214
September 14, 2007

GENERAL COMMENTS

- 1.1 Page 5.1-24, Issue 4: The United States Marine Corps (USMC) is pleased to see that the EIR addresses potential impacts the project may have on MCAS Miramar airspace and that it specifies general height limitations for proposed structures in accordance with FAA restrictions. However, we highly recommend a new airspace obstruction evaluation/airspace analysis (FAA Form 7460-1) be conducted by the FAA to formally redress any adverse impacts to MCAS Miramar operational airspace and/or penetrations of FAA Part 77 or Terminal Instrument Procedures (TERPS) airspace surfaces. TERPS surfaces can be more restrictive than Part 77 airspace surfaces in the vicinity of MCAS Miramar. As a result, the evaluation process must be conducted before the permitting process within the City of San Diego is completed.

ITEMIZED COMMENTS

- 1.2 Page ES-17, Table ES-3: Under the land use section, it determines that project will have no impact after mitigation measures are undertaken. However, until the San Diego County Airport Land Use Commission (ALUC) and Federal Aviation Administration (FAA) review and provide documentation that indicates this finding, we suggest that "To Be Determined" (TBD) be used instead.
- 1.3 Page 2-5, First Paragraph, First Sentence: The project is located in the Airport Influence Area (AIA) of both the adopted 2004 ALUCP and draft 2005 ALUCP.
- 1.4 Page 2-5, Second Paragraph, Second Sentence: The original Comprehensive Land Use Plan (CLUP) was adopted by the Comprehensive Planning Organization (CPO) in 1977, and amended by the San Diego Association of Governments (SANDAG) in 1990 and 1992.
- 1.5 Page 2-5, Second Paragraph, Fourth Sentence: Although the project location is outside of the 60+ decibel (dB) Community Noise Equivalent Level (CNEL) noise contours as shown in the 2005 MCAS Miramar Air Installations Compatible Use Zones (AICUZ) document, these noise contours have yet to be adopted by either the San Diego County ALUC or the City of San Diego for project evaluation or official planning purposes. Until such time, any evaluation of noise impacts to this project should be using the adopted 2004

- 1.1 The Federal Aviation Administration has conducted an aeronautical study of the potential tall building locations in the Westfield UTC Master PDP area under the provisions of 49 U.S.C., Section 44718 and Title 14 of the Code of Federal Regulations, part 77. The FAA has made a determination on August 23, 2007 of "No Hazard to Air Navigation" for those buildings reaching above 200 feet. The FAA determinations of no hazard to air navigation have been provided in the Final EIR as Appendix F. The applicant will comply with the conditions of the FAA findings related to safety lighting.
- 1.2 Table ES-3 on page ES-17 indicates that there will be no impact or less than a significant impact to land use in the four impact areas evaluated. No mitigation measures are required. See response to comment 1.1 regarding the FAA no hazard determination for this project. The Airport Land Use Commission has reviewed the project and found the project consistent with the Airport Land Use Compatibility Plan for Miramar Marine Corps Air Station. The ALUC consistency determination is provided in the Final EIR at Appendix F.
- 1.3 The commenter is correct, the project site is within the adopted 2004 ALUCP Airport Influence Area, as shown on Figure 5.1-4a of the Final EIR. The Environmental Setting discussion has been revised to discuss the adopted 2004 ALUCP (see pages 2-5 and 2-6 of the Final EIR). The existing conditions and analysis in Section 5.1, Land Use, do correctly discuss and analyze the 2004 ALUCP, including the accident potential zones and noise contours, however additional clarification has been added to page 5.1-14 of the Final EIR to clarify that the ALUCP was amended in 2004. The draft 2005 ALUCP is now undergoing revisions by the Airport Authority.
- 1.4 The adoption and amendment dates are noted herein. However, as this additional information would not change the conclusions reached within the Draft EIR, no revisions have been made in the Final EIR.
- 1.5 The noise contours have been revised to reflect the adopted 2004 noise contours for MCAS Miramar. Please refer to Figures 5.1-4b and c of the Final EIR.

COMMENTS

RESPONSES

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CP&L/2214
September 14, 2007

- 1.5
cont. noise contours for MCAS Miramar. However, it could be noted that the 2005 MCAS Miramar AICUZ noise contours will eventually serve as the future noise contours for the revised ALUCP, but the timeframe of adoption of these noise contours by both organizations is unknown.
- 1.6 Pages 3-6 through 3-11, Section 3.4.3: How were the maximum heights of structures (above grade) determined? If there is any documentation from the FAA, included 7460-1 forms, we recommend that they be included in the appendix section of the EIR.
- 1.7 Page 5.1-11, Airport Environs Overlay Zone, Final Sentence: If a project is found to be conditionally compatible, an aviation easement would normally be required. If a project is found to be incompatible by the ALUC, the project would need to be approved by a two-thirds majority of the San Diego City Council.
- 1.8 Page 5.1-14, Third Paragraph, First Sentence: The first sentence should read "...The adopted 2004 ALUCP..."
- 1.9 Figure 5.1-4, Airport Influence Area & Accident Potential Zones: Although this figure is taken directly from the University Community Plan, we recommend that another figure be used to depict the AIA and Accident Potential Zones (APZ). These APZs are from the originally adopted CLUP (1977) and were replaced by the CLUP amended by SANDAG in 1990 & 1992. A figure or GIS shapefiles of these boundaries should be obtained from the San Diego County Regional Airport Authority and used instead.
- 1.10 Page 5.1-24, Issue 4, First Paragraph: Same comment regarding noise contours. See comment number four of this letter.

3

- 1.6 The FAA Determinations of No Hazard to Air Navigation are provided at Appendix F of the Final EIR. The coordinates of the buildings are located on the FAA Determinations. Maximum structure heights were measured above ground level (AGL) and above mean sea level (AMSL). Maximum heights of structures were determined based upon the at-grade elevation plus the maximum proposed structure height identified in the Master PDP for the given for each land use district with a tower. Maximum structure heights were provided to determine a "worst case" analysis of the project heights of air navigation.
- 1.7 The statement in the EIR on page 5.1-11, "Finally, if the development is identified as 'incompatible' or 'conditionally compatible,' an aviation easement would be required" is correct, according to Section 132.0309 of the SDMC. In addition, according to SDMC Section 132.0310, the City Council, by a vote of two-thirds, may override the City Manager's determination of noncompliance with the land use recommendations of the Comprehensive Land Use Plan. No text change has been made to the Final EIR in response to this comment.
- 1.8 Within Section 5.1, the EIR refers to the draft ALUCP, which is the 2005 draft, and the ALUCP, which is the adopted 2004 plan. Although the appropriate date of 2004 was inadvertently omitted, it would not change the conclusions of the EIR. No changes have been made to the text of the Final EIR in response to this comment.
- 1.9 The San Diego County Regional was contacted, however no figure or GIS shapefile of the boundaries was available. Therefore, the Final EIR has included Figures 5.1-4a and b to illustrate the Airport Influence Area and Accident Potential Zones associated with MCAS Miramar. Figure 5.1-4a is the Airport Influence Area as depicted in the adopted 2004 ALUCP. Figure 5.1-4b shows the Accident Potential Zone as depicted in the 2005 AICUZ Study. Noise contours from the adopted 2004 ALUCP are contained in Figure 5.1-4c. As noted in response to comment 1.1, the Airport Land Use Commission of the San Diego Regional Airport Authority determined the project consistent with the relevant Airport Land Use Plans, at a public hearing on January 3, 2008. The item was approved on the consent agenda, with no objection from the public or MCAS-Miramar.
- 1.10 The noise contours have been revised to reflect the adopted 2004 noise contours for MCAS Miramar. Please refer to Figures 5.1-4b and c of the Final EIR.

COMMENTS

RESPONSES



ARNOLD SCHWARZENEGGER
GOVERNOR

STATE OF CALIFORNIA
GOVERNOR'S OFFICE of PLANNING AND RESEARCH
STATE CLEARINGHOUSE AND PLANNING UNIT



CYNTHIA BRYANT
DIRECTOR

September 25, 2007

Martha Blake
City of San Diego
1222 First Avenue, MS-501
San Diego, CA 92101

Subject: University Towne Center Revitalization Project
SCH#: 2002071071

Dear Martha Blake:

The State Clearinghouse submitted the above named Draft EIR to selected state agencies for review. On the enclosed Document Details Report please note that the Clearinghouse has listed the state agencies that reviewed your document. The review period closed on September 24, 2007, and the comments from the responding agency (ies) is (are) enclosed. If this comment package is not in order, please notify the State Clearinghouse immediately. Please refer to the project's ten-digit State Clearinghouse number in future correspondence so that we may respond promptly.

Please note that Section 21104(c) of the California Public Resources Code states that:

"A responsible or other public agency shall only make substantive comments regarding those activities involved in a project which are within an area of expertise of the agency or which are required to be carried out or approved by the agency. Those comments shall be supported by specific documentation."

These comments are forwarded for use in preparing your final environmental document. Should you need more information or clarification of the enclosed comments, we recommend that you contact the commenting agency directly.

This letter acknowledges that you have complied with the State Clearinghouse review requirements for draft environmental documents, pursuant to the California Environmental Quality Act. Please contact the State Clearinghouse at (916) 445-0613 if you have any questions regarding the environmental review process.

Sincerely,

Terry Roberts
Director, State Clearinghouse

Enclosures
cc: Resources Agency

1400 10th Street P.O. Box 3044 Sacramento, California 95812-3044
(916) 445-0613 FAX (916) 323-3018 www.opr.ca.gov

2.1 Comment noted. No response needed.

COMMENTS

RESPONSES

**Document Details Report
State Clearinghouse Data Base**

SCH# 2002071071
Project Title University Towne Center Revitalization Project
Lead Agency San Diego, City of

Type	EIR Draft EIR
Description	The project proposes to redevelop and renovate the existing 1,061,400-sq. ft. Westfield University Towne Center (UTC) regional shopping center located southeast of the intersection of La Jolla Village Drive and Genesee Avenue; north of Nobel Drive, and west of Towne Centre Drive. The proposed project would be the renovation and expansion of retail uses by 750,000 sq. ft. of new retail and the development of 250 multi-family residential units. Alternatively, the applicant could implement a mix of land use scenarios that could include a reduction in new retail and the addition of up to 725 residential dwelling units; up to 250 hotel rooms; and/or up to 35,000 sq. ft. of office space. The land use scenarios would be restricted to a mixture of the above uses that would not exceed 17,800 cumulative average daily trips (ADTs) and 256 in-bound AM peak hour/778 out-bound peak hour trips. The maximum height for residential, hotel, and office uses would be limited to 325 to 390 feet about grade. The project proposes 7,163 parking spaces, in a mixture of structured and surface parking. Additional project features would include a relocated and expanded bus transit center and reservation of right-of-way for the proposed transit center and planned extension of a light rail transit line, and certification under the LEED Green Building Rating System.

Lead Agency Contact

Name	Martha Blake		
Agency	City of San Diego		
Phone	619-446-5375	Fax	
email			
Address	1222 First Avenue, MS-501		
City	San Diego	State	CA Zip 92101

Project Location

County	San Diego		
City	San Diego		
Region			
Cross Streets	Genesee Ave./La Jolla Village Dr./Nobel Dr./Towne Centre Dr.		
Parcel No.	345-090-07, -08, -13, -14, and -16		
Township	Range	Section	Base

Proximity to:

Highways	I-805, I-5, SR 52
Airports	MCAS Miramar
Railways	SDNR Coaster
Waterways	Rose Canyon Creek
Schools	UC High School, LJ Country Day, Zeta Doyle Elem., UCSD
Land Use	Regional shopping center and park area; zoned Commercial and Residential

Project Issues Aesthetic/Visual; Air Quality; Archaeologic-Historic; Cumulative Effects; Landuse; Recreation/Parks; Solid Waste; Traffic/Circulation; Water Quality; Water Supply

Reviewing Agencies Resources Agency; Department of Fish and Game, Region 5; Office of Historic Preservation; Department of Parks and Recreation; Department of Water Resources; Caltrans, Division of Aeronautics; California Highway Patrol; Caltrans, District 11; Department of Housing and Community Development; Regional Water Quality Control Board, Region 9; Department of Toxic Substances Control; Native American Heritage Commission; Public Utilities Commission

Date Received	08/09/2007	Start of Review	08/09/2007	End of Review	09/24/2007
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Note: Blanks in data fields result from insufficient information provided by lead agency.

COMMENTS

RESPONSES

STATE OF CALIFORNIA—BUSINESS, TRANSPORTATION AND HOUSING AGENCY

ARNOLD SCHWARZENEGGER, Governor

DEPARTMENT OF TRANSPORTATION

District 11
4050 Taylor Street, MS 240
San Diego, CA 92110
PHONE (619) 688-6960
FAX (619) 688-4299
TTY (800) 735-2929



*Flex your power!
Be energy efficient!*

September 21, 2007

11-SD-805
PM 25.93
La Jolla Village Drive
SCH 2002071071
UTC Revitalization

Ms. Martha Blake
City of San Diego
Development Services Center
1222 First Avenue, MS 501
San Diego, CA 92101-4155

Dear Ms. Blake:

The California Department of Transportation (Caltrans) has reviewed the Draft Environmental Impact Report (DEIR, SCH 2002071071), including the Traffic Impact Study (TIS) for the proposed University Towne Center (UTC) Revitalization Project. We have the following comments:

- 3.1
 - The TIS should be prepared in accordance with Caltrans Guide for the Preparation of Traffic Impact Studies (TIS Guide), dated December 2002. Minimum content of the TIS are listed in Appendix "A" of the TIS guide (see enclosure). Additionally, all State owned signalized intersections affected by this development will be analyzed using the intersecting lane vehicle (ILV) procedure from Caltrans Highway Design Manual Topic 406, page 400-21. ILV's will need to be done using existing, near-term, and year 2030 traffic forecast. Additionally, see Appendix "B" in the TIS Guide concerning methodology for calculating equitable mitigation measures.
- 3.2
 - TIS, Page 31, 7.4: Please show the math expression detailing how the formula is used. Caltrans District 11 staff is not sure of when this was supposedly sent, and its likely there have been subsequent changes. What percent of trucks is assumed? Show how the truck and/or terrain factors were used.
- 3.3
 - TIS, Page, 57 (at bottom): What is the percentage of traffic from the project, versus non-project traffic at the three bulleted locations mentioned.
- 3.4
 - TIS, Page 69, 10.2: The managed lanes on Interstate 5 (I-5) may contain a fixed barrier or a buffer. The managed lanes on Interstate 805 (I-805) will contain a buffer.
- 3.5
 - TIS, Page 69, 10.2: Do not discuss proposed regional improvements per the Regional Transportation Plan (RTP) as being part of the impact mitigations for this project.
- 3.6
 - TIS, Page 70, 10.3: Caltrans District 11 was not involved in the development of the forecasted traffic volumes for this project.
- 3.7
 - TIS, Page 72, Table 10-1A: The "with project condition" shows only a few seconds, or in some cases tenths of a second, delay increases at the freeway ramps. This increase in delay does not seem reasonable.

"Caltrans improves mobility across California"

- 3.1 Comment noted. Intersecting Lane Vehicle (ILV) calculations have been performed for existing, near-term and horizon year conditions. Please refer to EIR Appendix G for the ILV calculation sheets. Preliminary fair-share calculations were conducted for freeway cumulative impacts within Caltrans ROW (see EIR Appendix H).
- 3.2 The freeway calculation sheets are included in Appendix I of the TIS (EIR Appendix B) and show specific factors for trucks and terrain that were used in the calculations.
- 3.3 The percentage of traffic from the proposed project versus the non-project traffic at the three bulleted locations is as.
 - EB La Jolla Village Drive to SB I-805 on-ramp, PM peak period—93 project trips/793 total traffic, which equals 12 percent.
 - EB La Jolla Village Drive to NB I-805 on-ramp, PM peak period—85 project trips/1,116 total trips, which equals 8 percent.
 - WB La Jolla Village Drive to NB I-5 on-ramp, PM peak period—31 project trips/931 total trips, which equals 3 percent.
- 3.4 Comment noted. Revisions to TIS are contained in EIR Appendix B.
- 3.5 Section 10.2 of the TIS does not discuss regional improvements as being part of project mitigation. This section is solely informational and such improvements, as stated in the second to last paragraph, were not taken into consideration for the analysis. Therefore, no changes to this section of the TIS were made. Clarifications were integrated into Section 5.3 of the Final EIR confirming that regional planned improvements were not considered as mitigation for project impacts.
- 3.6 Comment noted. There are several methods to forecast traffic volumes. The City does not require coordination with Caltrans to determine forecasts. The forecasted volumes were based on the SANDAG forecast model approved at the time and are consistent with other traffic studies in the area.
- 3.7 The City has reviewed the analysis and did not find any errors or omissions. The intersections with small delay increases had minimal volumes to critical movements attributed to the proposed project. As the commenter has not provided data to refute this information in the TIS, no further response can be provided.

COMMENTS

RESPONSES

Martha Blake
September 21, 2007
Page 2

- 3.8 ☐ TIS, Page 84, Table 10-3B: Table title is "Horizon Year", but the column headings are "Near term". Is this a Typo?
- 3.9 ☐ TIS, Page 86, Table 10-4: Show the AM/PM peak hour (PH) volumes that were used, and include as a footnote what all of the assumptions were for calculation of Level of Service (LOS).
- 3.10 ☐ TIS, Page 94, Fig. 10-8: The Traffic Study's Horizon Year Average Daily Trips (ADT) volumes on I-805 are 50,000-60,000 trips lower than the 2030 Series 11 (Revenue Constrained) traffic forecast. Also, the Traffic Study's Horizon Year ADT volumes on SR-52 are 11,000 trips lower than the 2030 Series 11 (Revenue Constrained) traffic forecast.
- 3.11 ☐ TIS, Page 133, 15.2.3: Change first sentence of the second paragraph to read "Freeway ramp access queues and delays are determined by the number of vehicles attempting to access the freeway at that location, the ramp meter discharge rate, and the traffic flow conditions on the freeway."
- 3.12 ☐ TIS, Page 133, 15.2.3: Regional improvements to I-5 and I-805 should not be mentioned or assumed as partial mitigation for this project's impacts.
- 3.13 ☐ TIS, Page 137, Table 15-5 under "Freeway Segments": What are the freeway improvements cost, and what are the project's percent share of the peak hour trips at these locations?
- 3.14 ☐ TIS, Page 139, Table 15-6 under "Ramp Meters": Potential Mitigation to eastbound La Jolla Village Drive to northbound I-805, the project is shown to have a direct and cumulative impact. Why is this shown as unmitigable? If there are to be interchange improvements the project should contribute its fair share for impacts at this location.
- 3.15 ☐ DEIR, Page 4: Revise the calculations for significant impacts to Interstate I-805. The existing northbound traffic on I-805 north of SR-52 operates at Level of Service (LOS) F during the AM period. The TIS incorrectly reports a better LOS.
- 3.16 ☐ DEIR, Page 5: If the City of San Diego (City) does not go forward with identified Facilities Benefit Assessment (FBA) improvements on Genesee Avenue and on other road facilities in the area, which are part of the UTC Community Plan, traffic congestion will be much worse. Therefore, the City should not approve the UTC Community Plan Amendment (CPA).
- 3.17 ☐ DEIR, Page 6: The TIS dated July 7, 2007 incorrectly assumes that SANDAG's Reasonably Expected Revenue projects for I-805 will be constructed as mitigation as part of the 2030 Mobility Plan. Due to construction cost problems, the I-805 Corridor Design Team is designing based upon the current Revenue Constrained Plan identified in SANDAG's Draft 2007 RTP. The purpose and need of the I-805 Corridor Project is to provide four (4) managed lanes on I-805 north of SR-52 that will become the backbone for public transit and carpools. Therefore, eliminate references to "...mitigation until funding is secured..." UTC's impacts to I-805 cannot be assumed to be mitigated by the I-805 Corridor Project.

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- 3.8 The commenter is correct; the TIS included a typographical error. Table 10-3B of the TIS has been revised to read "Horizon Year" as suggested in this comment.
- 3.9 The freeway calculation sheets were included in Appendix I of the TIS (see EIR Appendix B) and show the specific peak hour volumes used in the calculations.
- 3.10 The TIS was conducted with the SANDAG-approved model available at the time (Series 9). The City reviewed the volumes when the Series 10 model was released. The results of the review are documented in Appendix A of the TIS (see EIR Appendix B), which concluded that the volumes of Series 9 were comparable and in certain cases higher than Series 10. The volumes were also compared to other traffic studies in the area and were found to be consistent. The project applicant met with Caltrans staff on November 2, 2007 to discuss Caltrans's comments, including this comment. Caltrans staff agreed that the Series 9 model was appropriately used since it represented the approved model at the time the traffic study was being prepared. Series 11 was only approved by SANDAG in November 2007, after public review closed on the Draft EIR for the UTC project.
- 3.11 This sentence within the TIS discusses significance criteria for measuring ramp meter impacts (i.e. delay). The proposed change is not applicable within this context since it discusses methodology and not significance criteria. No changes to the TIS were made.
- 3.12 The TIS does not assume any regional improvements as being part of project mitigation. Please refer to response to comment 3.5 regarding project mitigation.
- 3.13 The fair share calculation for the significant traffic impact that would be caused by the proposed project on I-805 from Nobel Drive to SR-52 is described below. The proposed project will result in a significant traffic impact to this freeway segment thus requiring the fair share contribution. The proposed project contribution on this freeway segment would be 3,380 average daily trips, which represents 19 percent of the proposed project traffic on I-805 south of the Noble Drive interchange to SR-52. At a cost of \$1,000 per average daily freeway trip for a total fair share cost of \$3,380,000, the fair share contribution would fund the study, design or implementation of planned improvements to I-805. This fair share cost value and methodology have been in use by the City for private developments freeway trip contributions for the last six years. The \$1,000 per freeway trip calculation was a result of meetings between City and Caltrans staff in year 2001. It was used for the first time for the approval of the Rancho Encantada Precise Plan (a McMillin Development in the City of San Diego south of the Poway Industrial Park). This \$1,000 per ADT methodology has been applied recently to approved projects in the City, such as Monte Verde, and is proposed for this project for consistency. Because the impact can not be technically mitigated until future improvements are completed, the proposed freeway fair share contribution does not technically mitigate the potential traffic impacts thus the I-805 south of Nobel Drive freeway segment remains an unmitigable impact in the EIR. Preliminary "fair-share" calculations are included as EIR Appendix H. It should be noted that this methodology (i.e., fair share contribution of \$1,000 per ADT) results in a fair share contribution of \$3,380,000 which is greater than the traditional fair share methodology that produces a fair-share estimate of \$3,068,900, as described in EIR Appendix H.

COMMENTS

RESPONSES

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| 3.14 | <p>All ramp meter impacts are technically unmitigable as the proposed freeway ramp improvements would add queue storage but not reduce ramp meter delays. Freeway improvements would be necessary to reduce ramp meter delay and mitigate the proposed project's impact. In recognition of this LLG, on behalf of the City, and the City's Civil Engineer explored ramp meter "project improvements" (and not "project mitigation") deemed feasible, which would provide additional queue storage. While these improvements would not improve delay, they would provide additional queue storage and reduce ramp queue conflicts with the local street traffic. In the case of the eastbound La Jolla Village Drive to northbound I-805 ramp, no additional queue storage was required above and beyond the current planned improvements for the interchange. Therefore, no improvements were identified or proposed as mitigation at this location.</p> |
| 3.15 | <p>The City reviewed the freeway segment analysis and did not find any errors or omissions. Upon further review, it was discovered that the peak hour and directional factors (i.e. K and D factors), though current at the time, might be outdated. Pursuant to a meeting between Caltrans staff and the applicant on November 2, 2007, the freeway analysis for I-805 has been revised using the most recent K and D factors obtained from Caltrans. The results are included in the revised TIS dated January 23, 2008 and show more realistic results and indicate no new impacts. In fact, two impacts during the PM peak period are eliminated. Revisions to the TIS are contained in EIR Appendix B and summarized in Section 5.3 of the Final EIR.</p> |
| 3.16 | <p>The TIS has considered and included certain road facility improvements contained in the <i>University Community Plan</i> and North University City Facilities Financing Plan in the analysis. In some cases, however, the traffic analysis has been provided showing traffic impacts with and without the planned improvements. The City Council will review the proposed project's statement of overriding considerations against the potential traffic impacts and determine whether or not to approve the Community Plan Amendment.</p> |
| 3.17 | <p>The TIS does not assume any regional improvements as being part of project mitigation. Please refer to response to comment 3.5 regarding project mitigation and see clarifications integrated into Section 5.3 of the Final EIR.</p> |

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- 3.18 ☐ • DEIR, Pages 5.3-3 & 6: Planned FBA improvements to Genesee Avenue and its interchanges at I-5 and SR-52 should be implemented before a CPA for UTC Revitalization can be permitted.
- 3.19 ☐ • DEIR, Page 5.3-9: Add "2002" to the Existing Intersection Operations Table. Congestion currently exists at the I-5/Genesee Avenue interchange signals. Re-check data and calculations.
- 3.20 ☐ • DEIR, Page 5.3-12: The LOS that is described is incorrect. Currently, the I-805 northbound main-lanes are LOS F during the AM PH. Therefore, revise the freeway calculations to reflect actual conditions.
- 3.21 ☐ • DEIR, Figure 5.3-3: "Project Traffic Trips-AM/PM" (it is assumed these are PH trips) are underreported based on the proposed projects ADT. Therefore, per our meeting on September 12, 2007 with the developer's representatives it was agreed that the PH numbers would be revised and subsequently reanalyzed.
- 3.22 ☐ • DEIR, Pages 5.3-19 & 5.3-21: The Near-Term and Horizon Year North University City Public Facilities Financing Plan (NUC) FBA projects assume widening of Genesee Avenue between I-5 and Regents Road. However, the I-5/Genesee Avenue Interchange project (NUC-24) is not assumed in the Near-Term and Horizon Year analyses. This assumption needs to be clearly stated in the DEIR. Similarly, widening of Genesee Avenue without improving the I-5/Genesee Avenue interchange will not have as much benefit to the City's street capacity as expected in the TIS. Revise the I-5/Genesee Avenue calculations based upon corrected data (see comment DEIR, Figure 5.3-3, bullet #21). The City should not approve the UTC CPA without improving Genesee Avenue and its I-5 and SR-52 interchanges according to the Community Plan.
- 3.23 ☐ • DEIR, Page 5.3-22: Revise intersection analyses based upon corrected data for the project's peak hour volumes (see comment DEIR, Figure 5.3-3, bullet #21).
- 3.24 ☐ • DEIR, Page 5.3-32: Why does "Near-Term without Project" show LOS E at the I-5/Genesee Avenue interchange and the existing LOS on page 5.3-9 as LOS C? Revise calculations to determine project impacts at this location. It should be noted that most weekdays the southbound I-5 off-ramp backs onto the freeway during the AM peak period. The data should be reviewed because the interchange has been operating at LOS F for many years.
- 3.25 ☐ • DEIR, Pages 5.3-32, 33 and 34: Revise the impacts to the I-805 interchanges based upon corrected peak hour project counts (see bullet #21).
- 3.26 ☐ • DEIR, Page 5.3-35: Revise the analysis for I-805/La Jolla Village interchange using corrected peak hour project volume counts (see bullet #21).
- 3.27 ☐ • DEIR, Pages 5.3-36 thru 38: Horizon Year LOS F at the I-5/Genesee Avenue and SR-52/Genesee Avenue interchanges should be considered extremely poor LOS F. Therefore, re-check the proposed development's "impact" calculations. It should be noted that existing traffic operations at the I-5/Genesee Avenue interchange are already at LOS F. The UTC CPA should not go forward if the City does not improve Genesee Avenue and the I-5 and SR-52 interchanges according to the Community Plan.

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3.18 Please refer to response to comment 3.16 regarding the project approval considerations.

3.19 In response to this comment, LLG analyzed the I-5/Genesee Avenue interchange with updated traffic counts provided by Caltrans. The results have been included in the revised TIS dated January 23, 2008 contained in EIR Appendix B and summarized in Section 5.3 of the Final EIR.

The City reviewed the analysis and did not find any errors or omissions. The existing LOS are based on 2002 counts which were confirmed in 2005. The existing counts were conducted in 2002 when work on the traffic report, along with work of other consultants in the area, began. For comparison purposes and in recognition of counts may be perceived old to the City's decision makers, existing counts were conducted around the project perimeter in March 2005 to document any changes. Due to the large study area, the project perimeter was selected to evaluate if a full recount was required. This area represented intersections with the highest percentage of project traffic and formed a good basis for the review.

The March 2005 results indicated an overall decrease in volumes from 2002 to 2005. The decreases in traffic volumes were attributed to the recent introduction of the Nobel Drive/I-805 Interchange. The interchange opened in February 2002, one month before the original counts were conducted. This led to higher volumes in the surrounding area in 2002, with a shift in traffic to the interchange by 2005, as represented in the counts.

The review was, therefore, expanded to include the Nobel Drive/ I-805 Interchange to further validate the count data. Counts conducted in October 2004 were obtained by LLG. The results validated the increase in volumes at the interchange from 2002 to present. The increase was attributed to the maturing of the interchange (i.e. increase in driver knowledge of alternate freeway access). It was, therefore, concluded that the existing counts remain valid and intersections within the vicinity of the I-805 / Nobel Dr. interchange be updated with the most recent counts available. The methodology employed in the EIR traffic analysis was found to be representative of existing conditions at the study intersections.

The comment, insofar as it pertains to the use of existing counts for future traffic projections, does not recognize that a forecast Model was used to project traffic volumes. The existing volumes are solely used to help determine turn patterns. Furthermore, project impacts are not measured from the existing analysis.

COMMENTS

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| 3.20 | Pursuant to a meeting between Caltrans staff and the applicant on November 2, 2007, the freeway analysis in the TIS has been revised (see EIR Appendix B) and those changes are summarized in the Final EIR. No new significant impacts are identified. Please refer to response to comments 3.15 and 3.19 regarding the freeway analysis. |
| 3.21 | The City rechecked the peak hour calculations and did not find any errors or omissions. It should be noted that the proposed project trips shown in Figure 5-2 of the TIS are based on the <i>Cumulative</i> trip totals not the <i>Driveway</i> trip totals. The applicant met with Caltrans staff on November 2, 2007 to discuss this comment and Caltrans staff agreed that no changes to the TIS are required. In addition, it was noted to Caltrans staff that peak hour trip generation characteristics for retail uses differ from those of other uses, such as office and residential. |
| 3.22 | The Final EIR section has been revised to provide a more detailed description of the nature and timing of the FBA projects assumed in the Near-Term and Horizon Year (see page 5.3-19 of the Final EIR). The analysis in the TIS did not assume any interchange improvements for I-5/Genessee Avenue and assumed some widening of Genessee Avenue near the interchange in accordance with NUC-24 in the FBA. The City has verified these assumptions and determined they were correctly reflected in the analysis. The City Council will review the proposed project's statement of overriding considerations against the potential traffic impacts and determine whether or not to approve the Community Plan Amendment. |
| 3.23 | As the comment does not specify any location, no specific response can be made. Please refer to response to comment 3.21 regarding the peak hour characteristics of retail uses, which differ from the peak hours of other uses. |
| 3.24 | Please refer to response to comment 3.19 regarding the traffic count data. |
| 3.25 | The City rechecked project trips at the I-805 interchanges and did not find any errors or omissions. Please refer to response to comment 3.21 regarding the peak hour characteristics of retail uses, which differ from the peak hours of other uses. |
| 3.26 | The City rechecked project trips at the I-805/La Jolla Village Drive interchange and did not find any errors or omissions. Please refer to response to comment 3.21 regarding the peak hour characteristics of retail uses, which differ from the peak hours of other uses. |
| 3.27 | LLG has revised the analysis of the I-5/Genessee Avenue interchange with updated traffic counts provided by Caltrans. The results are included in the revised TIS dated January 23, 2008 and summarized in Section 5.3 of the Final EIR. The proposed development's "impact" in the Horizon year at the I-5 and SR52 and Genessee Avenue has been reviewed and the conclusions in the EIR have been confirmed. The City reviewed the analysis and did not find any errors or omissions. Please refer to response to comment 3.19. The City Council will review the proposed project's statement of overriding considerations against the potential traffic impacts and determine whether or not to approve the Community Plan Amendment. |

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- 3.28 ☐ DEIR, Page 5.3-40: Revise freeway segment impacts per our previous comment (see DEIR, Page 4, bullet #15) because the existing northbound I-805 AM PH operations were reported incorrectly.
- 3.29 ☐ DEIR, Page 5.3-41: Freeway segments for I-805 northbound AM operations are incorrect. Revise calculations.
- 3.30 ☐ DEIR, Page 5.3-42: Freeway segments for I-805 northbound AM operations are incorrect. Revise calculations.
- 3.31 ☐ DEIR, Pages 5.3-43 thru 45: Revise calculations using corrected project impact volumes for the PH (see bullet #21).
- 3.32 ☐ DEIR, Page 5.3-47: Local street segments impacts maybe understated if the City does not make I-5/Genesee Avenue interchange improvements per the Community Plan.
- 3.33 ☐ DEIR, Page 5.3-48: Revise freeway segments, intersections, and ramp meter impacts based upon corrected peak hour project volumes (see bullet #21).
- 3.34 ☐ DEIR, Page 5.3-49: Remove the phrase "...until other projects in the area pay their fair share and the improvement projects are completed."
- 3.35 ☐ DEIR, Page 5.3-50: The City needs to improve the Genesee Avenue I-5 and SR-52 interchanges according to the Community Plan before approving the UTC CPA.
- 3.36 ☐ DEIR, Page 5.3-52: Re-do using corrected project impact volumes for the PH (see bullet #21).
- 3.37 ☐ DEIR, Page 5.3-54: Revise freeway analyses using corrected data (see bullet #15).
- 3.38 ☐ DEIR, Page 5.3-55: Remove the phrase "...until future improvements identified in SANDAG's Mobility 2030 Plan are implemented."
- 3.39 ☐ Executive Summary (ES), Page ES-18: A CPA should not be allowed if the City chooses not to widen Genesee Avenue per the existing Community Plan.
- 3.40 ☐ ES, Page ES-18: Remove "...until future improvements are implemented from the SANDAG Mobility 2030 Plan."
- 3.41 ☐ ES, Page ES-21: Further explanation is required to explain how the 3,380 ADT was determined.
- 3.42 ☐ ES, Page ES-25: The proposed project may result in an increase in traffic hazards due to congestion that isn't fully mitigated.

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- 3.28 Pursuant to a meeting between Caltrans staff and the applicant on November 2, 2007, the freeway analysis in the TIS has been revised (see EIR Appendix B) and those changes are summarized in the Final EIR. Please refer to response to comments 3.15 and 3.19 regarding the freeway analysis.
- 3.29 Pursuant to a meeting between Caltrans staff and the applicant on November 2, 2007, the freeway analysis in the TIS has been revised (see EIR Appendix B) and those changes are summarized in the Final EIR. Please refer to response to comments 3.15 and 3.19 regarding the freeway analysis and the information contained in the associated attachment.
- 3.30 Pursuant to a meeting between Caltrans staff and the applicant on November 2, 2007, the freeway analysis in the TIS has been revised (see EIR Appendix B) and those changes are summarized in the Final EIR. Please refer to response to comments 3.15 and 3.19 regarding the freeway analysis and the information contained in the associated attachment.
- 3.31 Please refer to response to comment 3.21 regarding the adequacy of the peak hour analysis.
- 3.32 The analysis in the TIS did not assume any interchange improvements for I-5/Genesee Avenue. The City Council will review the proposed project's statement of overriding considerations against the potential transportation/circulation impacts.
- 3.33 Please refer to response to comment 3.21 regarding the adequacy of the peak hour analysis.
- 3.34 The City, as CEQA Lead Agency, has determined that "significant impacts would not be mitigated until other projects in the area pay their fair share and the improvement projects are completed." It is noted that the commenter has requested this phrase be removed from the EIR. However, as no specific reason is given, no further response can be provided.
- 3.35 Improvements to the I-5/Genesee Avenue and SR-52 interchanges are not required to approve the proposed CPA. Please refer to response to comment 3.16.
- 3.36 Please refer to response to comment 3.21 regarding the adequacy of the peak hour analysis. Peak Hour project impact volumes have been confirmed and no changes are warranted.
- 3.37 Please refer to response to comment 3.21 regarding the adequacy of the peak hour analysis. Freeway analysis presented in the TIS has been confirmed and no changes are warranted.
- 3.38 The City, as CEQA Lead Agency, has determined that "significant impacts to freeway segments and freeway ramp meters would remain unmitigated until future improvements identified in the SANDAG Mobility 2030 Plan are implemented." It is noted that the commenter has requested this phrase be removed from the EIR. However, as no specific reason is given, no further response can be provided. As noted in response to comment 3.5, future planned regional improvements are not assumed in the TIS to mitigate project impacts.

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| 3.39 | Please refer to response to comment 3.16 regarding the project approval considerations. |
| 3.40 | Please refer to response to comment 3.38 regarding significant and unmitigable impacts. |
| 3.41 | The 3,380 ADT represents the proposed project's daily trips on significantly impacted freeway segments and is based on the amount of project traffic anticipated by the model. The project traffic was distributed and assigned to the study area based on the SANDAG Model. The distribution of traffic is a function of population densities, future travel patterns, and the efficiency of the study area roadways. |
| 3.42 | Comment noted. Traffic hazards are analyzed as Issue 5 in the EIR. The EIR concluded the traffic hazard impacts would not be significant based on City significance thresholds. |

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- 3.43 [• ES, Page ES-21, Mitigation Measure No. 12: It needs to be determined if the proposed HOV lane addition on the La Jolla Village Drive northbound entrance ramp will conflict with the proposed I-5 corridor improvements in this area. Additionally, further information is required regarding this improvement, including amount of earthwork, width of the widening and geometric details.
- 3.44 [• ES, Page ES-22, Mitigation Measure 15: The proposed shared left-right turn movement at the I-805/La Jolla Village Drive southbound exit ramp (lane No. 2) to create a triple right turn shall not be allowed. However, if a triple right is warranted, the southbound exit ramp shall have three right turn lanes and two left turn lanes. Construct a third right turn lane the same length and adjacent to the existing two right turn lanes.
- 3.45 [• Further explanation is required to explain how the \$1,000.00 per ADT was assessed for fair share mitigation for State freeway facilities, including I-5 and Interstate I-805. It must be clarified how the \$3.38 million fair share fee was determined with respect to impacts on the transportation network.
- 3.46 [• Caltrans supports the Travel Demand Management (TDM) mitigation measures as described in Section 16 of the traffic study (TIS). However, further discussion is needed to described how the developer will coordinate with the City of San Diego, the Metropolitan Transit Service, and SANDAG to implement these TDM Measures. Of special interest is exactly what is proposed for the expansion and enhancement of the existing transit center and how much of the cost of the transit center improvements is the developer responsible.
- 3.47 [• Any work performed within Caltrans Right of Way (R/W) will require an encroachment permit. Improvement plans for construction within Caltrans R/W must include: typical cross sections, adequate structural sections, traffic handling plans, and signing and striping plans stamped by a professional engineer. Furthermore, the applicant's environmental document must include such work in their project description and indicate that an encroachment permit will be needed. As part of the encroachment permit process, the developer must provide appropriate environmental (CEQA) approval for potential environmental impacts to Caltrans R/W. The developer is responsible for quantifying the environmental impacts of the improvements (project level analysis) and completing all appropriate mitigation measures for the impacts. The indirect effects of any mitigation within Caltrans R/W must also be addressed. The developer will also be responsible for procuring any necessary permits or approvals from the regulatory and resource agencies for the improvements. Additional information regarding encroachment permits may be obtained by contacting the Caltrans Permits Office at (619) 688-6158. Early coordination with Caltrans is strongly advised for all encroachment permits.
- 3.48 [• Please submit to Caltrans the Final EIR Response to Comments.

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- 3.43 The City has completed a preliminary feasibility review of the proposed improvement. The Feasibility Report is included in U of the TIS (see EIR Appendix B). The feasibility report includes exhibits illustrating existing conditions, proposed improvements, and potential constructions constraints (such as utilities, physical obstructions, and retaining walls for earthwork). No conflicts are anticipated.
- 3.44 The proposed triple right turn configuration meets the proposed project's mitigation requirements. It is unclear as to why the commenter believes a shared left-right turn movement shall not be allowed. The construction of a third right-turn lane would over-mitigate the project's impact at this location and may require additional Caltrans ROW to accommodate the additional lane.
- 3.45 Please refer to response to comment 3.13 regarding the fair share contribution for freeway impacts.
- 3.46 The Travel Demand Management (TDM) program is incorporated into the project design, as noted on EIR pages 5.3-72 and 5.3-73. The TDM program was inadvertently identified as mitigation in the Draft EIR but has been clarified as a project improvement in Section 5.3 of the Final EIR. Coordination between the City of San Diego, MTS and SANDAG will occur as necessary. When final design of the transit center occurs, it will be reviewed by all appropriate jurisdictions. The cost of the transit center improvements is anticipated to be funded by the project applicant through a combination of direct contributions and facilities financing fees generated by the project.
- 3.47 Comment noted. The applicant will coordinate with Caltrans during the encroachment permit process for any project improvements/mitigation at the interchanges.
- 3.48 The Final EIR Response to Comments will be provided as requested.

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If you require further information or have any question, please contact Al Cox at (619) 688-6003.

Sincerely,



JACOB ARMSTRONG, Acting Chief
Development Review Branch

Enclosure

Cc: Scott Morgan, State Clearinghouse
Walter Musial, Linscott Law & Greenspan
Bob Leiter, SANDAG
Coleen Clementson, SANDAG
Labib Qasem, City of San Diego

"Caltrans improves mobility across California"



Linda S. Adams
Secretary for
Environmental Protection



Department of Toxic Substances Control

Maureen F. Gorsen, Director
5796 Corporate Avenue
Cypress, California 90630



Arnold Schwarzenegger
Governor

September 26, 2007

Ms. Martha Blake
Senior Planner
City of San Diego Development Services Center
1222 First Avenue, MS 501
San Diego, California 92101

PUBLIC NOTICE OF A DRAFT ENVIRONMENTAL IMPACT REPORT UNIVERSITY
TOWNE CENTER REVITALIZATION, LDR NO. 41-0159/PTS NO. 2214 PROJECT
AT THE EXISTING WESTFIELD UNIVERSITY TOWNE CENTER (UTC) REGIONAL
SHOPPING CENTER AT THE INTERSECTION OF LA JOLLA VILLAGE DRIVE AND
GENESEE AVENUE, SAN DIEGO, UNIVERSITY COMMUNITY PLAN AREA
(SCH#2007071071)

Dear Ms. Blake:

The Department of Toxic Substances Control (DTSC) has received your submitted Public Notice of an Environmental Impact Report (EIR) with a Notice of Preparation dated July 12, 2002, for the above-mentioned project. The following project description is stated in your document: "The project proposes to redevelop and renovate the existing 1,061,400-square foot Westfield University Towne Center (UTC) regional shopping center located southeast of the intersection of La Jolla Village Drive and Genesee Avenue; north of Nobel Drive and west of Towne Centre Drive. The proposed project would be the renovation and expansion of retail uses by 750,000 square feet of new retail and the development of 250 multi-family residential units. Alternatively, the applicant could implement a mix of land use scenarios that could include a reduction in new retail and the addition of up to 725 residential dwelling units; to 250 hotel rooms; and/or up to 35,000 square feet of office space. The land use scenarios would be restricted to a mixture of the above uses that would not exceed 17,800 cumulative average daily trips (ADTs) and 256 in-bound AM peak hours/778 out-bound PM peak hour trips. The maximum height for residential, hotel and office uses would be limited to 325 to 390 feet above grade. The project proposes 7,163 parking spaces, in a mixture of structured and surface parking. Additional project features would include a relocated and expanded bus transit center and reservation of right-of-way for the proposed transit center and planned extension of a light rail transit line, and certification under the LEED Green Building Rating System." DTSC provides comments as follows:

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- 4.1 1) The EIR should identify the current or historic uses at the project site that may have resulted in a release of hazardous wastes/substances.
- 2) The EIR should identify the known or potentially contaminated sites within the proposed Project area. For all identified sites, the EIR should evaluate whether conditions at the site may pose a threat to human health or the environment. Following are the databases of some of the regulatory agencies:
- National Priorities List (NPL): A list maintained by the United States Environmental Protection Agency (U.S.EPA).
 - Envirostor (formerly CalSites): A Database primarily used by the California Department of Toxic Substances Control, accessible through DTSC's website (see below).
- 4.2
- Resource Conservation and Recovery Information System (RCRIS): A database of RCRA facilities that is maintained by U.S. EPA.
 - Comprehensive Environmental Response Compensation and Liability Information System (CERCLIS): A database of CERCLA sites that is maintained by U.S.EPA.
 - Solid Waste Information System (SWIS): A database provided by the California Integrated Waste Management Board which consists of both open as well as closed and inactive solid waste disposal facilities and transfer stations.
 - Leaking Underground Storage Tanks (LUST) / Spills, Leaks, Investigations and Cleanups (SLIC): A list that is maintained by Regional Water Quality Control Boards.
 - Local Counties and Cities maintain lists for hazardous substances cleanup sites and leaking underground storage tanks.
 - The United States Army Corps of Engineers, 911 Wilshire Boulevard, Los Angeles, California, 90017, (213) 452-3908, maintains a list of Formerly Used Defense Sites (FUDS).
- 4.3 3) The EIR should identify the mechanism to initiate any required investigation and/or remediation for any site that may be contaminated, and the government agency to provide appropriate regulatory oversight. If necessary, DTSC would

4.1 The existing shopping center was constructed in the late 1970s. There are no known historic uses of the site that may have resulted in a release of hazardous wastes/substances. As identified in Section 6.3.5 of the EIR, the Sears Auto Center onsite stores and utilizes hazardous materials associated with vehicles.

The proposed project site is not located on or within the immediate vicinity of an active or former landfill. No leaking underground storage tanks are located onsite. No uses onsite are identified on the County's list of Site Assessment and Mitigation (SAM) properties. The proposed project site is not located on a formerly used defense site.

4.2 No sites in the project area are identified on the NPL, Envirostor or CERCLIS. The Sears Auto Center onsite is identified on the RCRIS as a facility that has consumer electronics repair and maintenance, home and garden equipment repair and maintenance and automotive oil change and lubrication. This site has a hazardous waste program. The Sephora retail store onsite is also identified on the RCRIS and has a hazardous waste program. La Jolla Cleaners, which is located to the east of the site on Genesee Avenue, is identified on the RCRIS. The Broadway Tire Center, which is located to the north of the site on La Jolla Village Drive, is identified on the RCRIS.

4.3 In the event that undocumented areas of contamination are suspected or encountered during future development activities, work would be discontinued until appropriate health and safety procedures are implemented. A contingency plan would be prepared to address contractor procedures for such an event, to minimize the potential for costly construction delays. In addition, either the San Diego County Department of Environmental Health (DEH) or the California Regional Water Quality Control Board (RWQCB), depending on the nature of the contamination, would be notified regarding the contamination. Each agency and program within the respective agency has its own mechanism for initiating an investigation. The appropriate program (e.g., the DEH Local Oversight Program for tank release cases, the DEH Voluntary Assistance Program for non-tank release cases, or the RWQCB for non-tank cases involving groundwater contamination) would be selected based on the nature of the contamination identified. Any contamination remediation and removal activities would be conducted in accordance with pertinent local, state, and federal regulatory guidelines, under the oversight of the appropriate regulatory agency.

The presence of these known sites on- and off-site does not pose a health risk because contamination has not been identified at any of the sites, consistent with conclusions reached in Section 6.3.5 of the EIR.

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- 4.3 cont. require an oversight agreement in order to review such documents. Please see comment No.17 below for more information.
- 4.4 4) All environmental investigations, sampling and/or remediation for the site should be conducted under a Workplan approved and overseen by a regulatory agency that has jurisdiction to oversee hazardous substance cleanup. The findings of any investigations, including any Phase I or II Environmental Site Assessment investigations should be summarized in the document. All sampling results in which hazardous substances were found should be clearly summarized in a table.
- 4.5 5) Proper investigation, sampling and remedial actions overseen by the respective regulatory agencies, if necessary, should be conducted at the site prior to the new development or any construction. All closure, certification or remediation approval reports by these agencies should be included in the EIR.
- 4.6 6) If any property adjacent to the project site is contaminated with hazardous chemicals, and if the proposed project is within 2,000 feet from a contaminated site, then the proposed development may fall within the "Border Zone of a Contaminated Property." Appropriate precautions should be taken prior to construction if the proposed project is within a Border Zone Property.
- 4.7 7) If buildings, other structures, or associated uses; asphalt or concrete-paved surface areas are being planned to be demolished, an investigation should be conducted for the presence of other related hazardous chemicals, lead-based paints or products, mercury, and asbestos containing materials (ACMs). If other hazardous chemicals, lead-based paints or products, mercury or ACMs are identified, proper precautions should be taken during demolition activities. Additionally, the contaminants should be remediated in compliance with California environmental regulations and policies.
- 4.8 8) The project construction may require soil excavation or filling in certain areas. Sampling may be required. If soil is contaminated, it must be properly disposed and not simply placed in another location onsite. Land Disposal Restrictions (LDRs) may be applicable to such soils. Also, if the project proposes to import soil to backfill the areas excavated, sampling should be conducted to ensure that the imported soil is free of contamination.
- 4.9 9) Human health and the environment of sensitive receptors should be protected during the construction or demolition activities. If it is found necessary, a study of the site and a health risk assessment overseen and approved by the appropriate

- 4.4 Please refer to response to comment 4.3 regarding the health and safety procedures to be used in the unlikely event that undocumented contamination is encountered during construction.
- 4.5 There is no reason at this time to suspect that any investigation is needed because no contamination is known to exist onsite.
- 4.6 As defined in Sections 25117.4 and 25221 of the California Health and Safety Code, a "border zone" property is a property that is located within 2,000 feet of land that has been used for significant disposal of hazardous waste and the wastes so located are a significant existing or potential hazard to present or future public health or safety on the land in question. No border zone properties are located within 2,000 feet of the proposed project.
- 4.7 The proposed project would involve the demolition of buildings and asphalt/concrete paved surfaces constructed in the late 1970s. Based on the recent age of the materials being demolished, there is little to no potential to encounter lead-based paint and asbestos containing building materials during demolition activities. Therefore, no remediation would be required. If such materials are encountered during construction, proper techniques would be used for its removal and disposal.
- 4.8 If soil contamination or other hazardous material is unexpectedly encountered during excavation or grading operations, it would be properly handled and disposed of in accordance with all applicable laws.
- 4.9 Based on known sites in the area, there is no potential to encounter hazardous materials during project construction. If undocumented contamination is suspected or encountered, work would be discontinued until appropriate health and safety procedures are implemented. Please refer to response to comment 4.3 for further details.

COMMENTS

RESPONSES

Ms. Martha Blake
September 26, 2007
Page 4

- 4.9 cont. government agency and a qualified health risk assessor should be conducted to determine if there are, have been, or will be, any releases of hazardous materials that may pose a risk to human health or the environment.
- 4.10 10) If it is determined that hazardous wastes are, or will be, generated by the proposed operations, the wastes must be managed in accordance with the California Hazardous Waste Control Law (California Health and Safety Code, Division 20, Chapter 6.5) and the Hazardous Waste Control Regulations (California Code of Regulations, Title 22, Division 4.5).
- 4.11 11) If it is determined that hazardous wastes are or will be generated and the wastes are (a) stored in tanks or containers for more than ninety days, (b) treated onsite, or (c) disposed of onsite, then a permit from DTSC may be required. If so, the facility should contact DTSC at (714) 484-5423 to initiate pre-application discussions and determine the permitting process applicable to the facility.
- 4.12 12) If it is determined that hazardous wastes will be generated, the facility should obtain a United States Environmental Protection Agency Identification Number by contacting (800) 618-6942.
- 4.13 13) Certain hazardous waste treatment processes may require authorization from the local Certified Unified Program Agency (CUPA). Information about the requirement for authorization can be obtained by contacting your local CUPA.
- 4.14 14) If the project plans include discharging wastewater to a storm drain, you may be required to obtain an NPDES permit from the overseeing Regional Water Quality Control Board (RWQCB).
- 4.15 15) If during construction/demolition of the project, the soil and/or groundwater contamination is suspected, construction/demolition in the area would cease and appropriate health and safety procedures should be implemented.
- 4.16 16) If the site was used for agricultural or related activities, onsite soils and groundwater might contain pesticides, agricultural chemical, organic waste or other related residue. Proper investigation, and remedial actions, if necessary, should be conducted under the oversight of and approved by a government agency at the site prior to construction of the project.
- 4.17 17) Envirostor (formerly CalSites) is a database primarily used by the California Department of Toxic Substances Control, and is accessible through DTSC's website. DTSC can provide guidance for cleanup oversight through an

- 4.10 Several uses onsite presently generate or handle hazardous materials, such as the Sears Auto Center, and Sephora. All present and future uses onsite that may generate or handle hazardous wastes or materials will comply with all applicable laws.
- 4.11 Please refer to response to comment 4.10 regarding documented sites.
- 4.12 Please refer to response to comment 4.10 regarding documented sites.
- 4.13 Please refer to response to comment 4.10 regarding documented sites.
- 4.14 The proposed project would not discharge wastewater to the storm drain system. The proposed project is subject to applicable elements of the federal Clean Water Act, including the NPDES, as discussed on page 3-20 and in Section 5.5, Hydrology/Water Quality of the EIR.
- 4.15 If soil contamination or other hazardous material is unexpectedly encountered, it would be properly handled and disposed of in accordance with all applicable laws as noted in response to comment 4.3.
- 4.16 The site has been developed since the late 1970s and was never used for farming or agriculture. Therefore, no potential for pesticides or related agricultural residue exists.
- 4.17 Comment noted. Also refer to response to comment 4.3 regarding the health and safety procedures to be used in the unlikely event that undocumented contamination is encountered during construction.

COMMENTS

RESPONSES

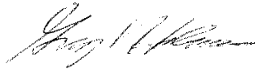
Ms. Martha Blake
September 26, 2007
Page 5

4.17
cont.

Environmental Oversight Agreement (EOA) for government agencies, or a Voluntary Cleanup Agreement (VCA) for private parties. For additional information on the EOA please see www.dtsc.ca.gov/SiteCleanup/Brownfields, or contact Maryam Tasnif-Abbasi, DTSC's Voluntary Cleanup Coordinator, at (714) 484-5489 for the VCA.

If you have any questions regarding this letter, please contact Ms. Teresa Hom, Project Manager, at (714) 484-5477 or email at thom@dtsc.ca.gov.

Sincerely,



Greg Holmes
Unit Chief
Southern California Cleanup Operations Branch - Cypress Office

cc: Governor's Office of Planning and Research
State Clearinghouse
P.O. Box 3044
Sacramento, California 95812-3044

CEQA Tracking Center
Department of Toxic Substances Control
Office of Environmental Planning and Analysis
1001 I Street, 22nd Floor, M.S. 22-2
Sacramento, California 95814

CEQA#1815

STATE OF CALIFORNIA

Arnold Schwarzenegger, Governor

NATIVE AMERICAN HERITAGE COMMISSION

915 CAPITOL MALL, ROOM 364
SACRAMENTO, CA 95814
(916) 653-6251
Fax (916) 657-5390
Web Site www.nahc.ca.gov
e-mail: ds_nahc@pacbell.net



August 14, 2007

Ms. Martha Blake, Senior Planner
CITY OF SAN DIEGO
1222 – 1ST AVENUE, MS501
SAN DIEGO, CA 92191-4155

Re: SCH#2002071071: CEQA Notice of Completion: draft Environmental Impact Report (DEIR) for University Towne Centre Revitalization Project, City of San Diego, San Diego County, California

Dear Ms. Blake:

The Native American Heritage Commission is the state's Trustee Agency for Native American Cultural Resources. The California Environmental Quality Act (CEQA) requires that any project that causes a substantial adverse change in the significance of an historical resource, that includes archaeological resources, is a 'significant effect' requiring the preparation of an Environmental Impact Report (EIR) per CEQA guidelines § 15064.5(b)(c). In order to comply with this provision, the lead agency (e.g. the City of San Diego) is required to assess whether the project will have an adverse impact on these resources within the 'area of potential effect (APE)', and if so, to mitigate that effect. To adequately assess the project-related impacts on historical resources, the Commission recommends the following action:

- ✓ Contact the appropriate California Historic Resources Information Center (CHRIS). Contact information for the Information Center nearest you is available from the State Office of Historic Preservation (916/653-7278)/ <http://www.ohp.parks.ca.gov/1068/files/IC%20Roster.pdf>. The record search will determine:
 - If a part or the entire APE has been previously surveyed for cultural resources.
 - If any known cultural resources have already been recorded in or adjacent to the APE.
 - If the probability is low, moderate, or high that cultural resources are located in the APE.
 - If a survey is required to determine whether previously unrecorded cultural resources are present.
- ✓ If an archaeological inventory survey is required, the final stage is the preparation of a professional report detailing the findings and recommendations of the records search and field survey.
 - The final report containing site forms, site significance, and mitigation measures should be submitted immediately to the planning department. All information regarding site locations, Native American human remains, and associated funerary objects should be in a separate confidential addendum, and not be made available for public disclosure.
 - The final written report should be submitted within 3 months after work has been completed to the appropriate regional archaeological Information Center.
- ✓ Contact the Native American Heritage Commission (NAHC) for:
 - A Sacred Lands File (SLF) search of the project area and information on tribal contacts in the project vicinity that may have additional cultural resource information. Please provide this office with the following citation format to assist with the Sacred Lands File search request: USGS 7.5-minute quadrangle citation with name, township, range and section.
 - The NAHC advises the use of Native American Monitors to ensure proper identification and care given cultural resources that may be discovered. The NAHC recommends that contact be made with Native American Contacts on the attached list to get their input on potential project impact (APE). In some cases, the existence of a Native American cultural resources may be known only to a local tribe(s).
- ✓ Lack of surface evidence of archaeological resources does not preclude their subsurface existence.
 - Lead agencies should include in their mitigation plan provisions for the identification and evaluation of accidentally discovered archaeological resources, per California Environmental Quality Act (CEQA) §15064.5 (f). In areas of identified archaeological sensitivity, a certified archaeologist and a culturally affiliated Native American, with knowledge in cultural resources, should monitor all ground-disturbing activities.
 - Lead agencies should include in their mitigation plan provisions for the disposition of recovered artifacts, in consultation with culturally affiliated Native Americans.
- ✓ Lead agencies should include provisions for discovery of Native American human remains or unmarked cemeteries in their mitigation plans.
 - CEQA Guidelines, Section 15064.5(d) requires the lead agency to work with the Native Americans identified by this Commission if the initial Study identifies the presence or likely presence of Native American human remains within the APE. CEQA Guidelines provide for agreements with Native American, identified by the

5.1

It is acknowledged that the Native American Heritage Commission recommends the actions contained within this letter. However, as discussed in Section 6.3.3 of the EIR, due to the prior extent of grading and development onsite, it is not anticipated that any cultural resources remain intact. Therefore, the EIR appropriately concludes that no cultural resources are located on the development site, and it is not necessary to perform a records search, a Sacred Lands Files search, or to have a monitor onsite. The City notified local Native American tribes, in accordance with a Senate Bill 18, that an amendment to the *University Community Plan* is proposed as part of the UTC project; no tribal consultations were requested in response to the City's notice.

COMMENTS

RESPONSES

5.1
cont.

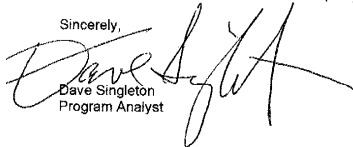
NAHC, to assure the appropriate and dignified treatment of Native American human remains and any associated grave liens.

✓ Health and Safety Code §7050.5, Public Resources Code §5097.98 and Sec. §15064.5 (d) of the CEQA Guidelines mandate procedures to be followed in the event of an accidental discovery of any human remains in a location other than a dedicated cemetery.

✓ Lead agencies should consider avoidance, as defined in § 15370 of the CEQA Guidelines, when significant cultural resources are discovered during the course of project planning.

Please feel free to contact me at (916) 653-6251 if you have any questions.

Sincerely,



Dave Singleton
Program Analyst

Attachment: List of Native American Contacts

COMMENTS

RESPONSES

Native American Contacts

San Diego County
August 14, 2007

La Posta Band of Mission Indians
Gwendolyn Parada, Chairperson
PO Box 1120 Diegueno
Boulevard , CA 91905
(619) 478-2113
619-478-2125

Viejas Band of Mission Indians
Bobby L. Barrett, Chairperson
PO Box 908 Diegueno/Kumeyaay
Alpine , CA 91903
daguiar@viejas-nsn.gov
(619) 445-3810
(619) 445-5337 Fax

San Pasqual Band of Mission Indians
Allen E. Lawson, Chairperson
PO Box 365 Diegueno
Valley Center , CA 92082
(760) 749-3200
(760) 749-3876 Fax

Kumeyaay Cultural Historic Committee
Ron Christman
56 Viejas Grade Road Diegueno/Kumeyaay
Alpine , CA 92001
(619) 445-0385

Santa Ysabel Band of Diegueno Indians
Johnny Hernandez, Spokesman
PO Box 130 Diegueno
Santa Ysabel , CA 92070
brandietaylor@yahoo.com
(760) 765-0845
(760) 765-0320 Fax

Jamul Indian Village
Leon Acebedo, Chairperson
P.O. Box 612 Diegueno/Kumeyaay
Jamul , CA 91935
jamulrez@sctdv.net
(619) 669-4785
(619) 669-48178 - Fax

Sycuan Band of the Kumeyaay Nation
Danny Tucker, Chairperson
5459 Sycuan Road Diegueno/Kumeyaay
El Cajon , CA 92021
ssilva@sycuan-nsn.gov
619 445-2613
619 445-1927 Fax

Mesa Grande Band of Mission Indians
Mark Romero, Chairperson
P.O Box 270 Diegueno
Santa Ysabel , CA 92070
mesagrandeband@msn.com
(760) 782-3818
(760) 782-9092 Fax

This list is current only as of the date of this document.

Distribution of this list does not relieve any person of statutory responsibility as defined in Section 7050.5 of the Health and Safety Code, Section 5097.94 of the Public Resources Code and Section 5097.98 of the Public Resources Code.

This list is only applicable for contacting local Native American with regard to cultural resources for the proposed SSCH#2002071071; CEQA Notice of Completion; draft Environmental Impact Report (DEIR) for University Towne Center Revitalization Project; City of San Diego; San Diego County, California.

COMMENTS

RESPONSES

Native American Contacts

San Diego County
August 14, 2007

Kumeyaay Cultural Heritage Preservation
Paul Cuero
36190 Church Road, Suite 5
Campo, CA 91906

Diegueno/ Kumeyaay

(619) 478-9046
(619) 478-9505
(619) 478-5818 Fax

Santa Ysabel Band of Diegueno Indians
Devon Reed Lomayesva, Esq, Tribal Attorney
PO Box 701
Santa Ysabel, CA 92070
drlomayesva@verizon.net
(760) 765-0845
(760) 765-0320 Fax

Kwaaymii Laguna Band of Mission Indians
Carmen Lucas
P.O. Box 775
Pine Valley, CA 91962
(619) 709-4207

Diegueno -

Clint Linton
P.O. Box 507
Santa Ysabel, CA 92070
(760) 803-5694
cjlinton73@aol.com

Inaja Band of Mission Indians
Rebecca Osuna, Spokesperson
309 S. Maple Street
Escondido, CA 92025
(760) 737-7628
(760) 747-8568 Fax

Diegueno

Kumeyaay Cultural Repatriation Committee
Steve Banegas, Spokesperson
1095 Barona Road
Lakeside, CA 92040
(619) 443-6612
(619) 443-0681 FAX

Diegueno/Kumeyaay

This list is current only as of the date of this document.

Distribution of this list does not relieve any person of statutory responsibility as defined in Section 7050.5 of the Health and Safety Code, Section 5097.94 of the Public Resources Code and Section 5097.98 of the Public Resources Code.

This list is only applicable for contacting local Native American with regard to cultural resources for the proposed SSCH#2002071071; CEQA Notice of Completion; draft Environmental Impact Report (DEIR) for University Towne Center Revitalization Project; City of San Diego; San Diego County, California.



1255 Imperial Avenue, Suite 1000
San Diego, CA 92101-7490
(619) 231-1466 • FAX (619) 234-3407

September 24, 2007

AG 250.1 (PC 50111)

Ms. Martha Blake
Senior Planner
City of San Diego Development Services Center
1222 First Avenue, MS 501
San Diego, CA 92101

Subject: DRAFT ENVIRONMENTAL IMPACT REPORT FOR THE UNIVERSITY TOWNE CENTER
REVITALIZATION PROJECT

Dear Ms. Blake:

Thank you for the opportunity to review and comment on the Draft Environmental Impact Report (DEIR) for the University Towne Center (UTC) Revitalization Project. The Metropolitan Transit System (MTS) provides extensive transit services to UTC and the surrounding area and agrees that this project provides an opportunity to advance transit as a viable alternative for transportation in this community.

6.1 The UTC transit center is a vital part of the region's public transportation network. Over 3500 boardings and alightings a day occur at this location, and this traffic is managed through the use of several bus bays located on the south side of the property. In addition to current demand, various future transit projects will use transit facilities at UTC to provide alternative transportation choices into and out of the area, thus relieving the pressure on already-congested streets. Planned projects such as "Swoop", I-15 and I-805 Bus Rapid Transit, the extension of the Trolley, and the Super Loop Circulator will all require access to facilities at this community hub if they are to be successful. Without a dedicated transit center like the one currently serving the area at UTC, surface streets would be forced to accommodate stops and layover locations for multiples buses. The considerable future investment planned for the north-City area would be undermined without the transit facilities included in the proposed UTC Revitalization Project.

6.2 The relocation of the transit center proposed in the DEIR will provide adequate facilities for current and future needs. Option B, which would relocate the center on Genesee Avenue, is the MTS preferred alternative since it will provide a dedicated bus-only ingress and egress. This location is also preferred since it is adjacent to the site that SANDAG is currently considering for a new light rail station and will ease transfers.

6.3 Operational efficiency demands that certain features be included in the plan for this facility. First, signal priority and a dedicated turn lane into the transit center are essential for safe and efficient operations at this location. Genesee Avenue is highly congested and speeds are considerable at times. Signal priorities and the ability to slow for the turn apart from moving traffic would mitigate the potential for hazardous conditions.

6.4 Second, the transit center as proposed would be built below a structure and will therefore face challenges to making the waiting environment safe and attractive for passengers. MTS recommends

Metropolitan Transit System (MTS) is comprised of the Metropolitan Transit Development Board (MTDB), a California public agency, San Diego Transit Corp., and San Diego Trolley, Inc., in cooperation with Chula Vista Transit and National City Transit. MTS is the taxicab administrator for eight cities. MTDB is owner of the San Diego and Arizona Eastern Railway Company. MTDB member agencies include: City of Chula Vista, City of Coronado, City of El Cajon, City of Imperial Beach, City of La Mesa, City of Lemon Grove, City of National City, City of Poway, City of San Diego, City of Santee, and the County of San Diego.

6.1 Comment noted. As no issue regarding the adequacy of the EIR is identified, no further response can be made.

6.2 The commenter's preferred alternative is noted. It is also the preferred location for the applicant as noted on pages 3-12 and 3-13 of the EIR.

6.3 A transit signal and dedicated turn lane into the transit center are proposed as suggested by MTS. Please refer to the transit center evaluation included in Appendix Q of EIR Appendix B.

6.4 The applicant concurs with MTS's expressed desires to create a safe and attractive environment in and around the new transit center. As discussed in the transit center evaluation included in Appendix Q of EIR Appendix B, the transit center would be designed for access, safety and security. Provisions for adequate lighting and security, access to the shopping center and public restrooms will be made as part of the final design. Features will be designed into the Transit Center that protect patrons from bus emissions and noise and meet any appropriate regulatory standards. The exact design has not been determined at this time, however, the commenter's suggestions will be considered as final design details are developed for the transit center. As no issue regarding the adequacy of the EIR is identified, no further response can be made.

COMMENTS

RESPONSES

Ms. Martha Blake
September 24, 2007
Page 2 of 2

6.4
cont.

that the project include provisions for adequate lighting, security cameras, and security coverage by the shopping center's security personnel. Access to public restrooms and the shopping center itself are also recommended, as are design elements that will protect persons from the adverse impact of bus emissions and noise in the proposed confined space. Finally, real-time "next bus" message displays would provide an amenity to waiting passengers who cannot see buses approaching from the street.

6.5

MTS supports the proposed relocation of the transit facility at UTC with the addition of the provisions detailed in this comment letter. Please contact Sharon Cooney at 619.557.4513 if you have any questions regarding MTS's review and analysis of the DEIR.

Sincerely,



Paul C. Jablonski
Chief Executive Officer

WCASSIDY-L
L-BLAKE.SCOONEY

cc: Councilmember Scott Peters
SANDAG
Westfield, LLC

6.5

Comment noted. As no issue regarding the adequacy of the EIR is identified, no further response can be made.



401 B Street, Suite 800
San Diego, CA 92101-4231
(619) 699-1900
Fax (619) 699-1905
www.sandag.org

September 24, 2007

File Number: 7000300

Ms. Martha Blake
Senior Planner
City of San Diego
Development Services Center
1222 First Avenue, MS 501
San Diego, CA 92101

Dear Ms. Blake:

SUBJECT: Draft Environmental Impact Report for the University Town
Center Revitalization Project **REVISED**

Thank you for the opportunity to review the Draft Environmental Impact Report (DEIR) for the University Town Center Revitalization Project. SANDAG has reviewed the DEIR relative to its direct, indirect, and cumulative impacts on the regional transportation system.

SANDAG appreciates having had the opportunity to meet with the applicant, City of San Diego staff, and others involved in the University Town Center Revitalization Project over the last several months to discuss the proposed development and needed accommodations for existing and planned public transit, including relocation of the existing transit center, as well as other comments included in previous letters dated April 4, 2007, and January 5, 2007. The comments provided in this letter are specific to the DEIR and do not address project level comments provided previously.

SANDAG commends the project applicant for the proactive approach to Travel Demand Management (TDM) and the proposal to incorporate a number of TDM measures into the project identified on pages 5.3-72 and 5.3-73 of the DEIR, including transit center project integration and an enhanced bus component. Further, SANDAG agrees with the statement in the DEIR that a measurable reduction in vehicle trips would result from the anticipated investments in alternative transportation improvements. As such, SANDAG suggests that the TDM plan be articulated as part of MM 5.3-19 for the impacts to Freeway Ramp Meters or other unmitigated impacts. Further, SANDAG suggests that additional analysis be performed to evaluate the potential for a modest increase to the conservative three percent mode split for public transit to further mitigate unmitigated transportation impacts.

MEMBER AGENCIES

Cities of
Carlsbad
Chula Vista
Coronado
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Encinitas
Escondido
Imperial Beach
La Mesa
Lemon Grove
National City
Oceanside
Poway
San Diego
San Marcos
Santee
Solana Beach
Vista
and
County of San Diego

ADVISORY MEMBERS

California Department
of Transportation
Metropolitan Transit System
North San Diego County
Transit Development Board
United States
Department of Defense
San Diego
Unified Port District
San Diego County
Water Authority
Baja California/Mexico

7.1

7.2

7.1 Comment noted. As no issue regarding the adequacy of the EIR is identified in this comment, no further response can be made.

7.2 The Travel Demand Management (TDM) program is incorporated into the project design, as noted on EIR pages 5.3-72 and 5.3-73. The TDM program was inadvertently identified as mitigation in the EIR but has been clarified as a project design feature in the Final EIR (see page 5.3-59 of the Final EIR). SANDAG's suggestion to perform additional analysis regarding the three percent mode split is acknowledged, and it is recognized that such analysis could potentially lessen impacts. However, the TIS was prepared according to City standards, and a worst-case approach was taken in order to be conservative in the EIR. Any reduction of retail trips associated with public transit on-site would only improve the conditions described in the EIR. Refer to response to comment 9.93 on an explanation of how conservative the traffic projections for this project are.

7.3

SANDAG also requests that the City initiate an effort to amend the North University City Public Facilities Financing Plan and Facilities Benefit Assessment (Financing Plan) to include the significant transit projects planned within the community such as the UTC Transit Center, as well as the TDM measures proposed in the DEIR. The Financing Plan should be prepared in coordination with SANDAG, the regional transit operators, project applicant, and others to estimate the costs of the improvements and to distribute those costs on a fair-share basis.

We look forward to working with the City and applicant to address the concepts provided in this letter as well as the specific design issues identified in previous correspondence.

Sincerely,



COLEEN CLEMENTSON
Principal Planner, Land Use and Transportation Planning

CC/cd

cc: Al Cox, Caltrans District 11
Charlene Gabriel, City of San Diego Facilities Financing
Greg Fitchitt, Westfield Corporation

7.3

Comment noted, however, updating the North University City Public Facilities Financing Plan and Facilities Benefit Assessment (FBA) need not be considered in the EIR. Please note that the FBA is updated annually and approved by the City Council at a noticed public hearing which provides ample opportunity for input from the public and public agencies. The City Council has sole discretion to add or remove projects from the FBA based upon a nexus determination with projects in the area of benefit. The FBA is prepared by the Facilities Finance Department of the City of San Diego City Planning and Community Investment Department. The FBA provides funding for public facilities projects that serve a designated area, also known as the Area of Benefit. The dollar amount of the assessment is based upon the collective cost of each public facility, and is equitably distributed over the Area of Benefit in the North University City community planning area. Requests to initiate a change to the FBA for the inclusion of Capital Improvement projects should be made to the City of San Diego Facilities Finance Division of the City Planning and Community Investment Department. The applicant has requested an amendment to the FBA to include relocation and reconstruction of the on-site transit center.

SAN DIEGO COUNTY
REGIONAL AIRPORT AUTHORITY

1001 TORREY BLVD., SAN DIEGO, CA 92111
TEL: 619/437-0000 WWW.SANALUC.ORG

October 5, 2007

City of San Diego
Ms. Martha Blake
Project Manager
Development Services Dept.
1222 First Avenue, MS 501
San Diego, CA 92101-4153

Re: San Diego County Regional Airport Authority Airport Land Use Commission Determination – University Towne Center; Environmental Impact Report (EIR) for the revitalization project; APN# 345-090-07, -08, -13, -14, -15 & -16; MCAS Miramar Airport Land Use Compatibility Plan

Dear Ms. Blake:

8.1

The San Diego County Regional Airport Authority received notification about the above-referenced project which requires review by the Airport Land Use Commission (ALUC). This proposed project is located within the Airport Influence Area (AIA) for the MCAS Miramar Airport Land Use Compatibility Plan, and according to State Public Utilities Code Section 21670, is required to be submitted to the ALUC for a consistency determination.

The proposed project must be submitted directly to the ALUC using the attached application. The application is also available on our website www.san.org/authority/planning/aluc.asp. The ALUC will notify you of receipt of the project, and will complete its review and consistency determination within sixty (60) days of the project application being deemed complete.

If you have any questions, please e-mail me at ssawa@san.org.

Sincerely,



Sandi Sawa
Airport Planner, Airport Planning
San Diego County Regional Airport Authority

8.2

Attachment: ALUC Application

cc: Amy Gonzalez, SDCRAA, General Counsel (w/o attachment)
Mary Frederick, Caltrans – Division of Aeronautics (w/o attachment)
C. Laura Thornton, MCAS Miramar (w/o attachment)



SAN DIEGO
INTERNATIONAL
AIRPORT

8.1

The City of San Diego applied to the ALUC for an ALUCP consistency determination on October 29, 2007. Refer to response to comment 1.2 from the U.S Marine Corps regarding the FAA determination received on the proposed project. On January 3, 2008 the San Diego County Regional Airport Authority approved the proposed project as conditionally consistent with the adopted MCAS Miramar Airport Land Use Compatibility Plan through resolution 2008-0002 ALUC. The project will abide by all conditions of approval.

8.2

Receipt of attachment is noted and was used in the application discussed above in response to comments 1.2 and 8.1.



SAN DIEGO COUNTY REGIONAL AIRPORT AUTHORITY
Airport Land Use Commission

ATTACHMENT "B"

THELLA BOWENS
PRESIDENT/CEO
SAN DIEGO COUNTY REGIONAL AIRPORT AUTHORITY
ATTN: AIRPORT LAND USE COMMISSION
P.O. BOX 82776
SAN DIEGO, CALIFORNIA 92138-2776

For Staff Use
Date: _____
Fee: _____
App#: _____

APPLICATION FOR DETERMINATION OF CONSISTENCY

Project Location: _____ Assessor's Parcel No. _____

Applicant (include name, address, telephone number, fax number and email address for all applicants): _____

Local Jurisdiction (include contact person, address, telephone number, fax number and email address for local jurisdiction): _____

1. Provide a detailed project description, including, but not limited to, the nature of the proposed development, including the proposed density and intensity of use, the present use of the property, if any, the height of the project, number of floors in the building, gross structural area, lot area, lot coverages, and utility extensions: _____

2. Owner(s) of Record (as vested): _____

3. Area of Parcel in Square Feet: _____

San Diego County Regional Airport Authority
Draft Consistency Determination Application

(Approved April 3, 2003)
(Amended October 1, 2003)
Page 1 of 2



SAN DIEGO COUNTY REGIONAL AIRPORT AUTHORITY
AIRPORT LAND USE COMMISSION

4. Status of Local Agency Review: _____

5. CEQA Compliance (provide status of any environmental review required by the California Environmental Quality Act or the National Environmental Policy Act and copies of any environmental documents, where applicable):

- | | |
|---|---|
| ☐ Categorical Exemption | ☐ Environmental Impact Statement |
| ☐ Negative Declaration | ☐ Environmental Assessment |
| ☐ Mitigated Negative Declaration | ☐ Finding of No Significant Impact |
| ☐ Environmental Impact Report | |

Date Completed: _____

6. Provide the following as attachments to this Application Form: (i) verification of applicant's interest in property; (ii) assessor parcel map; (iii) documentation of all required permits and approvals from local, state and federal agencies; (iv) copies of required local approvals; (v) location map; (vi) project plans, including site plans, floor plans, elevations, and landscape plans.

I hereby certify that the foregoing information is a true and correct statement of fact to the best of my knowledge.

Name _____

Signature _____

Date _____

The San Diego County Regional Airport Authority (Authority), acting in its capacity as the local County Airport Land Use Commission (ALUC), reserves its right to request additional information and documents regarding any proposed project submitted for a consistency determination and the payment of reasonable fees prior to making such a determination. The submittal shall not be deemed complete by the Authority until such time as all required documents and information, as determined by Authority staff, have been submitted and reviewed for completeness.

FOR STAFF USE

Date action required: _____

Consistency determination: _____

Conditions imposed: _____

Finding of inconsistency: _____

Applicant informed: _____ Mailed to local agency: _____

Date local agency overruled ALUC consistency determination: _____

San Diego County Regional Airport Authority
Draft Consistency Determination Application

(Approved April 3, 2003)
(Amended October 1, 2003)
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SAN DIEGO COUNTY REGIONAL AIRPORT AUTHORITY

POLICIES

ARTICLE	8	- GENERAL OPERATIONS
PART	8.3	- STRATEGY AND PLANNING
SECTION	8.30	- AIRPORT LAND USE COMMISSION

PURPOSE: To implement the legislative directive for the Authority to: (i) coordinate the airport planning of public agencies within the County of San Diego, California (the "County"); and (ii) adopt a Comprehensive Land Use Plan (as more fully defined in Appendix A, "CLUP") for County Airports on or before June 30, 2005.

POLICY STATEMENT:(1) General Provisions.

(a) Defined Terms. All capitalized terms not otherwise defined in the body of this policy shall have the corresponding meanings set forth in Appendix A.

(b) Authority. The San Diego County Regional Airport Authority (the "Authority"), is acting in its capacity as the Airport Land Use Commission ("ALUC") for the County, as provided by Section 21670.3 of the California Public Utilities Code. The Authority has adopted this policy in recognition of its governmental obligations under the laws of the State of California, which designate the Authority as the proper Local Agency in the County to protect public health, safety and welfare by ensuring the orderly expansion of Airports and the adoption of land use measures that minimize the public's exposure to excessive noise and safety hazards within areas around public airports, to the extent that these areas are not already devoted to incompatible uses consistent with Section 21670.3 of the California Public Utilities Code.

(c) Powers and Duties. The Authority has the following powers and duties, subject to the limitations upon its jurisdiction as set forth in Section 21676 of the California Public Utilities Code:

(i) To assist Local Agencies in ensuring compatible land uses in the vicinity of all new Airports and in the vicinity of existing Airports to the extent that the land in the vicinity of those Airports is not already devoted to incompatible uses;

(ii) To coordinate planning at the state, regional and local levels, so as to provide for the orderly development of air transportation, while at the same time protecting the public health, safety and welfare;

(iii) To prepare and adopt a CLUP for the County on or before June 30, 2005, pursuant to the requirements of California Public Utilities Code Sections 21670.3 and 21675.

Any CLUP developed pursuant to Section 21675 and adopted pursuant to Section 21675.1 by the San Diego Association of Governments shall remain in effect until June 30, 2005, unless the Authority adopts a CLUP prior to that date; and

(iv) To review the plans, regulations and other actions of Local Agencies and Airport Operators pursuant to the requirements of California Public Utilities Code Sections 21670.3 and 21676.

(d) Conflicts of Interest. Any member of the Authority's Board (the "Board") shall temporarily disqualify himself from participating in the review or adoption of a proposal, if there is a conflict of interest pursuant to California Public Utilities Code Section 21672 and/or a violation or potential violation of the Authority's Conflicts of Interest Code.

(e) Schedule of Fees. The Authority may establish a schedule of fees necessary to comply with Article 3.5 of Division 9 of the California Public Utilities Code. Those fees shall be charged to the proponents of actions, regulations or permits and shall not exceed the estimated reasonable cost of providing the service. The fees shall be imposed pursuant to Section 66016 of the California Government Code. The Authority may not charge fees for actions in connection with any Airport that does not have an adopted CLUP.

(f) Amendments, Termination or Suspension. This policy may be amended, terminated or suspended only by official and duly noticed action of the Board. The Board may, in its sole and exclusive exercise of its full legislative discretion, amend, terminate, or suspend this policy at any time.

(g) Partial Invalidity. In the event that any court of competent jurisdiction determines that any portion or provision of this policy is invalid, illegal or unenforceable, or temporarily enjoins enforcement or application of any portion or provision of this policy, all other provisions of this policy shall remain enforceable and in effect unless and until revoked, suspended or modified by the Authority.

(h) No Waiver or Creation of Implied Policy of Enforcement. Neither any (i) failure of the Authority to take any act or action in strict enforcement of this policy, inadvertent or otherwise, nor (ii) affirmative waiver of enforcement of this policy by the Authority in a specific instance after consideration of special requests or circumstances, shall be deemed to constitute the establishment of any express or implied policy of the Authority in the enforcement or non-enforcement of this policy, and shall not be relied upon by any person in making any determination, or taking any action, in violation of any provision of this policy.

(2) Comprehensive Land Use Plan.

(a) Purpose of Comprehensive Land Use Plan. The CLUP is the fundamental tool used by the Authority in fulfilling its purpose of promoting Airport land use compatibility. Specifically, compatibility plans have two purposes: (i) to provide for the orderly growth of each Airport and the area surrounding each Airport within the jurisdiction of the Authority; and (ii) to

safeguard the general welfare of the inhabitants within the vicinity of each Airport within the jurisdiction of the Authority and the public in general.

(b) Preparation of Comprehensive Land Use Plan. The Authority shall be responsible for the preparation of a CLUP on or before June 30, 2005. The CLUP shall provide for the orderly growth of each Airport and the area surrounding each Airport within the Authority's jurisdiction, and shall provide policies to safeguard the general welfare of the inhabitants within the vicinity of each Airport and the public in general, as required by Section 21675 of the California Public Utilities Code. The CLUP that is adopted by the Authority shall include and shall be based on a long-range Master Plan or an Airport Layout Plan, where available, that reflects the anticipated growth of such Airport during at least the next twenty (20) years. In preparing a CLUP, the Authority may develop height restrictions on buildings, specify use of land and determine building standards, including soundproofing adjacent to Airports within the planning area. The CLUP also may identify where additions or changes to local jurisdictions' general and specific plans will be necessary. The CLUP also should include a clear statement of compatibility criteria and Authority review procedures.

The Authority shall also include within the CLUP the area within the jurisdiction of the Authority surrounding any military Airport for all of the purposes identified above. The CLUP provisions shall be consistent with the safety and noise standards in the Air Installation Compatible Use Zone prepared for that military Airport. The Authority does not have, however, any jurisdiction or authority over the territory or operations of any military Airport.

The Authority shall submit to the Division of Aeronautics of the California Department of Transportation one (1) copy of the CLUP and each amendment to the CLUP.

(c) Amendments to Comprehensive Land Use Plan. The CLUP shall be reviewed as often as necessary in order to accomplish its purposes, but shall not be amended more than once in any calendar year. For a CLUP that pertains to more than one Airport in the County, this limitation allows separate amendments for the portion dealing with each individual Airport. Any policies applicable to all Airports in the Authority's jurisdiction shall be amended only once during a calendar year. Coordination with local jurisdictions shall be conducted prior to the approval of any CLUP amendments.

A periodic review of the CLUP shall be conducted in order to keep the CLUP up to date with changes in state laws, local land uses, Airport development and activity, and current concepts for achieving noise and safety compatibility.

(d) Adoption of Comprehensive Land Use Plan and Amendments. The CLUP and any amendments shall be approved and adopted by the Authority, and shall constitute the Authority's recommendation to the Local Agency for compatible land uses within the Airport Influence Area. Prior to adopting each CLUP or amendment, the Authority shall hold a public hearing consistent with this policy.

(3) Authority Review of Local Actions.

(a) Overview. One of the fundamental responsibilities of the Authority is the review of Local Agencies' land use plans, Airport plans and certain other land use projects and actions for compliance with the criteria and policies set forth in the applicable CLUP. The process that the Authority shall follow for this review process depends upon the following three (3) factors: (i) the type of local action involved; (ii) whether a compatibility plan exists for the Airport; and (iii) what action the Local Agency has taken with regard to making its general plan consistent with the Authority's CLUP.

(b) Authority Review Requirements. Local Agencies must refer certain actions to the Authority for review. Referral of other local actions, primarily individual development projects, is required in some instances, but voluntary in others.

(i) Actions For Which Authority Review Is Mandatory.

(A) General Plans and Specific Plans. Any proposal by a Local Agency to adopt a general plan or specific plan shall be referred to the Authority for review, if the boundaries of the plan are within the Airport Influence Area of an Airport, irrespective of whether a CLUP has been adopted for the Airport. If a CLUP has not been adopted, then the Airport Influence Area is defined to mean the study area for such plan or the land within two (2) miles of the Airport boundary pursuant to Section 21675.1(b) of the California Public Utilities Code. Amendments to such plans also shall be referred to the Authority, if the change affects locations within an Airport Influence Area. In such instances, referral shall take place prior to the Local Agency's action to adopt or amend the plan consistent with the requirements of Section 21676(b) of the California Public Utilities Code.

The requirement for submittal of general plans and specific plans exists regardless of whether a proposal is initiated by the Local Agency to adopt or amend a general or specific plan or whether a proposal is initiated based upon the requirement for the Local Agency's plans to be reviewed for consistency with a CLUP that is newly adopted or amended by the Authority. California Government Code Section 65302.3 requires Local Agencies to either amend their general plans and any affected specific plan to be consistent with the Authority's CLUP within one-hundred eighty (180) days of when the Authority adopted or amended its CLUP, or take the steps necessary to overrule the Authority.

(B) Ordinances and Regulations. Authority review of Local Agency proposals to adopt or amend Zoning, building, and other land use ordinances and regulations shall be required in instances where those ordinances and regulations have implications for Airport land use noise or safety compatibility pursuant to the requirements of Section 21676(b) of the California Public Utilities Code.

(C) Airport Plans. The Authority shall require a mandatory review of Airport Master Plans, construction plans for new Airports and Airport expansion plans (including the construction of a new runway, the extension or realignment of an existing runway

and the acquisition of Runway Protection Zones or any interest in land for purposes of safety) for consistency with the adopted CLUP for that Airport pursuant to the requirements of California Public Utilities Code Sections 21676(c), 21661.5 and 21664.5, respectively.

(ii) Other Actions Subject to Authority Review.

(A) Individual Land Use Development Projects. The Authority shall require a mandatory review of all actions, regulations and permits involving the vicinity of an Airport within the Authority's jurisdiction under the following circumstances: (i) prior to the Authority adoption of a CLUP for an Airport; and (ii) when a Local Agency has neither revised its general plan or specific plan to be consistent with the Authority's CLUP nor overruled the Authority with regard to the CLUP pursuant to the requirements of California Public Utilities Code Sections 21675.1(b) and 21676.5(a).

The Authority requests that, even when the Authority has adopted a CLUP for an Airport and the Local Agency has revised its general plan or specific plan to be consistent with the Authority's CLUP, the Local Agency continue to submit major land use actions for review, including, but not limited to, large developments where site design and other factors, such as building height, have potential compatibility implications, even when the overall development may be acceptable. The Authority's project review on these types of non-mandatory project submittals shall be advisory in nature.

(B) Ministerial Permits. Ministerial permits shall be subject to Authority review prior to the adoption of a CLUP for an Airport. After adopting a CLUP, ministerial permits should continue to be submitted to the Authority for review, but only for an advisory review.

(C) CEQA Documents. The Authority is not a Responsible Agency for the purposes of the California Environmental Quality Act ("CEQA") and therefore is not legally required to respond to a CEQA document. The Authority's sole responsibility is to make a compatibility determination regarding the project that is the subject of the Environmental Documentation. However, the Authority has the right and authority to provide comments to the Lead Agency to help ensure the highest level of compatibility.

(c) Information Required for Project Reviews. Requests by Local Agencies to the Authority for project review shall be submitted in writing. Requests shall state fully and fairly the reason for the referral and shall include the names, addresses and telephone numbers of all applicants, project location and assessor's parcel number, a detailed project description, site plans, maps, heights of buildings, any Environmental Documentation and any other material necessary to fully understand the matter for which a project review is being requested. Applicants must include this information on the form entitled "Application for ALUC Determination of Consistency," available at the Authority's offices. The Authority reserves its right to request additional information and documents regarding any project submittal.

In addition to the material required to be submitted, the Authority may require the submittal to include the appropriate fees associated with the request for project review. These

fees shall not exceed the estimated cost of providing service and shall be consistent with any Schedule of Fees established by the Authority pursuant to this policy.

(d) Determination Requirements. The Authority shall respond to a Local Agency with respect to a mandatory project submittal within sixty (60) days of referral pursuant to the requirements of California Public Utilities Code Sections 21675.2(a) and 21676(d). This response period does not begin until such time as all information necessary for accomplishment of the project review has been submitted to the Authority and the Authority has deemed the application complete.

(e) Authority Project Review and Determination Process. The Authority shall review applications for compliance with the criteria and policies set forth in the applicable CLUP. The Authority may consider its own interpretive guidelines and past precedents. After review, the Authority's staff shall place the matter on the Board's agenda for the earliest possible Board meeting. The Authority's staff shall determine if the application can be put on the information, consent or administrative calendar or whether it must receive a public hearing. The application may be placed on the information, consent or administrative calendar if the Authority's staff determines that the project application is consistent or conditionally consistent with the applicable CLUP. Such an application may be removed from the information, consent or administrative calendar at the request of any interested party, member of the public or Board member. In such event, the application shall be heard at the same Board meeting or may be continued at a subsequent Board meeting by a vote of the Board. The application shall receive a public hearing prior to any determination by the Authority that the project application is inconsistent with the applicable CLUP and notice of the public hearing shall be provided to the referring agency, the project applicant and the affected airport operator.

The Authority may determine that a project application is inconsistent with the criteria and policies of the applicable CLUP by taking the following steps: (i) the holding of a public hearing; and (ii) the making of specific factual Findings that the action proposed is inconsistent with the criteria and policies of the applicable CLUP. If the Authority makes a finding that the project application is inconsistent with the applicable CLUP, the referring agency shall be notified.

(f) Authorization for Staff Review. The Authority's Executive Director or his or her designee (the "Executive Director") is authorized to determine the consistency of proposed actions referred to the Authority by Local Agencies in the following circumstances: (i) where the proposed actions are determined to be consistent with the CLUP; or (ii) where the Local Agency submittal was voluntary. Staff review and consistency determinations shall be made consistent with the determination deadlines specified in this policy. Any determination of consistency made pursuant to this section shall be placed on the information calendar on the Board's agenda for the earliest possible meeting.

(g) Reconsideration Criteria for Determinations of Consistency. An applicant may request that the Authority reconsider its previous action on an application. The request for reconsideration shall be made within thirty (30) days of the decision on the application. The applicant must show that there is relevant new evidence which could not have reasonably been

presented at the original hearing or that an error of fact or law occurred. If the Board grants reconsideration, then the matter shall be scheduled for a public hearing as if it were a new application.

(h) Applicant's Rights and Responsibilities after the Authority's Consistency Determination has been Made. If the Authority determines that a proposed action is inconsistent with an applicable CLUP, then a Local Agency may overrule the Authority's determination by taking the following mandatory steps: (i) the holding of a public hearing; (ii) the making of specific Findings that the action proposed is consistent with the purposes of The State Aeronautics Act; and (iii) the approval of the proposed action by a two-thirds vote of the agency's governing body.

If a Local Agency decides to overrule an Authority determination, then the following apply: (a) the Local Agency's approval of a plan, ordinance or project takes effect as if the Authority had approved the project or found it consistent with the CLUP; (b) if a Local Agency adopts or amends a general plan or specific plan for the Airport area by overruling the Authority, then subsequent Authority review of individual development projects related to that overruling become voluntary consistent with California Public Utilities Code Section 21676.5(b); and (c) if the Local Agency overrules the Authority's consistency determination on any project subject to mandatory review by the Commission, then the Authority shall be immune from liability for damages to property or personal injury caused by or resulting directly or indirectly from the public agency's decision to override the Authority's action or recommendation pursuant to California Public Utilities Code Sections 21678 and 21675.1(f).

(i) Authority's Rights and Responsibilities if the Local Agency Overrules the Authority's Consistency Determination. If a Local Agency proposes to overrule the Authority's consistency determination, the Local Agency must provide the Authority and the California Department of Transportation ("Caltrans") with a copy of the local agency's proposed decision and findings at least forty-five (45) days prior to the decision to overrule the Authority. The Authority and Caltrans may provide advisory written comments to the Local Agency within thirty (30) days of receiving the proposed decision and findings. If comments are not available within this time limit, the Local Agency may act without them. If comments are available, the Local Agency shall include them in the public record of any final decision to overrule the Authority. See, Public Resources Code §§ 21676, 21676.5 and 21677.

(4) Administrative Provisions.

(a) Public Hearings. Public hearings shall be held in accordance with the procedures identified for public hearings for the Authority.

(b) Authority Information Requests. In addition to all other authority granted to the Executive Director, the Executive Director shall have the authority to provide any information, reports, applications or other related documents, in whatever form or format that the Executive Director may determine useful in the implementation or enforcement of the provisions of this policy.

(c) Notices.

(i) Local Agency Designation of Person(s) to Receive Notices. Each Local Agency within the County shall designate in writing (addressed to the Executive Director) not more than two (2) employees, officers or other representatives who are authorized to receive notices regarding action taken under the authority of this policy. The notice also shall provide a mailing address and work telephone number and a telecopier number, for each designated person.

(ii) Delivery of Authority Notices. Whenever the Authority provides written notice under this policy, the notice shall be mailed by first class mail, or by a next-day package delivery service, or delivered by telecopier.

(iii) Effective Date of Notices Delivered by the Authority. Whenever the Authority gives written notice under or concerning this policy by next-day package delivery service and/or telecopier, the notice shall be deemed to have been received on the day it was transmitted by telecopier, or, if given only by next-day package delivery service, on the day following the day on which the notice was delivered or given to a next-day package service for delivery. If the Authority gives notice only by depositing a copy of the notice in first class mails, the notice shall be deemed to have been received three (3) days after the date on which it was deposited in the United States mail.

(iv) Effective Date of Notices or Requests. Whenever this policy requires any person to file or submit any notice or document to the Authority, that notice or document shall be deemed to have been delivered on the first working day when it is actually received by the Authority.

(d) Modification of Forms or Guidelines.

(i) Authority. The Executive Director may prepare, modify or augment any form required to be filed under this policy, may require the filing of additional forms or information not otherwise referenced in this policy, or may prepare, modify or augment any Authority consistency review guidelines or other administrative guidelines without Board action, if the Executive Director reasonably determines that the action would facilitate the implementation and enforcement of this policy, or any other Authority ordinances, rules, regulations or policies.

(ii) Notices. When the Executive Director exercises his or her authority under subsection (i) above, the Executive Director promptly shall give notice to all Local Agencies and other interested parties who are required or permitted to use those forms, information or guidelines, and the Executive Director shall specify the date upon which use of the new or modified forms, information or guidelines is required.

[Resolution No. 03-_____ dated _____, 2003.]
[Superseded by Resolution No. _____ dated _____.]

APPENDIX A**DEFINITIONS**

“Airport” means any area of land or water that is used, or intended for use, for the landing and take-off of aircraft. Included are any appurtenant areas that are used, or intended for use, for Airport buildings or any other Airport facilities or right-of-way, and all Airport buildings and facilities located thereon. Public-Use Airports, Special-Use Airports, Heliports, Helipads and Helistops shall be considered Airports for purposes of this policy.

“Airport Influence Area” means a planning area designated by the Authority around each Public-Use Airport which is, or reasonably may become, affected by Airport operations including, but not limited to noise, fumes, or other influence, or which is, or reasonably may become, a site for a hazard to aerial navigation. If a CLUP has not been adopted, then the Airport Influence Area means the land within two (2) miles of the Airport boundary. See California Public Utilities Code Section 21675.1(b).

“Airport Layout Plan (ALP)” means a scale drawing of existing and proposed Airport facilities, their location on an Airport, and the pertinent clearance and dimensional information required to demonstrate conformance with applicable standards.

“Airport Master Plan (AMP)” means a long-range plan for development of an Airport, including descriptions of the data and analyses on which the plan is based.

“Airport Operator” means any person or entity having the authority and responsibility for the establishment and operation of an Airport.

“California Environmental Quality Act” or “CEQA” means the statutes adopted by the state legislature for the purpose of maintaining a quality environment for the people of the state now and in the future. CEQA establishes a process for state agency and Local Agency review of projects, as defined in the implementing guidelines, which may adversely affect the environment. See California Public Resources Code Sections 21000, et. seq.

“Comprehensive Land Use Plan” or “CLUP” means the compatibility plan that presents the areas currently impacted or likely to be impacted by noise levels and flight activities associated with aircraft operations of one or more Airports. A CLUP usually presents in narrative and graphic form the noise, safety and other criteria that will enable Local Agencies to compatibly plan and develop the land within the Airport Influence Area.

“Draft EIR” means an EIR containing the information specified in Sections 15122 through 15131 in CEQA Guidelines.

“Environmental Documentation” means Initial Studies, Negative Declarations, draft and final EIRs, documents prepared as substitutes for EIRs and Negative Declarations under a program certified pursuant to California Public Resources Code Section 21080.5, and documents prepared under the National Environmental Policy Act (“NEPA”) and used by a state agency or Local Agency in the place of Initial Study, Negative Declaration, or an EIR.

“Environmental Impact Report” or “EIR” means a detailed statement prepared under CEQA describing and analyzing the significant environmental effects of a project and discussing ways to mitigate or avoid the effects. The term EIR may mean either a Draft EIR or a Final EIR depending on the context.

“Environmental Impact Statement” or “EIS” means an impact document prepared pursuant to the NEPA. NEPA uses the term EIS in the place of the term EIR, which is used in CEQA.

“Final EIR” means an EIR containing the information contained in the draft EIR, comments either verbatim or in summary received in the review process, a list of persons commenting, and the response of the Lead Agency to the comments received.

“Findings” means the legally relevant subconclusions which expose a government agency’s mode of analysis of facts, regulations and policies, and which bridge the analytical gap between raw data and ultimate decision.

“Helipad” means a small, designated area, usually with a prepared surface, on a heliport, Airport, landing/takeoff area, apron/ramp, or movement area used for takeoff, landing, or parking of helicopters. Included are any appurtenant areas which are used, or intended for use, for helipad buildings or other helipad facilities or rights-of-way, and all helipad buildings and facilities located thereon.

“Heliport” means a facility used for operating, basing, housing and maintaining helicopters. Included are any appurtenant areas which are used, or intended for use, for heliport buildings or other heliport facilities or rights-of-way and all heliport buildings and facilities located thereon.

“Helistop” means any area of land, water, or structure not designated as either a heliport or a helipad which is used, or intended for use, for the landing and take-off of helicopters. Such areas generally provide only minimal facilities to accommodate helicopter landings and take-offs.

“Initial Study” means a preliminary analysis prepared by the Lead Agency to determine whether an EIR or a Negative Declaration must be prepared or to identify the significant environmental effects to be analyzed in an EIR.

“Lead Agency” means the public agency which has the principal responsibility for carrying out or approving a project. The Lead Agency will decide whether an EIR or Negative Declaration will be required for the project and will cause the document to be prepared.

“Local Agency” means any public agency, including, but not limited to, cities, counties, charter cities and counties, districts, school districts, special districts, redevelopment agencies, local agency formation commissions, and any board, commission or organizational subdivision of a Local Agency when so designated by order or resolution of the governing legislative body of the Local Agency.

“Negative Declaration” means a written statement by the Lead Agency briefly describing the reasons that a proposed project, not exempt from CEQA, will not have a significant effect on the environment and, therefore, does not require the preparation of an EIR.

CODE SECTION NO. 8.30

"Public Agency" means any state agency, board, or commission and any local or regional agency, as defined in the CEQA Guidelines. It does not include the courts of the state. This term does not include agencies of the federal government.

"Public-Use Airport" means a publicly or privately owned Airport that offers the use of its facilities to the public without prior notice or special invitation or clearance and that has been issued a California Airport Permit by the Aeronautics Program of the California Department of Transportation.

"Responsible Agency" means a public agency which proposes to carry out or approve a project, for which a Lead Agency is preparing or has prepared an EIR or Negative Declaration. For the purpose of CEQA, the term Responsible Agency includes all public agencies other than the Lead Agency which have discretionary approval power over the project.

"Runway Protection Zone (RPZ)" means an area (formerly called a clear zone) off the end of a runway used to enhance the protection of people and property on the ground.

"Special-Use Airport" means an airport not open to the general public, access to which is controlled by the owner in support of commercial activities, public services, and/or personal use.

"The State Aeronautics Act" means The State Aeronautics Act, California Public Utilities Code Section 21670, et seq.

"Zoning" means a police power measure, enacted primarily by units of local government, in which the community is divided into districts or zones within which permitted and special uses are established, as are regulations governing lot size, building bulk, placement and other development standards. Requirements vary from district to district, but they must be uniform within districts. A zoning ordinance consists of two parts - the text and a map.



SAN DIEGO COUNTY REGIONAL AIRPORT AUTHORITY

*Airport Land Use Commission
Consistency Determination Guidelines*

I. WHAT IS THE ROLE OF THE SAN DIEGO COUNTY REGIONAL AIRPORT AUTHORITY AS THE COUNTY OF SAN DIEGO'S AIRPORT LAND USE COMMISSION?

The San Diego Association of Governments (SANDAG) has served as the Airport Land Use Commission (ALUC) for San Diego County (County) since 1971. This ALUC role has now been transferred to the San Diego County Regional Airport Authority (Authority). In this capacity, the Authority is responsible for protecting public health, safety, and welfare by ensuring the orderly expansion of airports within the County and the adoption of land use measures that minimize the public's exposure to excessive noise and safety hazards within areas around public airports, to the extent that these areas are not already devoted to incompatible uses.

One of the fundamental responsibilities of the Authority in this new role as the County's ALUC is the review of local agencies' general and specific plans, airport plans and certain other land use projects and actions for compliance with the criteria and policies set forth in the Comprehensive Land Use Plans (CLUP) for County Airports.

II. WHICH LOCAL AGENCY ACTIONS ARE SUBJECT TO AUTHORITY REVIEW?

Local agencies must refer certain actions to the Authority for review. Referral of other local actions, primarily individual development projects, is required in some instances, but voluntary in others. A flow chart which provides a summary of the Authority review process for land use actions is provided as Attachment "A" to these Guidelines.

A. Actions For Which Authority Review Is Mandatory

1. **General Plans and Specific Plans.** Any proposal by a county or city to adopt a general plan or specific plan must be referred to the Authority for review if the boundaries of the plan are within the Airport Influence Area* of an airport within

* "Airport Influence Area" means a planning area designated by the ALUC around each airport within its jurisdiction which is, or reasonably may become, affected by airport operations including, but not limited to noise, fumes, or other influence, or which is, or reasonably may become, as site for a hazard to aerial navigation. The Airport Influence Area is defined in the CLUP for the applicable airport. If a CLUP has not been adopted, then the Airport Influence Area is defined to mean the study area or the land within two (2) miles of the airport boundary.

the Authority's jurisdiction, irrespective of whether a CLUP has been adopted for the airport. Amendments to such plans must also be referred to the Authority if the change affects locations within an Airport Influence Area. In such instances, referral must take place prior to the local agency's action to adopt or amend the plan consistent with the requirements of Section 21676(b) of the CALIFORNIA PUBLIC UTILITIES CODE.

2. Ordinances and Regulations. Authority review of County or City proposals to adopt or amend zoning, building, and other land use ordinances and regulations is required in instances where those ordinances and regulations have implications for airport land use noise or safety compatibility pursuant to the requirements of CALIFORNIA PUBLIC UTILITIES CODE Section 21676(b).

3. Airport Plans. The Authority requires a mandatory review of airport master plans, construction plans for new airports, and airport expansion plans (including the construction of a new runway, the extension or realignment of an existing runway and the acquisition of runway protection zones or any interest in land for purposes of safety) for consistency with the adopted CLUP for that airport pursuant to the requirements of CALIFORNIA PUBLIC UTILITIES CODE Sections 21676(c), 21661.5, and 21664.5, respectively.

B. Other Actions Potentially Subject To Authority Review

1. Individual Land Use Development Projects. The Authority requires a mandatory review of all actions, regulations and permits involving the vicinity of an airport within the Authority's jurisdiction under the following circumstances: (i) prior to the Authority adoption of a CLUP for the airport; and (ii) when a local agency has neither revised its general plan or specific plan to be consistent with the Authority's CLUP nor overruled the Authority with regard to the CLUP pursuant to the requirements of CALIFORNIA PUBLIC UTILITIES CODE Sections 21675.1(b) and 21676.5(a).^{**}

The Authority requests that even when the Authority has adopted a CLUP for the airport and the local agency has revised its general plan or specific plan to be consistent with the Authority's CLUP, that the local agency continue to submit major land use actions for review, including, but not limited to, large developments where site design and other factors such as building height have potential compatibility implications even when the overall development may be acceptable.

^{**} GOVERNMENT CODE §65302.3 requires local agencies either amend their general plans and any affected specific plan to be consistent with the ALUC's CLUP within one-hundred eighty (180) days of when the ALUC adopted or amended its CLUP, or take the steps necessary to overrule the ALUC.

2. Ministerial Permits. Ministerial permits are subject to Authority review prior to the adoption of a CLUP for the airport. After adopting a CLUP, ministerial permits should continue to be submitted to the Authority for review, but only for an advisory review.

3. CEQA Documents. The Authority is not a responsible agency for purposes of the California Environmental Quality Act (CEQA) and therefore is not required to respond to a CEQA document. The Authority's sole responsibility is to make a compatibility determination regarding the project which is the subject of the environmental documentation. However, the Authority has the right and authority to provide comments to the lead agency.

III. WHERE SHOULD THE APPLICANT APPLY?

Applicants should direct inquiries and applications to the President/CEO of the Authority as follows:

Thella Bowens
President/CEO
San Diego County Regional Airport Authority
Attn: Airport Land Use Commission
P.O. Box 82776
San Diego, California 92138-2776

IV. WHAT INFORMATION SHOULD APPLICANT PROVIDE UPON APPLICATION?

Applicants must include the following information on the form entitled "Application for Determination of Consistency," provided as Attachment "B" to this Guidelines and available at the Authority offices at the address above:

1. Name, address, telephone number and email address of all applicants and the applicant's representative;
2. Project location and assessor's parcel number;
3. Detailed project description, including:
 - a. Nature of proposed development;
 - b. Present use of the property;
 - c. Estimated project cost;
 - d. Previous Authority application numbers;
 - e. Height of the project;
 - f. Number of floors in the building;
 - g. Gross structural area;

- h. Lot area;
 - i. Lot coverages; and
 - j. Utility extension.
4. Series of attachments, including:
- a. Verification of applicant's interest in property;
 - b. Assessor parcel map;
 - c. Copies of required local approvals;
 - d. Location map;
 - e. Project plans - including site plans, floor plans, evaluations, landscape plans;
 - f. Copies of any environmental document required by the California Environmental Quality Act (CEQA) or the National Environmental Policy Act (NEPA).

V. WHAT APPLICATION FEE MUST THE DEVELOPER SUBMIT?

The Authority may establish a schedule of fees necessary to cover the costs of project review. The fees shall be charged to the proponents of actions, regulations or permits, and shall not exceed the estimated reasonable cost of providing the service.

VI. HOW DOES THE AUTHORITY EVALUATE AND PROCESS THE APPLICATION?

The Authority reviews applications for compliance with the criteria and policies set forth in the applicable CLUP. The Authority may consider its own interpretive guidelines and past precedents. In most cases, the application will be reviewed by Authority staff and placed on the Authority Board's agenda for the earliest possible meeting. Staff will determine if the application can be put on the information, consent or administrative calendar or whether it must receive a public hearing.

After submittal of an application, the President/CEO determines whether the application materials are complete. If the application is complete, the President/CEO considers it formally filed and begins the review. If the application is incomplete, the President/CEO notifies the applicant, specifying what additional information is required. When the applicant has supplied all the necessary information, the President/CEO considers the application filed and begins the review.

The process which the Authority must follow for this review process depends upon the following three factors: (a) the type of local action involved; (b) whether the applicable airport has an approved compatibility plan; and (c) what action the local agency has taken with regard to making its general plan consistent with the applicable CLUP.

A. Criteria For Airports With An Approved CLUP

If there is an approved CLUP for an airport, the nature of the Authority's review of land use matters is as follows:

1. The Authority staff determines whether or not the proposed action is consistent with the CLUP for the airport. If the proposed action is clearly consistent with the CLUP, staff will place the project on either the Authority Board information or consent calendar at the next available meeting. After the Authority Board meeting, staff will then provide written notice of the consistency determination to the local agency that submitted the project for review.

2. If Authority staff determines that the proposed action is potentially inconsistent with the CLUP for the airport or that a consistency determination can only be made if conditions are imposed on the project, staff shall refer the project to the Authority Board for a consistency review and determination. In such circumstances, the Authority will hold a public hearing on the matter prior to making a consistency determination. The applicable local agency and the affected airport operator will be notified of the Authority's decision prior to the public hearing on the matter. The Authority will also request the applicable local agency notify the applicant of the authority's decision prior to the public hearing.

After a public hearing, the Authority shall make one of the following findings based upon its review of the proposed project and pursuant to the applicable CLUP policies and criteria set forth to evaluate proposed projects:

- (i) A finding of consistency with the applicable CLUP;
- (ii) A finding of inconsistency with the applicable CLUP; or
- (iii) A finding of consistency with the CLUP with certain specified conditions.

B. Criteria For Airports Without An Approved CLUP

If the applicable airport does not have an approved CLUP in place, the Airport Influence Area is the area within two (2) miles of the boundary of an airport and the nature of the Authority's review of land use matters is as follows:

1. Approval of a land use action, regulation, or permit is limited pursuant to CALIFORNIA PUBLIC UTILITIES CODE Section 21675.1(c). Approval requires that the Authority hold a public hearing on the matter and find, based on substantial evidence in the record, that all of the following conditions exist: (i) the Authority is

making substantial progress toward completion of the CLUP; (ii) there is reasonable probability that the action, regulation, or permit will be consistent with the CLUP being prepared by the Authority; and (iii) there is little or no probability of substantial detriment to, or interference with, the future adopted plan if the action, regulation, or permit is ultimately inconsistent with the CLUP.

2. If all of the above specified conditions are not met, the Authority cannot approve the land use action, regulation, or permit. Under these circumstances, approval of the land use proposal shall be subject only to action by the local agency unless court proceedings are initiated by an interested party consistent with the requirements of CALIFORNIA PUBLIC UTILITIES CODE Section 21679.

VII. HOW CAN A LOCAL AGENCY MAKE A REQUEST FOR RECONSIDERATION?

An applicant may request that the Authority reconsider its previous action on an application. The request for reconsideration must be made within thirty (30) days of the decision on the application. The applicant must show that there is relevant new evidence which could not have reasonably been presented at the original hearing or that an error of fact or law occurred. Only the applicant and persons who participated in the original proceedings are eligible to testify. If the Authority Board grants reconsideration, the matter will be scheduled for a public hearing as if it were a new application.

VIII. WHAT ARE THE APPLICANT'S RIGHTS AND RESPONSIBILITIES AFTER THE AUTHORITY'S CONSISTENCY DETERMINATION HAS BEEN MADE?

If the Authority determines that a proposed action is inconsistent with an applicable CLUP, the Authority's action shall be considered by the local agency. A local agency may overrule an Authority consistency determination pursuant to CALIFORNIA PUBLIC UTILITIES CODE Section 21670 by taking the following mandatory steps: (i) the holding of a public hearing; (ii) the making of specific findings that the action proposed is consistent with the purposes of the Authority statute; and (iii) the approval of the proposed action by a two-thirds vote of the agency's governing body.

If a local agency decides to overrule an Authority determination, the Authority shall be immune from liability for damages to property or personal injury caused by or resulting directly or indirectly from the public agency's decision to override the Authority's action or recommendation pursuant to CALIFORNIA PUBLIC UTILITIES CODE Sections 21678 and 21675.1(f).

IX. WHAT ARE THE AUTHORITY'S RIGHTS AND RESPONSIBILITIES IF THE LOCAL AGENCY DECIDES TO OVERRULE THE AUTHORITY DETERMINATION?

If the local agency proposes to overrule the Authority determination, the local agency must provide to the Authority and the California Department of Transportation ("Caltrans") a copy of the local agency's proposed decision and findings at least forty-five (45) days prior to the decision on whether to overrule the Authority. The Authority and Caltrans may provide advisory written comments to the local agency within thirty (30) days of receiving the proposed decision and findings. If comments are not available within this time limit, the local agency may act without them. If comments are available, the local agency shall include them in the public record of any final decision to overrule the Authority. See, Public Resources Code, §§ 21676, 21676.5 and 21677.

X. WHAT OTHER SOURCES OF INFORMATION ARE AVAILABLE TO LOCAL AGENCIES?

Applicants may refer to the publications listed below for further information about Authority consistency determinations:

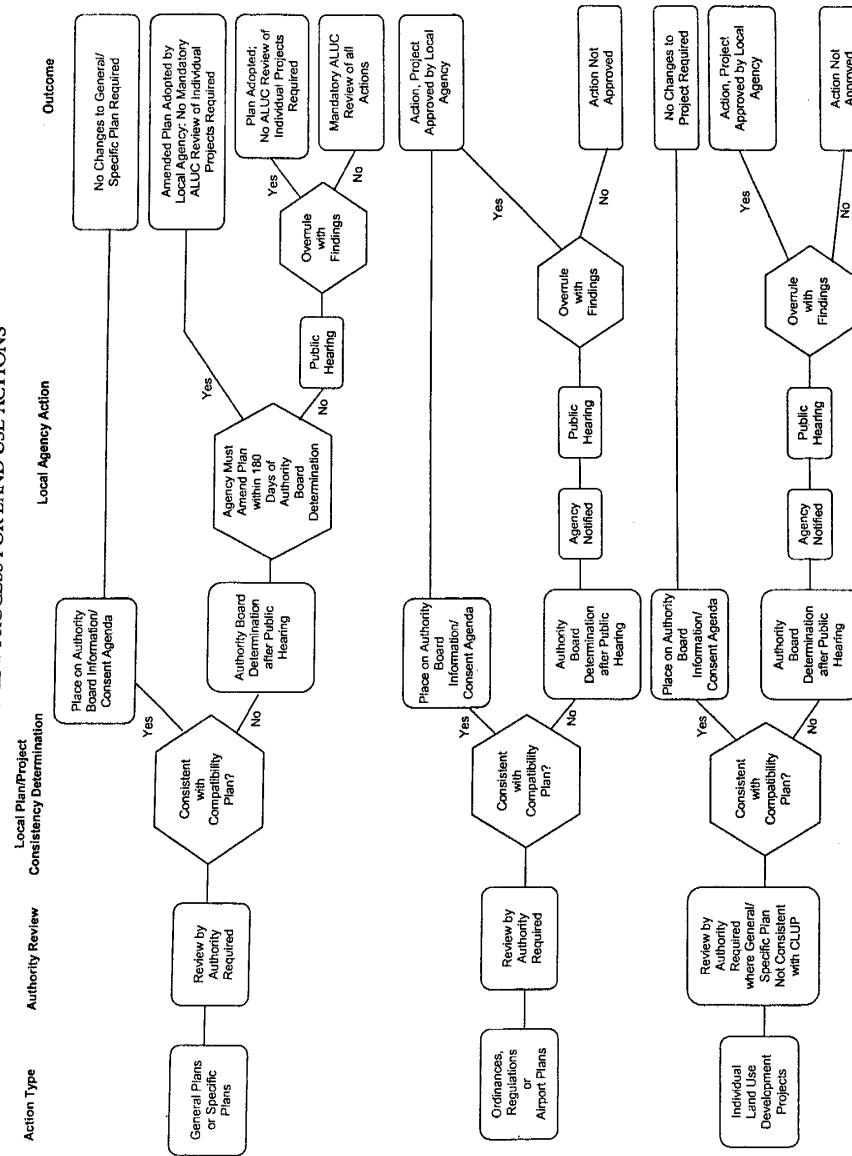
A. Comprehensive Land Use Plans

- Oceanside Municipal Airport (adopted July 20, 1981)
- Brown Field (adopted September 21, 1981)
- Montgomery Field (adopted July 27, 1984)
- Borrego Valley Airport (adopted September 26, 1986)
- Gillespie Field (adopted July 28, 1989)
- NAS Miramar (adopted September 28, 1990/amended September 25, 1992)
- Fallbrook Community Airpark (adopted April 26, 1991)
- Lindbergh Field (adopted February 28, 1992/amended April 22, 1994)
- McClellan-Palomar Airport (adopted April 22, 1994)

B. *California Airport Land Use Planning Handbook*, State of California Department of Transportation Division of Aeronautics, January 2002.

C. Federal Aviation Regulation (FAR) Part 77 which establishes standards for obstructions in navigable airspace, including height restrictions.

AUTHORITY REVIEW PROCESS FOR LAND USE ACTIONS



October 9, 2007

Ms. Martha Blake, Environmental Planner
City of San Diego Development Services Center
1222 First Avenue, MS 501
San Diego, CA 92101

RE: Draft Environmental Impact Report – Project No. 2214 – University Towne Center

Dear Ms. Blake:

The purpose of this letter is to provide comments on the sufficiency of the DEIR document in identifying and analyzing the possible impacts on the environment and ways in which the significant effects of the project might be avoided or mitigated.

“The purposes of an EIR are to provide public agencies and the public in general with detailed information about the effect which a proposed project is likely to have on the environment; to list ways in which the significant effects of such a project might be minimized; and to indicate alternatives to such a project.” (DEIR, pg. 1-1)

The University Community Planning Group (UCPG), and members of the UCPG, “Thank you,” for the opportunity to respond in writing with our observations and comments.

The University Community Planning Group’s (UCPG) comments are as follows.

9.1

- The DEIR fails to address or disclose adequately the original site’s history. The entire original adopted site with development allocated and built out was: UTC 75.35 acres, 1,061,000 sq.ft. Regional Commercial, The Pines, 5.72 acres, 248 DU, Vista La Jolla Town Homes, 12.26 acres, 257 DU, and Vista La Jolla Homes, 14.84 acres, 56 DU. The total acreage was 108.17 acres and it met at build-out the objective of the adopted Community Plan and the General Plan. The DEIR factors-out the 561 units already built by only considering UTC’s acreage (75.3 acres) instead of addressing and analyzing the cumulative effect on the environment and residents of more housing units.

9.2

- The DEIR fails to address adequately the CPA/Rezoning/PDP/SDP/VTM. Why the need for the Rezoning? The current adopted UC Plan and project site are already zoned “Regional Commercial”.

9.3

- The DEIR fails to be a “project-specific review” because the alternatives in the DEIR fail to address and disclose an entire project phase with enough detail and comparisons to enable the decision maker adequate specific projects to review. The DEIR is silent on Westfield’s actual plans for the various expansion plots. It would appear that approval of the expansion would allow Westfield to do whatever corporate decided as far as placement of new structures and parking space expansion without any community recourse.

Page 1

9.1

CEQA does not require a discussion of the site’s entitlement history. Although the EIR includes a brief discussion of the site history, it is for informational purposes and not intended to be an exhaustive discussion of the project background. The 75.35-acre UTC site, which is comprised of the existing regional mall and Torrey Trail, is listed separately from the existing adjacent residential development in the *University Community Plan* Development Intensity Table (i.e., Table 3). The regional mall portion of the UTC property, excluding Torrey Trail, is approximately 68-acres and is subject to a separate Planned Commercial Development Permit (PCD 83-0117). In addition to the retail development, the PCD allows an additional 300 residential units to be developed on the 68-acre UTC site. These 300 units, which have not been constructed, are not part of the existing residential development to the south because they are entitled under a separate PCD which only applies to the 68-acre UTC site. Furthermore, there is no common ownership between the UTC site and the existing adjacent existing residential development to the south.

9.2

The UTC property is designated in the City’s General Plan and *University Community Plan* as a regional commercial center. The *University Community Plan*, on page 10, describes University Towne Centre as a “major regional commercial center as well as a social center for the community.” The *University Community Plan* recognizes the role of the University Community as a major regional commercial retail center, which was originally established by the University Towne Centre developments.

As part of the revitalization entitlements, Westfield UTC proposes to rezone the site to the regional commercial zone - CR-1-1. The CR-1-1 zone was adopted by the City as part of the Land Development Code update that went into effect in January 1, 2000. Prior to 2000, there was not a regional commercial zone in the City’s Municipal Code, which is why the site is currently zoned community commercial - CC-1-3. The purpose of the regional commercial zones (CR) is to provide areas for a broad mix of uses, including retail, residential, office, and commercial service uses. The CR zones are intended to accommodate large-scale, high intensity developments. Property within the CR zones is located on major streets, primary arterials and public transportation lines.

Located at the intersection of a primary arterial, La Jolla Village Drive, and a major street, Genesee Avenue, and the site of the transit center, rezoning the property to CR-1-1 makes it consistent with the General and Community Plan land use designations as a regional commercial center, as well as how the site functions. Furthermore, rezoning the site to CR-1-1 makes the zoning consistent with what is actually developed on the site and what is proposed for the revitalization project by allowing for a large scale, broad mix of high-intensity regional serving uses. The rezoning is addressed in Sections 5.1, Land Use (pages 5.1-22 to 5.1-23) and 5.2, Aesthetics/Visual Quality (pages 5.2-5 to 5.2-6) of the EIR.

9.3

The applicant has applied for a Planned Development Permit to develop the site. The SDMC Section 126.0601 states, “The purpose of these procedures is to establish a review process for *development* that allows an *applicant* to request greater flexibility from the strict application of the regulations than would be allowed through a deviation process. The intent is to encourage imaginative and innovative planning and to assure that the *development* achieves the purpose and intent of the applicable *land use plan* and that it would be preferable to what would be achieved by strict conformance with the regulations.” The flexibility discussed in the EIR is that which is expressed in the purpose and intent of the Planned Development Permit regulations. The proposed project will be required to comply with the approved Master Planned Development Permit (Master PDP), which is on file with the City of San Diego. .

Although the first sentence on page 3-7 of the EIR states that the Master PDP proposes a mix of land use that could result in the construction of up to 750,000 sf of new retail, 725 multi-family residential dwelling units, 250 hotel rooms, and/or 35,000 sf of office space on the site, that is not the intention of the project applicant. Text revisions have been added to the Final EIR to clarify that the application is for the construction of up to 750,000 sf retail and 250 dwelling units or, alternatively, less retail square footage and more residential (up to 725 dwelling units), hotel or office uses. This concept is clearly presented later in the same paragraph and in other locations throughout the EIR.

In accordance with the Master PDP regulations (SDMC Section 143.0480), as long as the mix of land uses development intensity does not exceed the traffic parameters established in this EIR analysis, any of the land use combinations represented by the range of land use scenarios could be constructed on site. The proposed project would allow for the phased development of up to 750,000 sf of new retail and entertainment space and 250 residential dwelling units, with the option to build less retail for more residential, hotel and/or office uses instead under the various land use scenarios. The EIR consistently and accurately describes the project, and, while providing several options as to what will be developed, includes a meaningful and conservative analysis of the *maximum* impacts of the proposed land use variations.

The State CEQA Guidelines Section 15124 requires that an EIR include a “*general*” description of the project’s technical, economic, and environmental characteristics.” A project description in an EIR is not inadequate simply because it provides flexibility as to the exact development that will be constructed. See *Dry Creek Citizens Coalition v. County of Tulare*, 70 Cal. App. 4th 20 (1999). A contrary rule would run counter to CEQA’s mandate to prepare an EIR “as early as feasible in the planning process to enable environmental considerations to *influence project program and design* and yet late enough to provide meaningful information for environmental assessment.” (State CEQA Guidelines Section 15004(b) (*emphasis added*)).

COMMENTS

RESPONSES

9.3 cont.

Moreover, the Master PDP provides additional details of the possible project design. The full size set of engineering plans are available for review at the City of San Diego. The exhibits from the Master PDP are included as Appendix E to the Final EIR and the current proposed draft of the Master PDP is on file with the City of San Diego. Finally, note that when detailed building and landscape drawings for the project are submitted to the City for approval, they will be processed under the Substantial Conformance Review (SCR) process, as outlined in Section 126.0112 of the SDMC. Per that section of the SDMC, “a proposed minor modification to an approved development permit may be submitted to the City Manager to determine if the revision is in substantial conformance with the approved permit. If the revision is determined to be in substantial conformance with the approved permit, the revision shall not require an amendment to the development permit.” City staff will be required to determine that any future building permit is consistent with the proposed design guidelines and with applicable design criteria to issue a SCR determination.

- 9.4 • The DEIR fails to address adequately the impacts to the already established neighborhood adjacent to UTC. There is no mention of any proposed traffic signal in the DEIR at the only entrance or exit to Vista La Jolla from Towne Center Drive. A traffic signal at the entrance to Vista La Jolla would serve residents in the neighborhood. Residents of the Renaissance Development who enter and exit opposite off Towne Center Drive would also be served. There is a signal at the Sears entrance and it does get customers in and out quicker but it does nothing to reduce traffic flow on Towne Center Drive.
- 9.5 • The DEIR fails to address sufficiently the noise pollution that will be created by the increase of business activity at UTC. There is no mention of sound protection along shopping center perimeter to adjacent home owners. There is no mention of needed stricter night time delivery and mall activity noise.
- ES Executive Summary**
- 9.6 The DEIR is deficient as a document. The DEIR (EXECUTIVE SUMMARY) contains sentences that are ambiguous, vague, confusing, without proper references to the relevant information in the other sections.
- 9.7 Needs clarification and a reference to ES-2 (see Page ES-1, paragraph 1). "The Master PDP proposes eight different land use scenarios that could result in...." **Where are the eight different land uses identified? What are the ramifications to each?**
- Sentence is ambiguous and vague. (see Page ES-1, paragraph 1). "As long as the mix of land uses development intensity does not exceed traffic parameters established in this analysis, any of the eight land use scenarios could be constructed." The sentence is extremely vague about the relationship of traffic to intensity. There is no table comparing traffic parameters with the land use scenarios in the summary and no reference to where in the traffic analysis (or elsewhere) such a comparison is made. The sentence is also ambiguous in the use of "any" and could be interpreted as meaning more than one. **What does "any" mean?**
- Sentence that is untrue and misleading. (see Page ES-1, paragraph 4). In paragraph's first sentence "could result in potentially significant environmental impacts" is false and misleading. Table ES-3 (Page ES-17) clearly states several significant and s unmitigatable impacts to aesthetics/visual (bulk & scale), regional traffic and air quality related to this project. **Which of the land use scenarios would not result in potentially significant impacts?**
- 9.8 Incorrect information in ES-2 Environmental Setting. (see ES-2, Paragraph 2, third sentence.) "To the east...a church." There are nearby churches to the north, south and west, but none that are east of the project.
- 9.9 Clarification needed in Section ES-3 (Page ES-3). In the first paragraph it says, "The proposed project addresses the current inadequacies of the department stores, specialty retail shops, dining and entertainment options, as well as *the isolated nature of the center from the surrounding community*. Define what is meant by isolated?"

- 9.4 In response to this comment, the project traffic consultant (LLG) conducted a signal warrant analysis for the intersection at Towne Center Drive/Excalibur Way (i.e., Vista La Jolla entrance/exit). In accordance with methods contained in the *Caltrans Traffic Manual, Manual on Traffic Control Devices and the Associated California Supplement*, the analysis addressed four signal warrants (or criteria) for determining whether a signal should be installed. The warrants evaluate the eight-hour vehicle volumes, four-hour vehicle volumes, peak hour vehicle volumes and ADT. Based on the analysis that is detailed in EIR Appendix I, traffic volumes did not satisfy any of the four signal warrants in the existing and future conditions. Therefore, signalization of the intersection is not needed.
- However, sight distance near the intersection is currently limited by the curvature of Towne Center Drive where Excalibur Way enters. This condition is pre-existing and not caused by the proposed project. An analysis of sight distance was performed by LLG and several alternatives were suggested for improving site distance for left turns leaving Excalibur Way. The study recommended that the City install a shoulder stripe or stripe the right-turn lane on Towne Center Drive to maintain the current positioning of cars in the lane and essentially push traffic away from the edge of curb. This would discourage drivers from "hugging" the inside of the curve and compromising sight distances near Excalibur Way. It would also provide room to move the stop sign limit line on Excalibur Way east to allow drivers exiting the neighborhood to move farther out and gain more sight distance to make left-hand turns. The applicant will work with the City to identify and implement solutions to sight distance issues at this location..
- 9.5 Operational noise produced by the proposed project was addressed under *Effects Found Not to Be Significant* in Section 6.3.7 of the EIR. Operational noise sources discussed in the noise discussion include transportation noise and daycare facility noise. In both cases, it was determined that noise impacts would not exceed the significance criteria for commercial and residential land uses and such uses would have to comply with the noise limits established in the noise ordinance. Therefore, no new operational noise impacts would occur.
- 9.6 As no specific reference regarding the adequacy of the EIR is identified, no further response can be made.
- 9.7 The State CEQA Guidelines Section 15123 requires the Executive Summary to contain a brief summary of the proposed actions and its consequences. Therefore, the Executive Summary provides a brief introduction of the proposed project and its impacts. A detailed project description including details on the land use scenarios and impact analyses are provided in Sections 3.0 and 5.0 respectively of the EIR.

COMMENTS

RESPONSES

9.7 cont.

The potential land use scenarios are shown in Table ES-2 and discussed in Section 3.4 of the EIR. As stated on page ES-7, the “EIR evaluates the worst-case of all eight land use scenarios proposed by the Master PDP.” Therefore, within Section 5.0, *Environmental Analysis*, the EIR identifies which of the eight land use scenarios would result in the maximum or worst-case impacts for each environmental issue. Clarifications have been added to the Final EIR on this issue.

Table 5.3-20 summarizes the traffic characteristics of each land use scenario; a reference to the table has been added to the Executive Summary in the Final EIR. Refer to response to comment 9.42 for a discussion of the Master PDP traffic parameters.

The first sentence of the fourth paragraph on page ES-1 is correct and not misleading. The complete sentence is: “In reviewing the application for the proposed project, the City of San Diego concluded that the proposed project could result in potentially significant environmental impacts.” The application for the proposed project occurred prior to environmental review for the proposed project. Furthermore, based on the determination of the application that the proposed project could result in potentially significant environmental impacts, this EIR was prepared. Any of the land use scenarios have the potential for significant impacts because of bulk/scale and traffic associated with the Master PDP.

9.8 The commenter is correct; no church is located east of the project site. The text has been corrected on pages ES-2 and 2-1 of the Final EIR to make reference to the synagogue that occurs along Towne Centre Drive.

9.9 The existing retail shops and department stores are isolated from the surrounding community by the large surface parking lots surrounding the shopping mall. Pedestrian access to the mall is limited to crossing these surface parking lots or the use of the existing pedestrian bridge that crosses La Jolla Village Drive on the North of the mall. The proposed project would connect the development on the UTC site to the surrounding community by bringing the retail shopping closer to the street frontages and, in turn, activating the street and enhancing pedestrian access to the shopping center in accordance with policies in the *University Community Plan*.

COMMENTS

- 9.10 Contradictory and vague statements in ES-3 (Page ES-3). First bullet states “Revitalize an existing shopping center...in a way that better serves the surrounding University service area.” This statement contradicts with Section 2.1 (Page 2-1), first paragraph, second sentence and Figure 2-3, which states, “The trade area for the shopping center extends from Carlsbad to Mission Valley and from the coast to Inland North County. The project intends to provide upscale shopping, servicing a relative minority of the local University service area. The first bullet is also vague and meaningless in saying “which balances the functional needs of the existing center.” People have needs, shopping centers have functions. **Whose functional needs does it balance?**
- 9.11 Overriding considerations implied beyond the land use scenarios outlined. ES-3 bullet 2 states, “Create land use districts on site that will provide the project applicant with the flexibility to develop a mixture of retail, residential, hotel, and/or office uses within each district based on changing market demand.” This statement implies that the stated land use scenarios (Table ES-2) may be changed by overriding considerations in the future. No indication that even a substantial conformance review would be required to make these changes. What kind of alterations does the applicant want in the future? **Would designation as a Master Plan Community permit the applicant further changes to the project intensity, and overall character of the site? Please define “flexibility”.**
- 9.12 Obviates one of the University City Community Plan objectives. ES-3, bullet 4 states, “Create and improved street presence by removing existing landscaped berms...” The University City Community Plan (Page 65) encourages berms to lessen impacts from vehicular noise (Page 116). **How would the applicant lessen noise impacts to the project site and its potential residents with the removal of the berms?** Has a sound wall been considered during and after construction between Westfield and the residences? The DEIR need to substantiate sound control measures with the adjoining residential communities.
- 9.13 Redundant and contradictory statement. ES-3 (Page ES-4) bullet 1, 5, and 9 are redundant and contradictory. As stated for bullet 1, Figure 2-3 indicates the trade area is not local, but regional, catering largely to an upscale clientele. Studies have indicated a majority of transit users are not high-income earners. High-income earners are the least likely to use mass transit and the most likely to use personal vehicles. Mass transit is primarily for workers, retirees, and students in the region. **How is the applicant going to minimize local trips and encourage transit use while catering to a largely upscale clientele from the greater San Diego region?**
- 9.14 Contradictory descriptions. ES-3 (Page ES-5), Community Plan Amendment, first sentence states the applicant intends to “shift La Jolla Village Drive and Genesee Avenue from auto-oriented roadways to components of the urban node pedestrian network” yet on the next page under Rezone the DEIR cites CR-1-1 which, “allows a mix of regional serving commercial and residential uses, *with an auto-orientation*.” The applicant in Table ES-3 supports the auto-orientation categorization by itemizing potential roadway widening or traffic improvement measures under mitigation for #s 3, 4, 5, 9-14, and 16-19. The applicant does not similarly list urban node pedestrian improvements consistent with the DEIR statement of such an orientation. The City Zoning has other CC designations that offer a pedestrian orientation. **Why is CC-1-3 being sought instead rather commercial zoning with a pedestrian orientation?**

Page 3

RESPONSES

- 9.10 Section 2.1 of the EIR (page 2-1), first paragraph, second sentence states, “The trade area for the shopping center extends from Carlsbad to Mission Valley and from the coast to inland North County communities.” This area includes the University community. There is no statement made in the EIR that “the project intends to provide upscale shopping, servicing a relative minority of the local University service area.” No such statement is made. The shopping center will serve retail customers from the University community, as well as residents from other adjacent communities in San Diego and throughout the trade area. University Town Center is a regional serving shopping mall that also serves the local needs of the University City community.
- The “functional need” of the existing center is the need to upgrade and enhance the retail facilities and mall experience to continue to be competitive in the marketplace. There is also an established need in University City and in the surrounding trade area for additional retail establishments. This information is provided in the economic analysis submitted to the City under separate cover.
- 9.11 The applicant has applied for a Planned Development Permit to develop the site. The SDMC Section 126.0601 states, “The purpose of these procedures is to establish a review process for *development* that allows an *applicant* to request greater flexibility from the strict application of the regulations than would be allowed through a deviation process. The intent is to encourage imaginative and innovative planning and to assure that the *development* achieves the purpose and intent of the applicable *land use plan* and that it would be preferable to what would be achieved by strict conformance with the regulations.” The flexibility discussed in the EIR is that which is expressed in the purpose and intent of the Planned Development Permit regulations. The proposed project will be required to comply with the approved Master Planned Development Permit (Master PDP), which is on file with the City of San Diego. Also refer to the exhibits from the Master PDP, included as Appendix E to the Final EIR. Compliance with the Master PDP will be determined through the Substantial Conformance Review (SCR) process.
- According to the Master PDP (page 8:5), SCR will be conducted consistent with SDMC Section 126.0112. According to that section, “A proposed minor modification to an approved development permit may be submitted to the City Manager to determine if the revision is in substantial conformance with the approved permit. If the revision is determined to be in substantial conformance with the approved permit, the revision shall not require an amendment to the development permit.” According to the Land Development Code, “*Substantial conformance* means that a revision to a *development* that was approved through a permit or *tentative map* complies with the objectives, standards, guidelines, and conditions for that permit or *tentative map*.”

9.11 cont.

Project intensity is limited by the Master PDP. The following development regulations, guidelines and approval conditions shall be used by City staff to determine if a subsequent development substantially conforms to the Master PDP: Land Use Plan/Allocation Table, CR-1-1 Zone Permitted Uses, CR-1-1 Zone Development Standard Planning Area Deviations, Shared Parking Analysis, Design Guidelines Special Planning Area Requirements, Conditions of Approval for the Master PDP and VTM, Final EIR and Mitigation Monitoring and Reporting Program. A subsequent development project that meets or exceeds the above-referenced requirements shall be considered to substantially conform to the Master PDP. Additionally, any proposed development within the intensity limits of the Master PDP which proposes more than 50,000 square feet of new development in a planning area shall be a Process Two Substantial Conformance decision. Process Two decisions require notice to property owners and tenants within 300 feet of the proposed project site and the Community Planning Group and are appealable to the Planning Commission.

9.12 Berm removal would not cause an increase in noise exposure to the interior of the UTC site because the retail buildings that would be placed along the street yard to enhance pedestrian access and street vitality would also attenuate (reduce) noise exposure by providing a physical barrier between the roads and future development. In addition, any residential units would be situated within towers above a base of retail development such that they would be set back from and elevated above the road noise. Any useable open space areas for the residences would be situated behind the street-level buildings and not exposed to elevated noise levels. Likewise, the buildings on the perimeter of the UTC project would block any interior noise from emanating beyond the property line to off-site areas. With regard to the adjacent residences, there are no new noise sources proposed that would increase ambient noise levels. Therefore, no potential for significant noise effects is expected and sound walls are not needed.

9.13 Figure 2-3 in the EIR illustrates the trade area for the shopping center which includes the University community. The trade area does not exclude the local area. The proposed project will include a significant investment to upgrade and expand the existing transit center and will provide stops for the Super Loop transit service which will serve the local University Community and could reduce local car trips. The Super Loop is designed using the "Transit First" strategy which is intended to encourage transit ridership from all sectors of the population. Enhancements to the transit center and support of the Super Loop are intended to encourage ridership from all sectors of the public and will facilitate access to transit by nearby office workers and residents. The transit center will also allow connections by pedestrian bridge from the planned mid-coast trolley line station which will enhance the ability for shoppers to access the facility without using automobiles (see EIR Figure 3-2).

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9.13 cont.

Pedestrian connections discussed on EIR pages 3-11 to 3-13 will also reduce local trips by making the shopping center more accessible for local residents interested in walking. Pedestrian connections are shown in EIR Figure 3-3. The proposed project is designed to attract both local and regional customers and will provide a wide array of services that are responsive to the local community as well as the broader region. The project applicant presented to the City the project objectives to enhance local community identity, provide pedestrian, bicycle and transit connections, and attract a variety of users to the shopping mall (EIR, page 3-2).

9.14

The applicant proposes a rezone to the CR-1-1 zone because the CR zone best matches the existing and proposed uses for the facility. It should be noted that the applicant is not seeking to rezone the site to CC-1-3, as suggested at the end of this comment, since that is the existing site zoning. According to section 131.0503 of the SDMC, "The purpose of the CR zones is to provide areas for a broad mix of business/professional office, commercial service, retail, wholesale, and limited manufacturing uses. The CR zones are intended to accommodate large-scale, high intensity *developments*. Property within these zones will be primarily located along major *streets*, primary arterials, and major public transportation lines." The definition cited in the comment and the EIR is the specific definition of the CR-1-1 zone provided in SDMC Section 131.0503(b), which states, "CR-1-1 allows a mix of regional serving commercial uses and residential uses, with an auto orientation." This is a definition from the SDMC which defines the zoning designation and does not necessarily define the proposed project.

Project features, including urban node pedestrian elements, are further refined through the Planned Development Permit (PDP) process which, by definition (SDMC Section 126.0601), states that, "[t]he purpose of these procedures is to establish a review process for *development* that allows an *applicant* to request greater flexibility from the strict application of the regulations than would be allowed through a deviation process. The intent is to encourage imaginative and innovative planning and to assure that the *development* achieves the purpose and intent of the applicable *land use plan* and that it would be preferable to what would be achieved by strict conformance with the regulations."

COMMENTS

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9.14 cont.

The description of the proposed project is designed to provide an explanation of the project features. The zoning description is taken from the SDMC and is a broad definition of a particular zone. The project proposed several enhancements to the pedestrian circulation and transit infrastructure of the area are described in the EIR (pages 3-11 to 3-13) and further shown in Figure 3-4. (The Master PDP is on file with the City of San Diego and contains additional information on proposed circulation improvements.)

Table ES-3 is a required summary of impacts and mitigation for those impacts. These mitigation measures do not characterize the proposed project and are instead measures required to reduce or eliminate significant impacts of the proposed project. project design features, such as urban node pedestrian improvements, are assumed to be in place as part of the project description and are not listed in Table ES-3 because the purpose of the table is to summarize impacts and mitigation measures.

Please refer to response to comment 9.2 for a discussion of the rezone and response to comment 9.12 regarding the positive effects berm removal has on pedestrian circulation.

COMMENTS

- 9.15 Mistake (Page ES-5). In paragraph 2 the square footage cited as 1, 061, 000 should be 1, 061, 400, as referenced in Table ES-1. **Which is correct?** It is shown both ways in the document.
- 9.16 Confusing table captions: ES-1 Proposed Land Uses (Page ES-6) and ES-2 Land Use Scenarios (Page ES-7). In the summary no distinction is made between land uses and land use scenarios making it confusing to discern which is meant. References in text would help distinguish which table is being discussed. **What is the distinction between land uses and land use scenarios?**
- 9.17 Zoning deviations requested are arbitrary. A significant deviation from the CR-1-1 height limit is being sought (Page ES-9, last paragraph) by the applicant, yet any office buildings constructed on site would comply with CR-1-1 (Page ES10, third paragraph from the bottom). **Why adhere to some CR-1-1 requirements and not others? Why limit office buildings height to the requisite 60 feet, but allow retail structures up to 100 feet (ES-10, second paragraph).**
- 9.18 Deficient regarding subdivision. (Page ES-11, 2nd paragraph). The project applicant is seeking a Vesting Tentative Map (VTM) to consolidate lots, relocate existing lot lines and “subdivide the land into 36 lots.” This information is critical to the Master Plan Community being proposed and should be included. **Why doesn't the DEIR include maps to illustrate the current lots or proposed changes to them?**
- 9.19 Incongruous University Community Plan application. (Page ES-13, 1st paragraph). The statement, “would likely zone the property for consistency with the University Community Plan regional commercial designation *and to allow for increase building heights* for retail structures.” It's incongruous and to zone for consistency with the plan while seeking to deviate from it. **Why does the DEIR want to zone for consistency with the UCP in one area and deviate from it in another?**
- 9.20 Misnomer regarding unmet need in UTC. (Page ES-13, 4th paragraph). It is a misnomer to state, “retail development would have to be constructed elsewhere in the community to satisfy the *unmet need* in the UTC service area.” Once again, it is suggested the project provides service the local community, while elsewhere in the document it is established that the project trade area is regional, not local. **Define what needs are “unmet?”**
- 9.21 Objectives not itemized by number, therefore indiscernible. (Page ES-14, 2nd paragraph). Paragraph cites, “not consistent with Objective 3”...and later on says, (conflicting with Objectives 5 and 6). The Objectives should be clearly numbered and discernable to the reader like they are in Section 8.0 Alternatives (Page 8-1) which ARE numbered for the proper way they should be listed. Using bullets, rather than numbers obscures the project's objectives. **Are these objective references to the bullet items in ES-3 Project Description (Page ES-3) or to something else? The same also issue applies in Section 3.3 on Page 3-2 and 3-3. Could the bullets be numbers for clarity sake?**
- 9.22 Red herring (Page ES-14, 2nd paragraph). Sentence says, “would not be sufficient retail base to offset the costs of expanding...” This statement intends to deflecting focus away from the significant and unmitigable impacts that would occur should the Reduced Project Plan not be accepted, and should be removed. **Explain why it would not be sufficient to offset costs?**

Page 4

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- 9.15 Paragraph 2 of EIR page ES-5 correctly refers to the *University Community Plan's* land use development and intensity table, which lists 1,061,000 square feet for University Towne Center. Table ES-1 of the EIR lists the Gross Leaseable Area (GLA) of the existing center, which is 1,061,400 square feet. Therefore, both references are correct. Refer to response to comment 12.12 from Move San Diego for additional discussion on GLA.
- 9.16 As discussed on page ES-5, Table ES-1 contains a summary of the proposed project land uses. In addition, as described on page ES-7, “the project applicant is requesting that the Master PDP allow for up to seven other potential land use scenarios provided they have similar or less average daily traffic (ADT) and critical peak hour movements compared to the proposed project.” Unless noted otherwise, the EIR refers to the proposed project, as shown in Table ES-1. As indicated on page ES-7, the EIR analyzes the worst-case of all eight scenarios, and identifies which scenario would result in the maximum or worst-case impacts.
- 9.17 The applicant has applied for a Planned Development Permit (PDP) as described in SDMC Section 126.0601 which states, “The purpose of these procedures is to establish a review process for *development* that allows an *applicant* to request greater flexibility from the strict application of the regulations than would be allowed through a deviation process. The intent is to encourage imaginative and innovative planning and to assure that the *development* achieves the purpose and intent of the applicable *land use plan* and that it would be preferable to what would be achieved by strict conformance with the regulations.” A PDP provides the flexibility to enable deviations from the underlying zone to “encourage imaginative and innovative planning.” The variances outlined in the PDP document, on file with the City of San Diego, are a matter of policy. The City Council will determine if the design guidelines of the proposed PDP are acceptable deviations to the zone. The applicant did not deem it necessary to propose any deviations for office building heights. Please refer to response to comment 9.2 for a discussion of the rezone.
- 9.18 Existing and proposed lot lines are shown in the exhibits from the Master PDP, included as Appendix E to the Final EIR. The project proposes 23 ground lots and 13 air rights lots; therefore the proposed lots are shown on multiple graphics. Air rights lots are three-dimensional lots located above the ground level.
- 9.19 The EIR is not an advocacy document; it is an information document that merely discloses the applicant's requests. The project applicant does not propose deviations from the *University Community Plan*. The project proposes a Community Plan Amendment so that the project will conform to the amended Community Plan.

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9.19 cont.

The existing shopping center is designated as a regional commercial use in Table 3 of the *University Community Plan*. The current zoning designation for the property is CC-1-3, designated at SDMC Section 131.0507 as “Commercial – Community.” In addition the CC-1-3 development regulations allow a maximum building height of 45 feet. The No Residential Alternative discussed in the first paragraph of page ES-13 provides for an expansion of the shopping center by 750,000 square feet of retail development with no residential development on site.

The Community Commercial (CC) zone is not consistent with the Community Plan designation of the site as regional commercial. A rezone of the site will achieve consistency with the UC Community Plan. Refer to response to comment 9.17 for additional discussion on the rezone topic.

9.20 Section 2.1 of the EIR (page 2-1) first paragraph, second sentence states, “The trade area for the shopping center extends from Carlsbad to Mission Valley and from the coast to inland North County communities.” This area includes the University City community and will serve the shopping needs of that community as well as the larger trade area (see Figure 2-3 in the EIR). An economic study of the trade area was completed by the project applicant and was submitted under separate cover since economics is not a topic for discussion in the EIR.

9.21 The commenter is correct; the EIR mistakenly used a bulleted list of objectives in the project description rather than a numbered list, as was presented in the Section 8.0, *Alternatives*. However, the bulleted list is in the same order as the numbered list in Section 8.0, and therefore the reference to objectives in the Executive Summary and elsewhere are intended to reflect those numbers. In order to prevent further confusion, the list of objectives in the Executive Summary and Section 3.0, Project Description, has been revised to include numbers rather than bullets (see pages ES-3, ES-4, 3-2 and 3-3 of the Final EIR).

9.22 The Reduced Project Alternative includes reconstruction of two department stores and additional specialty retail and restaurant floor area totaling 435,000 s.f. GLA, but no residential development, as compared to 750,000 net new s.f. GLA of retail and 250 unit of market rate and affordable residential development in the proposed project. While construction of the Reduced Project Alternative would involve less cost for some types of retail floor area construction, related professional services and financing costs, and no cost for building the residential development, some costs associated with the proposed project would remain unchanged. These include all costs related to construction and interior improvement of the new Department Stores, demolition, earthwork and certain parking costs. The resulting cost to construct the Reduced Project Alternative would represent about a 43 percent reduction in the cost of development compared to the proposed project, according to estimates prepared by HR&A Advisors, Inc.

COMMENTS

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9.22 cont.

On the other hand, the gross rental revenue available from the new retail space under the Reduced Project Alternative would be substantially less than under the proposed Project (-55%), which exceeds the percentage reduction in the cost of development. This is because the new Department Stores, which produce very little rental income, would represent a much larger percentage of the total floor area in the Reduced Project Alternative (33%) than in the proposed Project (19%). Although the cinema would be included in either case, the Reduced Project Alternative would include 29 percent less specialty retail floor area and 63 percent less restaurant floor area, both of which pay full market rent. The Reduced Project Alternative's greater reduction in gross revenue than its reduction in development cost would unbalance the relationship between revenues and development cost, unlike the proposed Project for which the revenue-cost relationship is in balance, thereby rendering it feasible.

- 9.23 Assertions made without data or analysis (Page ES-15, 1st paragraph. The paragraph states, "could prevent the applicant from being able to achieve its affordable housing requirements on site." Affordable housing is always the applicant's prerogative. It is a misstatement to suggest that reduction in building height "could prevent the applicant from being able to achieve its affordable housing requirements." **Define how a height limitation could prevent affordable housing from being built?**
- 9.24 Aesthetics/Visual Quality. (Page ES-17, Table ES-3.) ES-3 Aesthetics identifies item 2 as Less than Significant and item 3 as no impact, yet item 1 indicates otherwise. To assert that bulk and scale are significant and unmitigable, yet this has no effect on existing visual character (item 2) or will not obstruct any vista or scenic view (item 3), doesn't make sense. **Explain how the project of this size has no impact or less than significant impact?**
- 9.25 Table ES-3 Impacts and Proposed Mitigation Transportation/Circulation missing bicycles and pedestrian linkages as mitigation measures to reduce traffic. Objective 7 (Page 8-2) clearly says, "Enhance the utilization of pedestrian and bicycle linkages from UTC to and from the surrounding community." Yet, in the transportation element (Page 5.1-3, 2nd para) it says, "The objective of street maintenance and improvements should be to minimize heavy traffic congestion (level of service [LOS] E or below) and increase overall average vehicle speeds." Does the auto-orientation take precedent? Smart growth studies have shown higher speeds to be a disincentive to alternative transportation use. Bicycle and pedestrians linkages from which to make right-or left-hand turns as well as safely cross intersections is an absolute must to be utilized. **How does the applicant intends to foster alternative transportation use in order to mitigate traffic impacts?**
- 9.26 Water Conservation measures insufficient (Table ES-3, Page ES-42). The statement, "Sufficient water supplies exist to serve the future potable water needs of the proposed project would be satisfied" are no longer satisfactory given the current water crisis. This item should be changed to indicate a significant impact and additional conservation measures should be identified in the FEIR. **How was it determined that there is no impact? How will the water conservation needs for the next 20 years be met?**
- 9.27 Insufficient police and fire department coverage. The DEIR (ENVIRONMENTAL SETTING) Section 2.6.1 and Section 2.6.2 (Page 2-6) identifies Fire Protection and Emergency Medical Services as deficient in both service and coverage. **How will these deficiencies be addressed? What will be the impact on fire and police response times by this project's various land use scenarios?**
- Project Scope**
- 9.28 Redevelopment and renovation of a regional shopping center on 75 acres which currently operates under a Planned Commercial Development Permit #83-017 approved in 1983.
- The University Towne Center Revitalization Project Draft EIR (SCH No. 2002071071; Project No. 2214) provides project-specific review of the CPA/Rezone/PDP/SDP/VTM for all phases of the proposed project construction. "The project site is surrounded by urban development,

- 9.23 One objective of the proposed project is to meet the City's affordable inclusionary housing ordinance requirement with newly constructed units on-site, rather than constructing the units off-site or paying the in-lieu fee permitted by the ordinance. Including newly constructed units on-site requires significant subsidy out of the residential development feasibility, as the statutorily-limited rents and/or sale prices for the affordable units do not cover the costs of building the units on site. Increased building heights in a residential high-rise can provide the residential offering with significant view premiums, thus helping to offset the losses incurred by providing the affordable units on-site. The Reduced Height Alternative would substantially reduce the additional value provided by view premiums from upper level units, thus potentially eliminating the ability of the residential development to be feasibly constructed with on-site affordable housing.
- 9.24 The Executive Summary summarizes the analysis contained in Section 5.2 of the EIR, which includes a detailed discussion of Aesthetics/Visual Quality impacts of the proposed project. The three issues of bulk/scale, visual character, and scenic views are analyzed independently in accordance with City EIR format, based on the respective thresholds listed in Section 5.2.2. As noted in this comment, impacts from bulk/scale were determined to be significant and unmitigable. With respect to visual character, the site is presently developed with a regional shopping center in an area that has no consistent architectural style; therefore, the expansion would not substantially change the visual character. With respect to vistas and scenic views, no public view corridors are identified in the area; therefore the proposed project would not obstruct any vistas or scenic views from any public viewing areas.
- 9.25 The project proposes to implement a Travel Demand Management (TDM) program as part of the project description, which would include many features to foster alternative transportation, as discussed in Issue 4 of Section 5.3, Transportation/Circulation. Specifically, the TDM outlined in Chapter 16.0 of the Traffic Impact Study (EIR Appendix B) includes integration and construction of the transit center into the project design, on-site employee transit subsidy, bike parking/lockers, on-site childcare/food/fitness facilities for employees, off-site holiday parking program, carpool/vanpool parking and an appointed ridership coordinator. These are project design features and not mitigation measures.
- The intent of the project design is to encourage street vitality and pedestrian activity, as discussed in response to comment 9.12. The applicant will not construct roads wider than assumed in the UCP; alternative transportation would be encouraged by the project design that will integrate the new transit center into the shopping mall. Bicycle or pedestrian linkages would be enhanced by the proposed project and not adversely impacted. The transit center location and design were developed to link with LRT in the future, thus fostering alternative transportation. In addition, policy changes would be made to reflect the inclusion of La Jolla Village Drive and Genesee Avenue as part of the primary pedestrian network within the Urban Node Pedestrian Network.

COMMENTS

RESPONSES

9.25 cont.

The traffic impact study was conservative, as the forecast Model was based on the current transit network with no planned improvements. In addition, no transit reduction was applied to the retail trip generation. Refer to response to comment 9.93 regarding the specific assumptions used in the traffic impact study that resulted in a conservative analysis.

9.26

The proposed project will implement significant water conservation measures. The project's irrigation needs will be met with reclaimed water, which would reduce the potable water demand of the existing facility by over 40,000 gallons per day (gpd) The applicant has also committed to water conservation measures as part of the LEED-ND program that will be included in the newly constructed commercial and residential structures which are anticipated to save approximately 27 percent over current water consumption. In addition, the proposed project will be conditioned so that it cannot create an increase in the City of San Diego's planned potable water demand above existing water usage levels at the site (see Dexter Wilson & Associates report attached to City of San Diego Water Supply Assessment for existing use levels). The applicant will implement this condition by off-setting any projected increases in potable water use at the site by retrofitting to reclaimed water irrigation one or more existing facilities that currently use potable water for irrigation. The combined result of implementing the off-set project and the proposed project will be a zero net increase in the City's potable water usage. Please see the Water Supply Assessment discussion.

The commenter does not specify what is meant by the "current water crisis," but it is assumed that the commenter is referring to the so-called "Delta smelt" decision and the drought described below. The EIR acknowledges that the City purchases up to 90 percent of its water from the San Diego County Water Authority (Authority). The Authority is a wholesale agency that provides imported water to 23 member agencies. The Authority receives approximately 80 percent of its water from Metropolitan Water District of Southern California, a consortium of 26 cities and water districts that provides water to parts of Los Angeles, Orange, San Diego, Riverside, San Bernardino, and Ventura Counties.

The amount of water that MWD will be able to supply to Southern California in the near future is unclear given the recent decision in *Natural Resources Defense Council, et al. v. Kemphorne, et al. (NRDC)*, currently pending in the United States District Court for the Eastern District of California, Judge Oliver Wanger presiding. In May 2007, Judge Wanger invalidated the Biological Opinion issued by the U.S. Fish & Wildlife Service (USFWS) for operations of the State Water project (SWP) and the Central Valley project (CVP) with regard to the Delta smelt, a federally- and state-listed threatened fish species that inhabits the estuaries of the Bay-Delta region. Later that month, the DWR voluntarily shut down SWP pumps in the Sacramento-San Joaquin River Delta (Delta) for 17 days in an effort to protect the endangered Delta smelt.

9.26 cont.

In June 2007, after the DWP restarted the SWP pumps, various environmental groups sought to halt the operation of the SWP pumps in the Delta to protect the Delta smelt and other endangered fish. Metropolitan currently receives approximately 60 percent of its water from the Delta. In December 2007, Judge Wanger issued an interim remedial order that requires the USFWS to prepare a new Biological Opinion by September 15, 2008. The interim remedial order also specifies "Flow Restrictions," which ensure that flows in the Old and Middle Rivers (which are part of the Delta) do not exceed certain levels to prevent the Delta smelt from becoming trapped near the SWP and CVP pumps. The interim remedial order allows the SWP and CVP operators to take good faith measures that are reasonably necessary and appropriate for the protection of human health and safety, which presumably include but are not limited to supply for emergency water services, as well as actions that protect the structural integrity of any CVP and SWP facility.

It is likely that there will be significant conservation measures that will be put into place on a permanent basis after the new Biological Opinion is issued by the USFWS, which must be issued by September 15, 2008. Therefore, the full extent of *NRDC's* impact on Metropolitan's ability to supply water to Southern California remains uncertain.

This decision should not significantly impact the project's water supply, because the project will essentially demand no more potable water than it does today, due to the off-set discussed. Restoring the Delta's water delivery capacity is of great import to the Governor and the California Legislature. Prior to the decision, plans already were underway for improving the operation of the Delta's water pumps while also protecting the Delta smelt and other endangered fish species. The Governor has made the Delta and statewide water policy high priorities by establishing the Delta Vision Process and the Bay-Delta Conservation Plan. The California Legislature enacted SB 27 to find a long-term water supply solution for the Delta.

Metropolitan is similarly focused on the challenges relating to the reliability of the Delta water supply. In May 2007, its Board adopted a Delta Action Plan as a framework to address water supply risks in the Delta both for the near-, mid-, and long-term. The near- and mid-term actions outlined in the Delta Action Plan are intended to implement measures to reduce fishery and earthquake-related risks, such as aggressive monitoring, ecosystem restoration, local water supply projects, and emergency preparedness and response plans. The long-term actions are intended to create a global, comprehensive approach to the fundamental environmental issues facing the Delta to create a sustainable ecological environment through Delta ecosystem restoration, improved water supply conveyance, flood control protection, and development of storage facilities.

Moreover, in response to the *NRDC* decision, Metropolitan has engaged in planning processes that will identify solutions that, when combined with the rest of its supply portfolio, will ensure a reliable long-term water supply for its member agencies. In the near-term, Metropolitan will continue to rely on the plans and policies outlined in its RUWMP and IWRP to address

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9.26 cont.

water supply shortages and interruptions (including potential shut downs of SWP pumps) to meet water demands. Campaigns for voluntary conservation, curtailment of replenishment water, and agricultural water delivery are some of the actions outlined in the RUWMP. If necessary, reduction in municipal and industrial water use and mandatory water allocation could be implemented, but is unlikely to be in effect in the long-term. As a result of these plans, Metropolitan's water supply may be restored to previous levels in the next few years.

Finally, in December 2007, Metropolitan's Board of Directors authorized a series of four agreements that allowed for the implementation of federal guidelines for how water shortages are to be shared amongst the seven states that rely upon the Colorado River for water supplies. The federal guidelines, signed by U.S. Interior Secretary Dirk Kempthorne on December 13, 2007, established new rules for the management of the Colorado River, which: (1) reinforce and protect California's senior rights to Colorado River water supplies; (2) unify the management of Lake Powell and Lake Mead, thereby sharing the risk of drought among all stakeholders; and (3) establish new rules for surpluses that rewards conservation. Under this Seven Party agreement, California's Colorado River supplies would not be reduced until levels at Lake Mead fall to 16 percent capacity. In addition, Metropolitan entered into a series of related agreements that allow it to store as much as 1.5 million acre-feet in Lake Mead, which is nearly double the capacity of its Diamond Valley Reservoir and would provide water for 3 million average households. These important agreements provide certainty to Metropolitan's Colorado River water supplies and provide Metropolitan with key storage space for any surplus water obtained in the future.

In light of the Governor's, the California Legislature's, and Metropolitan's ongoing efforts to rehabilitate the Delta and stabilize the Delta's water supply, as well as Metropolitan's efforts to minimize the impact of the NRDC decision by water supply diversification and stabilization of the Colorado River water supplies, the Delta Smelt is not expected to impact the project's short-term water supply.

Moreover, any possible impact would be short-lived in light of the Water Authority's efforts to minimize its reliance on Metropolitan water supplies in favor of increased local water supplies and conservation efforts. The Water Authority is in the process of minimizing the amount of water it purchases from Metropolitan by diversifying its water supply portfolio as discussed in detail below. Prompted by a 30 percent cutback in its water supply from Metropolitan due to a six-year drought that began in 1987, the Water Authority began to diversify its portfolio. Significantly, the implementation of the QSA and the IID water conservation and transfer agreement in 2003, the Water Authority significantly reduced its reliance on Metropolitan water supplies. Moreover, the Water Authority seeks to increase its local water supplies to 40 percent of San Diego's water supply by 2020 through seawater desalination, conservation programs, local reservoirs, recycling, and groundwater.

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9.26 cont.

The City also has made major investments in water reclamation to increase the diversity of their water portfolio. The North City Water Reclamation Plant is east of the I-805 freeway in the vicinity of the UTC project site and reclaimed water distribution lines are located adjacent to the project. The project will be required to use 100 percent reclaimed water for irrigation needs (pursuant to San Diego Municipal Code Section 64.08.07), which would reduce the potable water demand of the existing facility by over 40,000 gpd.

Finally, as noted, the project will be conditioned so that any incremental increase in potable water usage by the proposed project will be off-set by the same amount of reclaimed water used at another site. This will result in no net increase in potable water demand by the City. Therefore the proposed project will essentially use no more potable water than is currently being used at the site. The City Water Department has issued a Water Supply Assessment for the project which is contained in Appendix M to the Final EIR and indicates that there will be adequate water supply to serve the proposed project.

9.27

Section 2.6.1 does not make a finding of insufficient police and fire department coverage. The EIR notes at page 2-6 that “the City strives to provide an average maximum initial response time of no more than six minutes for fire suppression activities. The response time to the site is estimated to be within three minutes as the station is located approximately 1.5 miles from the site. The current response time from the nearest station is within the acceptable response time of six minutes for fire protection and eight minutes for paramedic services.” Therefore Fire Department response times to the site are sufficient.

In regard to Police response times the EIR at page 2-7 states that, “the current 8.9-minute average response time is 1.6 minutes over the City’s 7.3-minute average response time for emergency calls.”

The proposed project scenario is estimated to generate an additional \$7 million in annual property tax and sales tax revenue (documented in the economic study provided to the City under separate cover) which will be provided to the City general fund. The various land use scenarios proposed would generate differing amounts of property and sales tax dollars to the general fund. The general fund provides funding for the City’s Police and Fire Departments. Budget authority for general fund revenue is within the sole discretion of the San Diego City Council who annually allocates tax receipts. New general fund revenue provided by the proposed project could be used to hire additional personnel and purchase equipment for the Fire and Police Departments. This authority, though, is within the purview of the City Council, and not the proposed project.

9.28

Comment noted. As no specific reference regarding the adequacy of the EIR is identified, no further response can be made.

9.28 cont. including office towers, hotel establishments, commercial/retail uses and high-density residential development.” (DEIR, Pg. 1-1)

Planning and Development History:

9.29 The **University Community Plan** (UCP) was first approved by the City Council on July 7, 1987 with the “Urban Design Element and miscellaneous changes” being approved by the City Council on January 16, 1990. It has been 20 years since the UCP was approved and 17 years since the “Urban Design Element” was changed and approved. The history of University City’s development has been one of approving projects which conform to the adopted UCP. In a very few instances plan amendments have been approved which altered the adopted plan in terms of type of use. Rarely, in only 1 or 2 instances have projects been approved which added trips to the UCP and those were minor. According to the DEIR, (Pg. 5.1-5) the UCP was “reprinted with amendments in 2000.”

During the sixties most of University City’s growth occurred primarily in the single-family South University City area. “During this period, three plan amendments were approved by the City Council in 1961, 1963, and 1965” thus a new plan was drafted in the late 1960’s and adopted in 1971.” (UCP, Pg. 12) University Towne Center was originally constructed in the late 1970’s, opened in 1977, and expanded in 1984. “The center’s 1984 expansion consisted of the addition of a fourth department store, several new multi-level shops, and two new single-level parking decks.” (DEIR, Pg. 3-1)

According to the *Technical Appendix B: Traffic Impact Study for the DEIR* prepared by Helix Environmental Planning Inc., “the project is proposing a Community Plan Amendment (CPA) to increase the density beyond the current Community Plan allotment, since the site is currently built near to its development allocation.” (Pg. i) The DEIR contradicts itself by saying the site is “near” its development allocation then acknowledging the site is over its development allocation.

According to the DEIR, (Pg. 3-4) “The existing center has 1,061,00 sf of retail space (i.e., 400 sf over the amount allowed on site by the Community Plan) and the proposed project would increase the retail square footage allowed on site by the Community Plan from 1,061,000 to up to 1,811,400 sf and add reference to the up to 725 proposed residential units and possible hotel and office uses in the intensity table.

According to the DEIR, (Pg. 3-7) the potential land use scenarios could yield a maximum of 750,000 sf of new retail, 725 residential dwelling units, 250 hotel rooms and 35,000 sf of office space on site, but the applicant is “requesting approval of a Master PDP that would allow for up to seven other potential land use scenarios provided they have similar or less average daily traffic (ADT) and critical peak hour movements compared to the proposed project.”

The evolution of the community into a major “urban node” has been facilitated by the development of the **University Towne Centre** as a regional shopping center. “While present and anticipated uses in many ways are complementary to the functions of UCSD, the design and scale of the community are more oriented toward providing a professional environment rather

9.29 The comment recites information from the EIR and *University Community Plan* with emphasis added on various words and phrases. It is unclear as to the intent of the comment. Certain parenthetical comments are added by the commenter to the summary of the EIR language that require a response. Specifically, the EIR does disclose that the current built square footage on the site is 1,061,400 square feet, which is 400 square feet greater than the number of square feet provided for in the *University Community Plan*. The actual square footage in use at the shopping center is significantly less, due to the decommissioning of part of the Robinsons-May building. The EIR provides an accurate description of the current built environment at the proposed project site.

The commenter appears to suggest that the proposed project could build all of the uses described in the proposed project land use scenarios, with maximum density and intensity in one project. This is incorrect. The applicant proposes a Planned Development Permit that would allow flexibility in the development of the center based on ADT generated by each use on the site and critical peak hour equivalency of AM inbound and PM outbound ADT movement. ADT and critical peak hour movements cannot exceed the proposed project scenario of 750,000 square feet of retail and 250 residential units. Examples of eight land use scenarios are provided to illustrate how the center may develop under the guidelines of the Master PDP with a varying mix of retail, residential, hotel and office uses. These land use scenarios are shown in Table 3-2 of the EIR. Additional information on implementation of the Master PDP is found in Chapter 8 of the Master PDP which is on file with the City.

9.29
cont.

than one which caters specifically to student needs. This trend has become a concern of many residents of the community. (UCP, Pg. 9)

"The current prospects for the community, as evidenced by recent project approvals, is one of high intensity, innovative, mixed use development on a scale unmatched by any new urbanizing community of the City." (UCP, Pg. 9) After the adoption of the 1971 UCP, the "Towne Centre core" evolved and due to changing conditions the Planning Department was directed to revise the UCP again which resulted in the adoption of the 1983 UCP. (UCP, Pg. 12)

According to the UCP in 1985 the City Council reviewed and approved a work program to update the 1983 UCP. In conjunction with the plan update, the City Council voted to adopt an Emergency Building Limitation Ordinance restricting development in the University City community to the level specified in the 1983 UCP. "This ordinance was adopted to ensure that during the update, development would not occur which might preclude a workable circulation system." (UCP, Pg. 12-13) Today a well used public transit system does not exist.

Two of the overriding UCP community goals state, "5. Develop an equitable allocation of development intensity among properties, based on the concept of the "urban node." And "6. Provide a workable circulation system which accommodates anticipated traffic without reducing the Level of Service below "D"." (UCP, Pg. 16)

According to the DEIR, (Pg. 3-5) the purpose of the CR-1-1 rezone is "to provide areas for a broad mix of retail and other uses; the zone is intended to accommodate large-scale, high intensity developments located along major streets, primary arterials and major public transportation lines. The CR-1-1 zone allows a mix of regional serving commercial and residential use, with an auto orientation."

According to the DEIR, Pg. 3-1) "regional transportation agencies have shifted focus in the area from accommodating single occupant vehicles to expanding public transportation opportunities in order to better serve the needs of the regional population and traffic congestion within the University City and Golden Triangle communities." The DEIR further states, "The proposed project also addresses the regional transportation agencies' goal of expanding public transportation opportunities to ease traffic congestion within the University and Golden Triangle area by providing opportunities for mid- and long-range public transportation improvements that are currently being contemplated for the project area."

Project requires discretionary actions:

Community Plan Amendment (CPA) – Requires modifying both policy text and graphics in the CPA; policy language in the Urban Design Element would remove references to the auto-oriented aspects of La Jolla Village Drive and Genesee Avenue within the urban node, remove the goal of retaining the sloping landscape berms along those roadways and would remove a limitation on the height of in-fill development along the urban node pedestrian network ; would modify the intensity table within the Development Intensity Element; (DEIR, Pg. 3-3)

9.30

Comment noted. The information is excerpted from the EIR. As no specific reference regarding the adequacy of the EIR is identified, no further response can be made.

9.30
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Rezone – Is proposing to rezone the portion of the property designated Regional Commercial in the Community Plan to Commercial (CR-1-1) for regional commercial uses; the CR-1-1 zone allows for maximum structure heights of 60 feet (versus 45 feet) and a floor area ratio of 1.0 (versus 0.75); the majority of the property would developed with structures rising 40 feet above finished grade; a deviation from the height limit in the CR-1-1 is requested to allow several taller retail structures, residential structures, parking garages, and possibly hotel or office structures; the maximum height for residential, hotel and office structures would be limited to 325 to 390 feet above grade; a notice of construction or alteration has been submitted to the FAA to allow for the proposed building heights; other deviations proposed include residential use/parking in the front half of lots and parking would occupy more than 50 percent of the street frontage and building elevations within 20 feet of the property line fronting a public right-of-way would include offsetting planes and would allow street trees to be placed four feet from the face of a curb along non-contiguous sidewalks adjacent to major street, primary arterial and expressways (with posted speed limits of 50 miles per hour or greater), (DEIR, Pg. 3-5)

Master Planned Development Permit (PDP) / Development Permit – Is proposed to allow for greater flexibility where development regulations have strict application of the base zone development regulations for design options; the SDMC allows applicants to obtain a Master PDP to provide flexibility when not all of the project components are fixed at the time of approval; the SDMC allows for detailed plans to be submitted in the future; the Master PDP would supersede the existing Planned Commercial Development Permit; future development would have to be substantially consistent with the conceptual development regulations proposed at time Master PDP is approved; consistency would be determined during a Substantial Conformance Review (SCR) by City Staff; if SCR not approved applicant would have to apply for an amendment to the Master PDP; any amendment to the approved Master PDP would be addressed under a separate environmental review document, (DEIR, Pg. 3-6)

Site Development Permit (SDP) – is required because UTC is situated in the Implementation Overlay Zone (CPIOZ); SDP provides supplemental development regulations that are tailored to specific sites, (DEIR, Pg. 3-6)

Vesting Tentative Map (VTM) – Is proposed to subdivide the property into 22 lots and 11 air rights parcels (DEIR, Pg. 3-2) The DEIR also states, (Pg. 3-19) that the proposed VTM would consolidate existing lots, relocate existing lot lines and subdivide the land into 36 lots. Lot sizes would range from 0.14 to 28.57 acres and that approximately 0.08 acre of right-of-way would be acquired along Towne Centre Drive

Project proposes -

Sewer and easement vacations

Relocate and expand public transit

Relocate and expand pedestrian access on and around the property

Would allow for the phased development of up to 750,000 square feet of new retail and entertainment space and 250 residential dwelling units, with the option to build less retail and more residential, hotel and/or office uses instead. (DEIR, Pg. 1-1)

- 3.0 Project Description**
- 9.31 S.3.1. Project Background, 2nd paragraph (Page 3-1) inconsistent with respect to Page 2-1, 1st paragraph and Figure 2-3, which indicates the shopping area, is not local but regional, with a much larger trade area than what the description indicates. Local residents bear the brunt of the shopping center's impact on the community. **How does the defined trade region affect trips to the project site? What is considered regional and what is considered local?**
- 9.32 S.3.1. 2nd paragraph last sentence indicates a shift in focus to transit alternatives. However these alternatives have yet to be implemented. The LRT is still years away and the Coaster station has been for all intensive purposes, declared DOA. **Explain how the shift in focus is being realized? Beyond the proposed Super Loop, what transit-based alternatives implement the shift in focus?**
- 9.33 S.3.2. Project Overview (Page 3-1), 1st paragraph. The DEIR does not address walkability and how it plans to limit isolation. **What is meant by the isolated nature of the center? How will growth in traffic improve walkability and bike linkages?**
- 9.34 S.3.2. Project Overview (Page 3-2), 1st paragraph. **Why does it say subdivide into 22 lots and 11 air parcels on this page and indicate 36 lots on Page ES-11 under Vesting Tentative Map and again in S.3.4.5 Vesting Tentative Map on Page 3-19? What accounts for this discrepancy? How is the number of lots derived? What are air parcels? Why are existing and proposed lot lines and subdivisions not shown?**
- 9.35 S.3.3. Project Objectives (Page 3-2), 1st bullet. **How does this project "Revitalize an existing shopping center"...in a way that better serves the surrounding University service area? How are local needs balanced with regional needs? Section 2.1, (Page 2-1), 1st paragraph, 2nd sentence and Figure 2-3 states "The trade area for the shopping center extends from Carlsbad to Mission Valley and from the coast to Inland North County. The project intends to provide upscale shopping, servicing a relative minority of the local University service area. People have needs, shopping centers have functions. Whose functional needs does it balance?**
- 9.36 S.3.3. Project Objectives (Page 3-3), 2nd bullet. The implication is the project will be altered based on market demand. Clarify what is meant by changing market demand and how this will alter the project's design over the phased construction period?
- 9.37 S.3.3. Project Objectives (Page 3-3), 4th bullet. **Explain how removing the berms will lessen the noise impacts from intruding into the site and the noise impacts of the site from intruding into the local community? What design elements will keep noise from intruding into the area, yet retain the visual identity and gateways for the urban node?**
- 9.38 S.3.3. Project Objectives (Page 3-3), 5th bullet. **Explain how transit use will be encouraged by the applicant and residential use introduced?**
- 9.39 S.3.3. Project Objectives (Page 3-3), 10th bullet. **Explain the LEED certification process and the level in which this project is seeking certification?**
- 9.40 S.3.3. Project Objectives (Page 3-3), 11th bullet. **Explain the income range and type of housing being considered?**

- 9.31 The project trade area is defined by Interstate 8 on the South, State Route 78 in the North, the Pacific Ocean in the West, and Interstate 15 to the East. The project is anticipated to shorten trip lengths for shoppers who would typically bypass UTC or travel longer distances to other malls like Fashion Valley, North County Fair or the Carlsbad Outlets or shopping centers in Orange County. Shorter trips equate to reduced traffic on the regional freeway system and reductions in air pollution emissions, and global warming impacts. These are the desired results of development strategies in the Strategic Framework and Regional Comprehensive Plan that the project implements. Therefore, although localized impacts may occur from the project, there are long term regional benefits associated with employing smart growth strategies of linking residential and commercial development with transit in established urban centers.

The UTC site is a regional commercial center, as evidenced by its land use designation in the *University Community Plan*, and serves shoppers in the University City community and those throughout the trade area defined in Figure 2-3 of the EIR. It also functions as a central gathering place, or town center, for the University City area. Trips already exist in the community from shoppers coming to UTC from the trade area and beyond. The defined trade area has no bearing, however, on the scope of the traffic study for the proposed project. The traffic analysis study area is generally comprised of those locations which have the greatest potential to experience significant traffic impacts due to the proposed project as defined by the City. In the traffic engineering practice, the study area generally includes those intersections that are:

- Immediately adjacent or in close proximity to the project site;
- In the vicinity of the project site that are documented to have current or projected future adverse operational issues; and
- In the vicinity of the project site that are forecast to experience a relatively greater percentage of project-related vehicular turning movements (e.g., at freeway ramp intersections).

In review of the traffic study area the intersections selected for analysis are consistent with the criteria noted above. Furthermore, the study area was developed under the direction of City staff in conjunction with the City of San Diego Traffic Impact Manual Guidelines. Therefore, the traffic study area used in the EIR is sufficiently comprehensive to identify and represent the potential significant traffic impacts related to the project. There is no distinction made between regional and local trips in the traffic study.

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- 9.32 The local transportation planning agencies (i.e., SANDAG and MTS) are studying alternative transportation programs to serve the local and regional community surrounding the UTC site. For example, SANDAG is currently conducting engineering and environmental review on the Super Loop transit network and MTS is planning for increased bus service to the area.
- 9.3.3 See response to comment 9.9 regarding pedestrian linkages in the project area. The EIR provides a discussion of the traffic and pedestrian circulation improvements of the proposed project at pages 3-11 to 3-13. In addition, Figure 3-4 in the EIR provides a diagram of pedestrian circulation routes and features of the proposed project.
- In addition to the pedestrian design features of the proposed project, the project proposes activation of the sidewalks adjacent to the facility by moving retail offering closer to the street into areas currently occupied by parking lots. The project proposes to counter the isolation of the retail area behind the parking lots by moving the retail establishments closer to the pedestrian (sidewalk) environment.
- A project objective is to “enhance the utilization of pedestrian and bicycle linkages from UTC to and from the surrounding community (page 3-3).” The project proposes the following enhancements for bicycle access:
- “Specifically, the project would relocate and expand the existing bus transit center and the project applicant would install more bicycle racks throughout the property (Page ES-8).”
 - “Road improvement designs are proposed to be consistent with the City of San Diego Transportation Department standards and criteria, specifically with regard to intersection standards, pedestrian crossings, and bicycle lane widths and striping (Page 5.3-74).”
 - “On and off-site pedestrian and bicycle improvements to encourage non-motorized forms of transportation, including non-contiguous sidewalks around the perimeter of the site, strong pedestrian connections into and through the project, secure bike storage, new bicycles lanes, wayfinding signage, and potential for real-time transit information in strategic locations on the site (Page 5.4-38).”
 - “Employment of a rideshare coordinator dedicated to implementing initiatives to increase journeys to and from UTC by foot, bicycle, and public transit, including transit subsidies for employees (Page 5.4-38).”
- 9.34 Page 3-2 of the Draft EIR contains a typographical error. The project proposes to subdivide the property into 23 lots and 13 air rights parcels, for a total of 36. Page 3-2 of the Final EIR has been corrected. It should be noted that Draft EIR pages ES-11 and 3-19 are correct. Refer to response to comment 9.18 regarding the VTM details.
- 9.35 See response to comment 9.10 regarding the retail needs of the trade area that the project satisfies.

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- 9.36 The commenter is referring to bullet 2 on page 3-2. The applicant has applied for a Planned Development Permit as described in SDMC Section 126.0601 which states, “The purpose of these procedures is to establish a review process for *development* that allows an *applicant* to request greater flexibility from the strict application of the regulations than would be allowed through a deviation process. The intent is to encourage imaginative and innovative planning and to assure that the *development* achieves the purpose and intent of the applicable *land use plan* and that it would be preferable to what would be achieved by strict conformance with the regulations.” A Planned Development Permit provides the flexibility discussed in bullet 2 on page 3-2. All development projects are subject to market demands including construction costs, demand for goods and services, employment rate, and demand for housing among others.
- The Planned Development Permit provides a regulatory framework within which the proposed project must comply as development progresses. The applicant proposes a Planned Development Permit that would allow flexibility in the development of the center based on ADT generated by each use on the site and critical peak hour equivalency of AM inbound and PM outbound ADT movement. ADT and critical peak hour movements cannot exceed the proposed project scenario of 750,000 square feet of retail and 250 residential units. Examples of eight land use scenarios are provided to illustrate how the center may develop under the guidelines of the Master PDP with a varying mix of retail, residential, hotel and office uses. These land use scenarios are shown in Table 3-2 of the EIR. Additional information on implementation of the Master PDP is found in Chapter 8 of the Master PDP, which is on file with the City.
- The proposed project is designed to allow for the flexibility to adapt to current economic conditions of supply and demand within the regulatory framework of the Master PDP.
- 9.37 Please refer to response to comment 9.5 for a discussion of operational noise impacts and response to comment 9.12 that discusses the fact that removal of the outer landscaped berms would have no effect on noise.
- 9.38 By having transit opportunities on site, the proposed residents would have the option to walk to the transit center and take advantage of the bus routes that stop at UTC. The applicant, on behalf of MTS, would integrate the transit center into the final design and would construct the facility in conjunction with the retail expansion. By making the transit center accessible, safe and convenient, the applicant would satisfy the project objective.

- 9.39 As noted in the EIR at page 3-14 and 3-15, “To reduce utility loads, the project applicant proposes to implement a green building program, designed to increase resource efficiency and sustainability (Westfield Corporation 2007). The project applicant intends for UTC to be a facility that achieves a high degree of sustainability through the use of high performance architecture, low energy systems, renewable power generation on site, sustainable landscape and water conservation. The project applicant intends to achieve a high certification within the LEED Green Building Rating System, which is the nationally accepted benchmark for the design, construction, and operation of high performance green buildings. The proposed project has been accepted as a LEED-ND (Neighborhood Development) pilot project by the U.S. Green Building Council. The LEED-ND pilot program integrates the principals of smart growth, new urbanism and green building. The project applicant has generated sustainability strategies for the redevelopment of the UTC shopping center, including those associated with landscape, lighting, electrical, structural, and HVAC systems. Landscape strategies would include the use of reclaimed water, as well as xeriscaping and use of drought tolerant native plant species. Lighting strategies may involve the use of natural daylight and photosensors to optimize use of daylight. Electrical strategies may include generation of the electrical load on site from renewable sources (e.g., sun) and incorporation of high-efficiency appliances. Structural strategies may include the use of recycled steel and concrete. HVAC strategies may involve the incorporation of natural ventilation, implementation of thermal zoning and providing a central plant for heating and cooling. More discussion of the UTC green building program is provided in Sections 5.4, Air Quality, 5.7, Public Utilities, and 5.8, Water Conservation,” of the EIR. Additional LEED project components proposed by the applicant can be found at page 5.4-38 and 5.4-39 of the EIR.

As noted in the EIR and above, the proposed project has been accepted as a pilot project in the LEED for Neighborhood Design (LEED-ND) Program. The LEED-ND program is administered by the U.S. Green Building Council, which sets standards and determines certification ratings. The City of San Diego does not administer this program and cannot comment on the level of certification being sought by the proposed project. Information about the LEED-ND program and the rating system used can be found at <http://www.usgbc.org/ShowFile.aspx?DocumentID=2845>.

The LEED-ND pilot program includes certification at three project stages: Stage 1 for pre-review of projects in the entitlement phase, Stage 2 for certification of an approved plan after entitlements are complete, and Stage 3 for certification of a completed project once construction is complete or nearly complete. As a project in the entitlement phase, the Westfield UTC Revitalization is currently seeking Stage 1 certification from the USGBC.

For all types of LEED certification, including the LEED-ND pilot program, there are four levels of certification: Certified, Silver, Gold and Platinum. The LEED system overall targets the top 25% of the market, so even achieving the minimum LEED rating of Certified indicates

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9.39 cont.

a high level of sustainability above current industry practice. The level of LEED certification achieved by the proposed project at Stage 1 is not known at this time since the USGBC is currently reviewing the project's Stage 1 application. Stage 2 and Stage 3 certification levels can only be known after the project has been approved and fully designed in detail (Stage 2) and ultimately constructed (Stage 3).

Implementation of LEED standards is not a City of San Diego requirement of the proposed project. The applicant is pursuing LEED certification as a separate and distinct procedure from the requirements of the City of San Diego Municipal Code. The Leadership in Energy and Environmental Design (LEED) Green Building Rating System™ encourages and accelerates global adoption of sustainable green building and development practices through the creation and implementation of universally understood and accepted tools and performance criteria. LEED is the nationally accepted benchmark for the design, construction and operation of high performance green buildings. LEED gives building owners and operators the tools they need to have an immediate and measurable impact on their buildings' performance. LEED promotes a whole-building approach to sustainability by recognizing performance in five key areas of human and environmental health: sustainable site development, water savings, energy efficiency, materials selection and indoor environmental quality. LEED certification provides independent, third-party verification that a building project meets the highest green building and performance measures. Overall, the USGBC has developed the LEED standards so that LEED-certified buildings will:

- Conserve energy and water.
- Reduce waste sent to landfills.
- Be healthier and safer for occupants.
- Reduce greenhouse gas emissions.
- Demonstrate an owner's commitment to environmental stewardship and social responsibility.

The City of San Diego does not require LEED certification as part of the project approval process. The EIR evaluates worst-case scenario impacts for traffic, water, air quality, and solid waste, and does not account for the reductions of these impacts, which will result from the sustainable measures the project will implement as part of its LEED-ND sustainability program. As part of seeking certification under the LEED-ND pilot program, Westfield UTC is committed to a wide variety of sustainable building practices and conservation measures over and above current industry practice. These commitments include:

- Designing and constructing the new buildings within the project such that whole building energy simulation will demonstrate a minimum 20% improvement in the proposed building performance rating for at least 90% of buildings. The minimum

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9.39 cont.

20% improvement will be in comparison to the baseline building performance rating per ASHRAE/IESNA Standard 90.1 – 2004. On-site renewable energy is considered free energy within the total energy cost calculations for the proposed buildings.

- Designing and constructing at least 90% of the new buildings within the project to incorporate strategies that in aggregate use 30% less water than the water use baseline calculated for the building (not including irrigation) after meeting the Energy Policy Act of 1992 fixture performance requirements. All irrigation on the project site will use reclaimed water.
- Reduce the urban heat island effect through the use of roofing materials with a Solar Reflectance Index (SRI) equal to or greater than 78 (for roofs with slopes less than or equal to 2:12) and/or green roofs for a combined minimum of 75% of the roof area of all new buildings.
- Utilize recycled content in infrastructure for roadways, parking lots, sidewalks and curbs, including minimum 90% by volume recycled aggregate materials such as crushed Portland cement concrete and asphalt concrete for any aggregate base and aggregate subbase, minimum 15% by volume recycled asphalt pavement for any asphalt base, with additional recycled content requirements for asphalt concrete pavement, Portland cement concrete pavement, and piping made of Portland cement concrete.
- Recycling and/or salvaging at least 50% of non-hazardous construction and demolition debris, and developing and implementing a construction waste management plan that, at a minimum, identifies the materials to be diverted from disposal and whether the materials will be stored on-site or commingled.
- Use materials with post-consumer recycled content such that the total value of post-consumer content constitutes a minimum of 15% of the total value of the materials in the project. Post-consumer material is defined as waste material generated by households or by commercial, industrial and institutional facilities in their role as end-users of the product, which can no longer be used for its intended purpose. Mechanical, electrical and plumbing components and specialty items such as elevators are not included in this calculation, but other materials permanently installed in the project shall be included.

The LEED energy efficiency standards referenced above exceed California Title 24 standards for energy efficient construction, and therefore exceed contemporary building and usage practices.

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9.39 cont.

In addition to the green building construction and technology commitments noted above, as well as other sustainable practices to be incorporated into the project, the UTC Revitalization project increases its sustainability by being a smart growth, infill project on an already developed site. The LEED-ND program evaluates the project according to Smart Location and Linkage criteria, and Neighborhood Pattern and Design criteria, in addition to the Green Construction and Technology criteria.

9.40

As opposed to constructing affordable housing elsewhere in San Diego or paying the in-lieu fee, as permitted by the City's Inclusionary Housing Ordinance, the applicant has offered to develop its affordable housing requirement on site, as a means to exceed the minimum requirements of the ordinance. The City Inclusionary Housing Ordinance is found at SDMC Section 142.1301 to 142.1312. Section 142.1306(a) of the SDMC requires "[a]t least ten percent (10%) of the total *dwelling units* in the proposed *development* shall be affordable to *targeted rental households* or *targeted ownership households* in accordance with Section 142.1309." Targeted rental households and targeted ownership households are defined terms in the SDMC at Section 113.0103 and are defined as the following:

"Targeted rental household means any household whose combined annual gross income for all members does not exceed sixty-five percent (65%) of the Area Median Income as adjusted for household size as determined by the U. S. Department of Housing and Urban Development (HUD) for the San Diego Standard Metropolitan Statistical Area."

"Targeted ownership household means a household whose combined annual gross income for all members does not exceed one hundred percent (100%) of the Area Median Income as adjusted for household size as determined by the U. S. Department of Housing and Urban Development (HUD) for the San Diego Standard Metropolitan Statistical Area."

The San Diego Housing Commission's inclusionary housing information is available on the internet via the Housing Commission's web site at <http://www.sdhc.org/InclusionaryHousing/Inclusionary%20Income%20Limits.pdf>, which provides an income table dated February 11, 2005, 65% of AMI for a family of 4 is \$44,850 and 100% of AMI for a family of 4 is \$63,400. Current figures were not available on the Housing Commission web site.

Housing type will be multi-family residential housing. Income ranges residents in housing other than required inclusionary housing will be subject to market rates.

9.41 S.3.4.1. Community Plan Amendment (Page 3-3) 1st paragraph. **How will the many traffic mitigation measures detailed in the DEIR shift the auto-orientation to components of the urban node pedestrian network? How do these changes to improve traffic flow enhance “street vitality?” How does removing the limitation on the height of infill development open up the shopping center to a more pedestrian oriented scale? Does an urban landscape of high rises provide pedestrians with a sense of street vitality?**

9.42 S.3.4.3 Master Planned Development Permit/Site Development Permit (Page 3-7) Potential Land Use Scenarios. **How many ADTs is the applicant allowed?**

9.43 S.3.4.3 Master Planned Development Permit/Site Development Permit (Page 3-7) Land Use Districts. **Where is the Master PDP requirements defined? What are the limits established in the Master PDP?**

5.0 Environmental Analysis

9.44 The DEIR (Pg. 5.1-6) states “In terms of community vision, the plan (UCP) recognizes that the Central Subarea, of which UTC is a part, is characterized by intense, multi-use urban development and states that the buildings proposed within the central community should better relate to the streets and to the needs of pedestrians (page 33).”

Regarding the “vision” of the future of the UC community the UCP states, (UCP, Pg. 33) that “The University community at the turn of the century is envisioned as a spacious, park-like community with buildings and land uses of strong identity both visually and functionally.”

The UCP states further, (UCP, Pg. 33) that “In the Central community, future buildings and additions to existing buildings will be better related to the streets and to the needs of the pedestrian. The street levels and street yards of existing developments within the community’s urban node in the vicinity of the Towne Centre will be retrofitted and made more comfortable and inviting for pedestrians. This will be accomplished through exterior improvements such as art, pedestrian scale entrances and windows, directional graphics, fountains, places to sit, play and people-watch, open air theaters and markets, restaurants, cafes, vendors and other amenities.” When summing up the “vision” of the community, the UCP, (Pg. 35) states, “Sun and view enjoyment will continue to be prime design considerations.”

According to the UCP (Pg. 39 not Pg. 33) it states, “The Central subarea, as the name implies, will be the most urban subarea characterized by intense, multi-use urban development. It will also be one of the major commercial/office nodes in the City. The bold, contemporary high-rise structures of the Golden Triangle will continue to provide strong identity for the community. The Golden Triangle will be known for the spacious and convenient commercial facilities than have become associated with the southern California lifestyle.”

The UCP further states, (Pg. 39) that ““Variety without chaos” will be the theme for the Central subarea. A variety of building types, shapes, sizes, colors and materials will be sited in the

9.41 Proposed mitigation measures will be implemented to mitigate significant impacts to traffic identified in the EIR. Design features of the proposed project will provide the pedestrian, bicycle and transit enhancements contemplated to shift La Jolla Village Drive and Genesee Avenue from auto-oriented roadways to components of the urban node pedestrian network. Please see EIR pages 3-11 to 3-13 and Figure 3-4 for a discussion and diagram of pedestrian improvements. Chapter 7 of the Master PDP, which is on file with the City of San Diego, also provides mobility development principles for pedestrian, transit, bicycle and vehicle mobility on and around the site.

Removing the limitation on the height of in-fill development allows for the design flexibility necessary to provide the desired residential units and retail square footage, while still providing open space plaza areas within the project site. The Community Plan Amendment referenced in the comment is meant to moderate the “superblock” arrangement of uses that has historically been the development pattern in the community. The superblock design discourages pedestrian access to the shopping center by placing parking fields and other barriers, such as landscape berms, on the outskirts of the shopping center at the exclusion of creating visually appealing pedestrian entry points.

It is also an established planning principal in the City that more densely developed communities lend themselves to the pedestrian scale discussed in this section of the EIR. The City Strategic Framework Element provides for a “City of Villages” strategy and, “The strategy defines a village as the heart of the community, where residential, commercial, employment and civic uses are integrated. Villages are to be pedestrian-friendly and have inviting public spaces for community events. Villages will offer a variety of housing types and densities and be supported by excellent transit service and public facilities such as schools and parks.” In addition the Strategic Framework Plan states at Page 31, “If current land development trends and policies continue and new development is not targeted into villages, auto-dependent activity centers and residential projects would likely remain the City’s dominant form of development.” Therefore implementation of the planning and design elements of the proposed project, consistent with the City of Villages strategy, will reduce the auto-oriented nature of development on the site. Design features encouraging pedestrian movement would also shift the auto orientation by encouraging people to walk rather than drive between superblocks, as discussed in response to comment 9.12.

9.42 Development and expansion of the project site is limited by the land use and development intensity (square feet) listed in Table 3 of the UCP Development Intensity Element. Therefore, the applicant is not limited to an allowable number of ADT per se; they are limited to a development intensity, which in turn results in a certain ADT. The proposed Community Plan Amendment would increase the development intensity allowed, thereby increasing the ADT. The maximum ADT that will be generated by the project is 17,800.

COMMENTS

RESPONSES

- | | |
|------|--|
| 9.43 | Master PDP requirements are defined in §143.0480 of the SDMC. Development regulations are contained in Chapter 5 of the Master PDP on file with the City. |
| 9.44 | The EIR, page 5.1-6 correctly references page 33 of the <i>University Community Plan</i> , for the statement that “the buildings proposed within the central community should better relate to the streets and to the needs of pedestrians.” Please refer to response to comment 9.12 for a discussion of the design intent to encourage street vitality and pedestrian activity. As no specific comment is made regarding the adequacy of the EIR, no further response can be made. |

9.44
cont.

already established superblock development pattern. The Golden Triangle skyline, with its contrasting visual qualities will become a landmark in the region. As the Central subarea builds out, its pedestrian orientation will intensify due to the high density and multi-use nature of development, the presence of University student housing, and most importantly because of the proximity of housing adjacent to the Towne Centre.”

The DEIR (Pg. 5.1-9) states, “Because modifications to the residential intensity on site are proposed by the project applicant, a CPA are required to ensure consistency with the community plan and its policies.”

9.45

The DEIR fails to adequately identify and address the very specific goals of the UCP Urban Design Element when addressing the projects “consistency”. The adopted UCP is clear about the community’s future vision for the Central subarea , it is to be developed with commercial/office uses with housing adjacent to the Towne Centre, not part of a renovation or expansion.

9.46

Further the current zoning for UTC is for community commercial use CC-1-3 which already accommodates the projects proposal for commercial, retail and residential with the height limit of 45 feet; whereas the proposal to rezone to CC-1-1 is specifically to allow the height limit of 60 feet with no front setback or street setback or side or rear setback which would not be consistent with the UCP.

9.47

Within the UCP “Urban Design Element” (Pg. 29) it states, “The objectives and recommendations included in this element will apply to all new developments, additions and amendments to previously approved special permits. Requests for community plan amendments, as well as amendments to previously approved special permits may require compliance with this urban design element not only on the amended portion, but also on portions of the projects approved but not yet built.”

The DEIR (Pg. 5.2-1) states, “The University Community is considered a moderately dense urban setting”.

The DEIR (Pg. 5.1-22) states, “The applicant proposes a zone change from CC-1-3 (community-serving commercial) to CR-1-1 (regional-serving commercial) to more accurately reflect the regional nature of the UTC shopping center, rather than exclusively a neighborhood/community-based commercial use.”

9.48

Section 5.3 Transportation/Circulation

Section 5.3.1 Existing Conditions

Methodology- Table 5.3-1 is offered appropriately to give the reader CALTRANS level of service definitions for freeways and conventional highways. The text then goes on to discuss the methods to calculate freeway ramp delays and queues. This section is very important,

9.45

Table 5.1-1 of the EIR lists project consistency with applicable planning policies. project consistency with the *University Community Plan* (UCP) Urban Design Element begins on page 5.1-54. Page 38 of the UCP states that “As the Central subarea builds out, its pedestrian orientation will intensify due to the high-density and multi-use nature of development, the presence of University student housing and most importantly because of the proximity of housing adjacent to the Towne Centre.” The UCP does not state that housing must be adjacent to the Towne Centre, nor does it prohibit residential uses within the Towne Center. Also refer to response to comment 9.98 for a discussion of the appropriateness of the site for residential uses.

9.46

The rezone is not proposed by the applicant to allow taller buildings or reduce setbacks. Please refer to response to comment 9.2.

9.47

Table 5.1-1 of the EIR lists project consistency with applicable planning policies. project consistency with the *University Community Plan* Urban Design Element begins on page 5.1-54. Existing and proposed zoning is discussed on EIR pages 5.1-11 and 5.1-22. As no specific comment is made regarding the adequacy of the EIR, no further response can be made.

9.48

The ramp meters were assumed in operation during the entire AM and PM peak periods. The AM and PM peak periods are defined as the time periods between 7:00-9:00am and 4:00-6:00pm, respectively. During these times, a conservative ramp meter rate (i.e. the rate at which vehicles are processed/discharged) was assumed for the analysis in the TIS. This rate was obtained from CALTRANS and represents the most restrictive ramp meter rate. This is standard practice and considered a conservative approach since meter rates dynamically adjust and become less restrictive within the peak period based on the level of traffic on the freeway mainlines. Refer to response to comment 9.93 that describes how the TIS contains a conservative approach to analyzing the proposed project.

9.48
cont.

because the most critical impact of traffic in University City is experienced at the freeway ramps. (E.g. see Table 5.3-15 where the Nobel Drive/I-805 Southbound P.M. interchange is predicted to have a 399 minute delay in the Horizon year, 2030.) This section provides the rationale to use a "fixed rate approach" rather than a "uniform 15 minute maximum delay approach." This explanation is quite clear, but what is not clear is the nature of the time intervals assumed to be programmed into the rate meters. (The Monte Verde EIR claimed that a "conservative" time interval was used that contributed to the estimates of five hour delays and 7 mile long queues. A subsequent section of this UTC Revitalization EIR also refers to using conservative CALTRANS parameters for a ramp metering projections.) **What "conservative" time intervals are assumed to be controlling the ramp meters?**

9.49

Existing Street Segment Operations-

Genesee Avenue-Genesee Avenue has been described as "Due to community concern, City Council is reviewing the option of not widening Genesee Avenue and keeping its four-lane cross-section. No official decision has yet been made and this option is currently under review." The City Council has certified an EIR allowing 560 units of housing to be built on Genesee Avenue across from UTC. The UTC project would add at least 250 units of housing and add 750,000 ft.² of retail. It is hard to conceive how such development could be considered without widening of Genesee, yet the possibility is presented here pretty complacently,

9.50

Regents Road- the subsection (p. 5.3-5) describing Regents Road merely says "a bridge connection over Rose Canyon is planned." It is true that a bridge is described in the Community Plan, however the statement seems to imply that this part of the Community Plan will inevitably be executed, when the situation is far less clear. In March, 2007 the City rescinded a plan to go ahead with the building of the bridge, as well as the deletion of the widening of Genesee Avenue from the plan. No decision will be made about either until the completion of a project EIR, and that is not likely to be completed until 2009 at the earliest. **The statement about the bridge should be rewritten to make it less misleading. Why has this section treated Regents Road and Genesee Avenue so differently, when their situation with respect to being in the Community Plan, awaiting an EIR, and with no official decision yet made, are identical?**

9.51

Existing traffic volumes-this subsection describes how traffic counts were collected from key roadways and intersections during March 2002. 2005 traffic counts were used to assess Nobel interchanges with Miramar Road, Towne Center Road, and I-805, to allow the Nobel/I-805 interchange, opened in February 2002, to "mature." But this means that most of the data on which the traffic calculations are made, are more than five years old now, and will be more than 10 years old by the time that the UTC project is completed. **How can accurate projections be made from traffic data that are more than five years old?** The period between Thanksgiving and Christmas will obviously have the most severe traffic problems. **How can data taken in March be used to calculate traffic during the holiday shopping season?** (It seems very likely that the differential in traffic at UTC in December versus that in March, would be much greater

9.49

The Traffic Impact Study and EIR section present the impacts of the proposed project with and without the Genesee Avenue widening. As no specific comment is made regarding the adequacy of the EIR, no further response can be made.

9.50

As the comment notes, the EIR did not include the proposed Genesee Avenue widening (between Nobel Drive and SR-52) in its Near-Term analysis. As an initial matter, note that the North University City Public Facilities Financing Plan and Facilities Benefit Assessment (FBA) (FY 2007) states that the Genesee Avenue widening would not occur until after Near-Term conditions, whereas the FBA states that the Regents Road Bridge will occur before Near-Term conditions. Moreover, while the City has indicated that it will prepare a design-specific EIR for the Regents Road Bridge, the City, by a March 2007 resolution, initiated the removal of the Genesee Avenue widening proposal from the *University Community Plan*. If Genesee Avenue is not widened, it will be reclassified as a prime arterial, which is how it currently functions. Please refer to response to comment 9.60.

9.51

Please refer to response to comment 3.19 from Caltrans for a discussion regarding the timing of traffic counts. According to standard City practice, traffic studies focus on the period during the day when the transportation system is most heavily loaded and constrained on a regular basis. The purpose of a traffic study is to determine the potential traffic impacts of the project during times of average peak demand of the adjacent roadway system. Traffic counts were not conducted during holiday periods, as it is widely recognized that overall system-wide traffic volumes are higher than typical and not representative of recurring conditions. Moreover, the current shopping center undertakes a number of measures to alleviate holiday traffic impacts in the immediate vicinity of the project and that such measures will continue in the future. It should also be noted that as part of the project, a Transportation Demand Management (TDM) plan with Monitoring Program is proposed to address holiday and special events as described in Chapter 16.0 of the TIS.

9.51 cont.	than that seen in year-to-year variations. Yet the 2002 traffic data were used, presumably as a conservative measure, rather than the 2005 data.) Why have such potentially significant seasonal variations in traffic been ignored? Has there been any attempt to calculate or estimate levels of service, and ramp delays during the holiday shopping period or to project the holiday effect on parking? It may be that shopping traffic is more concentrated on the weekends, the day after thanksgiving, and evenings so there will not be a major impact on morning prime time traffic. The day on which Christmas falls may also be a significant variable, but these holiday traffic and parking issues should be studied. (The horrible traffic problems near Mission Valley and Fashion Valley Shopping Centers weekdays and weekends before the holidays, certainly suggest that UTC will be similarly affected.)	
9.52	Existing Intersection Operations- Table 5.3-3 shows existing intersection operations, including delays, however the Table does not specify the units used to express delays. Delay units should be specified in the Table itself, or in a footnote. This is particularly pertinent when one must distinguish between seconds and minutes of delay. (Later on in the text, some Tables indicate that the delay units are minutes, presumably this is consistent throughout the EIR or at least should be.)	9.52 Table 5.3-3 of the EIR, which continues from page 5.3-9 to 5.3-12, does include a footnote that states "average delay expressed in seconds per vehicle."
9.53	The Table also shows the I-5 South/Genesee intersection level of service, C, but it is well known to anyone who is traveled here in the morning, that this interchange is totally congested, and backs up onto the freeway. Table 5.3-10 (p. 5-3-32) shows the near-term intersection operation for the <i>same</i> interchange as level of service, E. It seems apparent, that the actual level of service here in the morning, should be rated as F. LOS ratings should be cross-checked for consistency and deviations from observed traffic effects, particularly at failing intersections, segments, and freeway ramps.	9.53 Comment noted; please refer to response to comment 3.19 from Caltrans regarding the existing operations at I-5/Genesee Avenue interchange.
9.54	Existing Freeway Ramp Meters-this section properly acknowledges "it is common during periods of peak demand for a ramp meter to cause long delays and queues for vehicles entering the freeway." But in the paragraph that follows, it is asserted that by using the most restrictive ramp meter rate, "unrealistic queue lengths and delays" are projected. For this reason, observations were conducted in peak hours between 2002 and 2007 of ramp delays and queuing. Unfortunately, at one of the most crucial ramps with level of service F, Nobel/Southbound I-5, no direct observations were made. What is the reason that direct observations made at the Nobel drive/Southbound I-805 ramp, but not at the problematic Nobel drive/Southbound I-5 ramp? How do conservative assumptions about the ramp meter rate inflate projections of delays and queuing? If a predicted five hour delay at a freeway interchange in fact turns out to be <i>only</i> three hours or four hours, it will still make for an impossible situation at the freeway interchanges. Merely stating that the estimates may exceed the reality does not solve or mitigate the long term impacts of development.	9.54 Comment noted; please refer to response to comment 9.48 regarding ramp meter operations.

9.55

Section 5.3.2 Impacts

This section examined traffic impacts from the project upon the nearby roadway system. It conformed to the city of San Diego Traffic Impact Study Manual (1998). Under CEQA, traffic/circulation impacts are significant: (1) when the project impacts exceed what is allowable, resulting in level of service, E or F, or (2) nonstandard design features of the project would increase traffic hazards. The former is applicable here.

Significance criteria—although in January 2007, DSD adopted new significance thresholds for project applications completed after January 1, 2007, the UTC EIR rejects using the current standards, justifying this because the application for UTC was complete in 2002. First, it is not clear that the application was complete in 2002, because there are major differences between what was applied for in 2002, and the current amendment sought. Second, even if we grant that the application was completed in 2002—by no means a surety, while this may comply with the letter of the law, it contradicts the policy intent behind the new standards, and common sense. The new standards are approximately one half of the level of the old standards, therefore would inevitably increase the project's projected impacts. The real impacts upon the community are more realistically assessed by using the newer, more sensitive standards. Otherwise the EIR appears to be gaming significance criteria to reduce the apparent impacts of the project.

It would appear that the following street segments are implicated if the new standards are used (January 2007). They are:

Table 1
Additional Street Segments With Significant Negative Impacts using
Current City of San Diego Significance Criteria
Near Term Street Segment Operations
La Jolla Village Drive west of I-5
Miramar Road from I-805 to Nobel Dr.
Miramar Road from Nobel Dr. to Eastgate Mall
Miramar Road from Eastgate Mall to Miramar Mall
Miramar Road from Miramar Mall to Camino Santa Fe

Horizon Year¹ Street Segment Operations without Genesee Avenue Widening
Same as above
Horizon Year Street Segment Operations with Genesee Avenue Widening
No changes compared to DEIR Table

Table 2
Additional Intersections With Significant Negative Impacts using
Current City of San Diego Significance Criteria
Near Term Intersection Operations
Genesee Avenue/Campus Point Drive, AM Peak Hour
La Jolla Village Drive/Genesee Avenue, AM Peak Hour
Miramar Road/Camino Santa Fe, AM Peak Hour

¹ 2030

9.55

The point of this comment is unclear. The significance criteria listed on page 5.3-16 of the EIR discuss the potential impacts of “exceeding what is allowable” and “increasing [of] traffic hazards.” These are discussed under Issue 1 and Issue 5 of Section 5.3 of the EIR, respectively. There are no non-standard design features proposed by the applicant, therefore, no traffic hazards are identified in the EIR.

9.56

The City of San Diego's Development Services Department (DSD) has prepared CEQA Significance Determination Thresholds. As the Thresholds themselves indicate, DSD staff periodically revises sections of the Thresholds. The latest version of the Thresholds (January 2007) contain revisions to the transportation, circulation and parking section. However, the Thresholds specifically state that the revisions are not applicable to projects deemed complete prior to January 1, 2007. Such projects are still subject to Section O.1. of the Thresholds and the standards contained therein.

The City deemed the University Towne Center Revitalization project complete on December 19, 2001. The project applicant has modified the proposed project twice, once in 2005 and again in 2007. The proposed project originally consisted of the expansion of the UTC shopping center to include 750,000 square feet (sf) of retail space, 250,000 sf of office space, 250 hotel rooms and 750 residential units to be implemented in five phases. In 2005, the proposed project was reduced to consist of 750,000 sf of retail space and 250 residential units to be implemented in two phases.

The current proposed project is similar to the 2005 reduced project in that it would include 750,000 sf of retail space and 250 residential units in two phases. In addition, seven alternative land use scenarios were introduced as part of the Master PDP, and could result in varying amounts of retail space, residential units, hotel rooms and/or office space, provided they would not exceed the traffic impacts as compared to the proposed project. Though the project application has been modified since its inception, it is still the same project that was deemed complete on December 19, 2001. Section O.1. of the Thresholds is applicable to the project.

It is worth noting that Section O.1. of the Thresholds have been applied to other recently approved projects within the City of San Diego and University City community, including the Monte Verde Community Plan Amendment project, as they, too, were deemed complete prior to January 1, 2007.

Finally, the thresholds contained in Section O.1. are the appropriate standards for analyzing the traffic impacts of this project and are currently used in several other jurisdictions in California.

- 9.56 cont.
- Horizon Year Street Intersection Operations without Genesee Avenue Widening
 La Jolla Village Drive/Genesee Avenue, AM Peak Hour
 La Jolla Village Drive/Towne Centre Drive, AM Peak Hour
 Miramar Road/Camino Santa Fe, AM and PM Peak Hours
 Governor Road/Regents Road, PM Peak Hour
 Governor Drive/Genesee Avenue, AM and PM Peak Hours
 SR 52 EB Ramps/Genesee Avenue, AM Peak Hour
 Appleton Street/Lehrer Drive/Genesee Avenue, AM Peak Hour
Horizon Year Street Intersection Operations with Genesee Avenue Widening
 No changes compared to DEIR Table
- Why are the presumably outmoded significance standards being used to assess a crucial impact of the project, its impact on traffic segments and intersections?** DEIR should not try to escape responsibility by using outmoded standards, but should face up to a realistic assessment of the impacts the project will have on local traffic segments and intersections.
- There are also new significance standards for freeway mainlines, and ramps that are not being used. Presumably, the projections of delays and queuing at freeway ramps, would be even worse. **Why are newer standards not being used to assess impacts on freeway ramps?**
- 9.57 **Future conditions-** this section examines the effect of local area roadway improvements planned on traffic. A key to understanding these impacts is Table 5.3-7, Project Trip Generation. But the explanation in the text of this Table is not sufficiently clear. For example, driveway trips are defined as the total number of trips generated by the site, i.e. the traffic in the driveway going to the project. It is not clear why this number should be different for the regional retail land use (20,655) and the multifamily residential land use (21,900), or what mixed use reduction calculations mean and how they are calculated. **Please explain the terms: "driveway trips" and "mixed use reduction", and how they are calculated, and why they differ in the Table.**
- 9.58 Also there are some problems in the presentation of the NUC FBA assumptions. They are used to assume the construction of roadway improvements that would be in place by 2010. NUC-12 (bridge to Lahite) has been completely left out of the list. NUC-14 (Lahite to Governor), is described as "Widen Regents Road between Rose Canyon open-space and Governor Drive from its current two-lane cross-section to a four-lane cross-section." Several reasons are given below why this should not be assumed.
- 9.59 But first, a problem in terminology used must be noted. Rose Canyon is an "Open Space Park." The terminology "open-space" is incorrect. It also implies a motive to disavow the legal protections that apply to Rose Canyon. **"Open Space Park" is the terminology that should be used in the future in connection with Rose Canyon.**
- 9.60 Second, a nexus is required between any project supported with FBA funds, and a benefit for residents of North UC. If the bridge is not built, and it is by no means certain that it will be built,

- 9.57 The project traffic is identified as Driveway, Cumulative or Pass-By trips. Driveway trips account for the total number of trips generated by the site and are assigned to the project driveways. Cumulative trips are the net new trips added to the surrounding community and are used for the determination of project impacts. Pass-By trips are vehicle trips attracted to the project already on the roadway system. The relationship between the identified trips can be summarized in the following equation: Driveway trips = Cumulative trips + Pass-By trips. The project trips were calculated, without deviation, per the City of San Diego Traffic Impact Study Manual.

Community mixed-use reductions were applied to the project trips and represents the expected reduction of project trips due, in part, to the synergy between compatible land-uses and, pedestrian modal choices. Community mixed-use is used to describe a community of diverse and compatible land uses emphasizing a pedestrian-oriented environment and reinforcing alternate modes of transportation while not excluding automobile use. The project is located in such an urban setting of mixed land uses with an identified "urban node pedestrian network" and offers excellent connectivity via existing and planned pedestrian bridges and the pedestrian improvements proposed by the project. Community mixed-use reductions were applied, where applicable and without deviation, per the City of San Diego Traffic Impact Study Manual.

For clarification purposes, the driveway trips for the Regional Retail equate to 20,655 and for the Multi-Family Residential equate to 1,282. Therefore, the resultant total project driveway trips (retail plus residential) are 21,900 (20,655 + 1,282).

- 9.58 As the comment notes, the North University City Public Facilities Financing Plan includes NUC-12, which is fully funded and scheduled to be completed in 2008. The EIR traffic impact study did consider NUC-12, which is related to NUC-18. As such, NUC-12 should have been described in the Draft EIR discussion of planned improvements in the project study area (p. 5.3-19) and within the traffic study itself; this inadvertent omission has been corrected in the Final EIR. For a discussion of the inclusion of the Regents Road bridge in the Near-Term analysis, please refer to response to comment 9.60.
- 9.59 As the commenter correctly points out, Rose Canyon is an Open Space Park. The EIR refers to it as Rose Canyon open space, and the UCP refers to it simply as Rose Canyon. The terminology used to refer to the area is not relevant, the legal protections that apply to Rose Canyon will continue to apply regardless of the terminology used to refer to it. No change has been made in the Final EIR in response to this comment.

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9.60 The EIR traffic analysis section assumes that a bridge over Rose Canyon will be constructed to connect the segmented Regents Road. This assumption is based on the inclusion of the Regents Road Bridge within the *University Community Plan* (p. 52) and because, as noted in the Community Plan, the City has been collecting fees for the bridge pursuant to its Facilities Financing Program (the bridge is identified as NUC-18 in the most recent FBA) and the bridge is fully funded according to the FBA.

Significantly, the City has also prepared an environmental impact report—The University City North/South Transportation Corridor Study (“UCNSTC”), SCH No. 2004031011—to “evaluate a series of transportation alternatives which could improve traffic flow between the southern and northern portions of the community of University City.(see Executive Summary on p. S-1.)” The Regents Road Bridge Alternative “would involve construction of two separate parallel two-lane bridge structures across Rose Canyon to connect the existing ends of Regents Road.” See Executive Summary at p. S-1. The UCNSTC EIR analyzed the environmental impacts of each alternative, including the Regents Road Bridge, and in particular with respect to impacts on land use and planning, traffic and circulation, biological resources, air quality, noise, neighborhood character/aesthetics, landform alteration, geology/soils, recreation, hydrology/water quality, cultural resources, paleontology, and human health and public safety.

The UCNSTC EIR concluded that the Regents Road Bridge alternative would have significant but mitigable impacts on land use and planning, biological resources, noise, geology, hydrology/water quality, cultural resources, and paleontological resources. The bridge would have significant and unmitigable impacts on neighborhood character/aesthetics, landform alteration, and recreation.

In connection with a lawsuit filed by the Friends of Rose Canyon, the City, on March 7, 2007, agreed to prepare a project-specific environmental impact report that would consider the impacts of specific bridge designs and the mitigation measures required to reduce the impacts of the bridge alternative, including any impacts to habitat restoration areas in Rose Canyon. While the City has not yet approved a specific bridge design, the UCNSTC Study EIR remains certified and the bridge is included within the *University Community Plan*. For these reasons, and because the City has specifically identified the bridge as an improvement in its FBA, it is appropriate to rely upon the bridge as an assumed roadway network feature in the traffic study.

Please note that a second lawsuit filed by Shute, Mihaly & Weinberger LLP on behalf of Friends of Rose Canyon and two other plaintiffs in November 2007 may further delay the implementation of the bridge; however, the recent lawsuit challenges only the City’s approval of a contract for the full engineering and design of the bridge and the resulting preliminary

COMMENTS

RESPONSES

9.60 cont.

engineering work that would need to be conducted for the final design. Substantial evidence still supports the conclusion that the bridge, already included within the *University Community Plan* and the North University City Facilities Financing Program, will be implemented.

While it is appropriate to assume the Regents Road Bridge will be in place in the future consistent with the UCP and FBA, the applicant has performed an analysis of traffic impacts of the project without consideration of the Regents Road Bridge in response to public review comments from Friends of Rose Canyon. As discussed in response to comment 9.50, elimination of the bridge as a future roadway improvement will not result in any new significant impacts other than those previously addressed by the EIR. Nor will the elimination of the bridge result in a substantial increase in the severity of any environmental impact.

Insofar as the comment is concerned with the expenditure of fees for the widening of Regents Road in the absence of the construction of the bridge, the comment is not germane to the project that is the subject of this EIR.

Similarly, because the Regents Road Bridge is not a part of this project, the comment regarding agency comments and sensitive habitats, including the potential loss of a restoration area, would be more appropriately addressed with regard to the upcoming environmental impact report for that project. Please note that this latter issue was also addressed in the responses to the UCNSTCS EIR (specifically, Response 2.20), and that that EIR also responded to the agency comments. The EIR appropriately considered the Regents Road Bridge, which significantly, is not a component of the proposed project and is not required to mitigate any significant environmental impacts of the proposed project.

9.60
cont.

then a nexus would be lacking to justify FBA expenditures to widen Regents Road in this segment. It would not be allowable to spend FBA funds for the NUC-14 project.

Third, if the segment were built, it would benefit residents of South UC as well. Only a pro rata share of FBA funds could be used to support this project, based on the share of benefits accruing to residents North of Rose Canyon. The issue of what improvements may be supported by FBA funds are currently being taken up by the University Community Planning Group FBA Subcommittee. They should be resolved by the end of the current calendar year.

Fourth, in addition to the problems concerning the use of FBA funds for NUC-18, the bridge and cut and fill road, this project should also not be assumed because state and federal authorities have said they would not issue permits, and because the planned construction would encroach upon restoration areas paid for by state funds. These areas may be encroached only after an act of the State of the Assembly that would allow it. **Why does the DEIR assume that FBA funded improvements that exist under the legal cloud will be in place?**

9.61

Street Segment Analysis, Intersection Analysis – pages 5.3-22 through 5.3-39 including Table 5.3-8 through Table 5.3-11b, show near term and Horizon year (2030) impacts. However, these projections assume that the Regents Road bridge *will* be built, then look at predicted impacts with or without the widening of Genesee. We noted earlier that the bridge will be built is just as much in question as whether Genesee will be widened, and for the same reasons: the City Council must await completion of project level EIRs that have not even begun. Years ago, City officials, including Council President Scott Peters, instructed that analysis should be done that included the assumption that no bridge would be built, and the effects of widening Genesee alone, should be studied. Presenting this impact analysis without a condition that shows a Genesee widening without the Regents Road bridge assumed to be built, suggests that politics more than science are shaping traffic analysis of future impacts. **This EIR will not be adequate under CEQA unless the condition of Genesee widening without the Regents Road bridge is analyzed and presented.** It has been reported that earlier draft traffic analyses included the Genesee widening only condition. **Why has the Genesee only condition been dropped from the EIR?** Again, this suggests political rather than scientific motives are involved. Given that the Regents Road bridge is estimated to have a \$60 million price tag, and much of the future development in University City will be on Genesee Avenue, it makes absolutely no sense to leave Genesee widening only out of the analysis.

9.62

There are also projections related to Genesee widening that seemed very questionable. For example, Tables 5.3-9a and 5.3-9b show identical ADTs on Genesee from SR-52 to Nobel, with or without the widening:

Genesee Avenue	ADTs with or without widening Genesee
Nobel Drive to Decoro Street -	39,230
Decoro Street to Governor Drive-	32,960

Page 16

9.61

Please refer to response to comments 9.50 and 9.60 for a discussion of Regents Road Bridge, including the traffic conditions with and without Genesee Avenue widening.

9.62

The volumes in TIS were based on the assumption that Genesee Avenue will be widened and, therefore, represent the highest expected volume. This forecast volume was used for both “with” and “without” widening scenarios. Such an approach represents the worst-case scenario. If Genesee Avenue widening is not completed, cumulatively significant impacts to segments of that road were identified, see page 5.3-47 of the EIR.

COMMENTS

RESPONSES

9.62

Governor Drive to SR 52- 41,500
South of SR 52- 35,100

cont.

It simply does not make sense that widening Genesee by 50% will not increase the flow of vehicles that choose to come to the UTC area and use Genesee Avenue. (If you build it, they will come.)

9.63

Significance of impacts- this section (starting on p. 5.3-47) overviews impacts to street segments, intersections, freeway segments, and freeway ramp meters, in the near term and Horizon year (2030) scenarios.

9.64

Mitigation Measures, Monitoring and Reporting Program-this section describes the Travel Demand Management Program (TDM) that comprises strategies to reduce vehicle trips. There is laudable emphasis on facilitating employee use of public transit, carpooling and bicycling. There is also on site child care, fitness and cafeterias. In addition, the project anticipates a new transit center for buses, and adjacent light rail. These are all good ideas, but the problem comes with the lack of specificity. **What will be Westfield's share of construction costs for the transit center? What is the likelihood of the light rail system being built in time to mitigate expanded UTC's traffic impacts? What are the schedules for construction of the project, construction of the transit center, and construction of the light rail facility, and how will these be coordinated between the various responsible entities?** (It is difficult not to be skeptical about the importance of bus transit given how few people today ride the bus, particularly white collar workers and professionals, the perceived undesirability to shoppers of bearing packages back home on the bus, and the general dominance of car culture in Southern California.)

9.65

This section also notes that where Westfield is making a fair share contribution to freeway improvements e.g. I-805, significant impacts would not be mitigated until other projects in the area pay their fair share. First, it seems unlikely that the amounts being paid could mitigate F level freeway ramps, with predicted delays of over six hours in 2030.² Also, it is not appropriate to assume the existence of projects that have not been approved, particularly with the traffic crisis that is looming.

9.66

Significance of impacts (alternative transportation modes)

This section asserts that there would be "no significant impacts to alternative transportation modes as a result of the proposed project." However, during the prolonged construction period, it is difficult to see how construction vehicle traffic will not impact bus transit. This should be exacerbated by the parallel construction at Monte Verde. Building the transit center, and

² I have seen estimates of \$1000 per ADT to mitigate. **What is the current fee for mitigation of traffic impacts? How will this money be employed to actually make a difference, particularly for freeway access?**

9.63

Comment noted. As no comment regarding the adequacy of the EIR is made, no further response can be made.

9.64

The applicant proposes to construct the transit center as part of the overall development of the project. Proportional funding for the transit center has not yet been determined. The traffic analysis and mitigation program is not dependent on LRT. Its timing is not defined at this time. The transit center would be constructed as part of the retail expansion, currently planned to commence in 2008 and be completed by Fall 2011 (see page 3-19 of the EIR), pending project approval and certification of this EIR. SANDAG provides a schedule showing the beginning of operation of the Mid-Coast LRT system in early 2015. The City cannot provide additional information on the "likelihood" of this schedule being fulfilled. As noted in the Traffic Impact Study prepared for the EIR, "no transit reduction was applied to the retail trip generation, despite a regional transportation center on site and planned future transit improvements (page i)." Therefore, the analysis in the EIR is a very conservative approach.

9.65

Mitigation Measure MM 5.3-10 proposes the payment of a fair share contribution to freeway mitigation equivalent to \$1,000 per ADT on the freeway. Refer to response to comment 3.13. As stated in the mitigation measure, the purpose of the fee is to fund the study, design or implementation of the proposed managed lanes on I-805 between Carroll Canyon Road and SR 52. The commenter is incorrect in referring to this as mitigation for freeway ramps, it is mitigation for freeway segments. As noted on page 5.3-49 of the EIR and within Table ES-3, freeway segment impacts are considered significant and unmitigable until future projects pay their fair share and the improvement projects are completed. Therefore, for the purposes of this EIR, the impacts are considered significant and unmitigable, and do not assume the existence of projects that have not been approved.

9.66

The applicant and its contractor will coordinate its construction sequencing with MTS/SANDAG to prevent any temporary disruption in transit service. As noted on page 3-19 of the EIR, transit center relocation is proposed as part of the initial construction sequence. Temporary arrangements will be made on site to prevent the disruption of service while the construction is underway. No significant impacts to bus services are, therefore, anticipated. Construction traffic is discussed in Section 5.9, Construction Effects (see pages 5.9-4 and 5). Because the City will require the applicant's contractor to prepare and implement a construction traffic control plan, no significant impacts to alternative transportation modes are anticipated.

COMMENTS

RESPONSES

- 9.66 cont. transitioning to it, should also have an impact. It is a weakness of this EIR, Section 5.3 does not address the traffic of construction vehicles. This *is* addressed in Section 5.9.
- 9.67 **5.5 Hydrology/Water Quality**
The DEIR (Pg. 5.5-7 – 5.5-8) addresses Municipal Storm Water Permits.
It is unclear what standards the storm water system of the project will meet. Will it meet the new standards expected out around January 2008?
- 9.68 **The Water Quality Technical Report**, p. i states: “As stated throughout the report, there will be no increase in drainage area to each outfall as a result of the development. If an increase to impervious areas occurs within any of the eight (8) drainage basins, design tools such as pervious pavement, check dams, planter boxes, or other equally comparable methods may be used to help maintain post-project peak runoff and volumes equal to (or less than) pre-project conditions. Hence, there will be no adverse impacts to the downstream systems. Refer to Section 5 – Conditions of Concern (within this WQTR) for further discussion on no adverse impacts to downstream systems.”
What proof is provided that there will be no increase in the drainage area to each outfall, given that the proposed project has 15 different potential development scenarios?
What proof is there that if there is an increase in any of the eight drainage basins, the measures mentioned will reduce the run-off to pre-project conditions?
Nearby residents note that every morning the mall is hosed down. Is this run-off included in the calculations?
- 9.69 **The Water Quality Technical Report**, Section 4, p. 8. - Water Quality Requirements Post-Construction. The chart is of requirements taken from the 2003 Storm Water Standards Manual.
Are there updated standards, and if so, why are they not using updated standards? Will these requirements be updated in the near future, and if so, will the updated requirements be used?
- 9.70 **The Water Quality Technical Report** p. 11: The DEIR states that under both the existing and proposed conditions the storm water runoff will leave the project site through several storm drain connections to the public storm drain system, which ultimately outfall into two tributaries to Rose Canyon, which then flow into Mission Bay, which is listed as an impaired water body on the 303(d) list.
The Water Quality Technical Report, p. 12: “In the existing condition, the site is close to fully paved with eight outfall locations along the perimeter of the site.”... “In the proposed condition the UTC revitalization project will not increase drainage area to each existing outfall. For most

Page 18

- 9.67 As noted on page 5.5-7, 5.5-8 and 5.5-18 of the EIR, the municipal storm water permit was reissued to the San Diego region in January 2007. The City is currently updating their Storm Water Standards Manual to reflect the newly issued permit. Once established, the applicant will comply with the newer standards and municipal permit when the applicant submits final engineering plans.
- 9.68 A preliminary drainage analysis was prepared (in accordance with the City Drainage Design Manual) for both the existing and proposed hydrologic conditions. It should be noted that the UTC project site is almost entirely paved or developed with impervious surfaces, which do not permit infiltration. The statement in the drainage report that post-project conditions will be equal to or less than pre-project conditions for peak flow rates and runoff volumes is a “design constraint” that will continue to be met in final engineering. In other words, once final construction drawings are prepared, a follow-up drainage study must be submitted to the City to demonstrate the project’s compliance with the pre-project/post-project design constraint. The standard design practice for drainage and stormwater analysis (including the municipal storm water permit and City Storm Water Standards manual) does not consider irrigation and/or excess water from “hosing down” the mall in calculations. Nonetheless, the amount of water generated by such “housekeeping” activities is not substantial in quantity and would be accommodated by the future drainage system.
- 9.69 As described above in response to comment 9.67, revised standards are being prepared by the City and are expected to be “effective” on January 24, 2008. The proposed project must comply with all applicable standards required by the City at the time final engineering plans are reviewed by City staff.
- 9.70 The project proposes only a slight increase to existing imperviousness even if no pervious pavement is included. However, because of the applicant’s commitment to keeping pre- and post-project conditions the same, the use of pervious pavement is being explored and would off-set the slight increase in imperviousness. The prepared analyses address how any increase to impervious areas, runoff rates, and/or runoff volumes would be mitigated on-site such that there would be no increase to runoff rates or volumes leaving the project site. All impervious areas (both existing and proposed) would receive water quality treatment as a result of the proposed project, whereas today no treatment is provided for stormwater runoff. Treatment of stormwater runoff would substantially improve the quality of water leaving the site.

Typical concerns regarding development and/or redevelopment include whether or not there would be an increase in drainage area to any particular outfall (which could result in increased runoff rates and/or volumes), or increases to runoff rates and/or volumes. The drainage report states that the proposed project would not cause increases to any of the existing drainage outfall locations.

COMMENTS

RESPONSES

9.70
cont.

of the drainage basins, the impervious areas within the basins will remain the same in existing and proposed conditions.”

Why is it impossible to reduce to less than “fully paved” conditions?

Why is it reassuring to state that the revitalization project will not increase the drainage area into each outfall, when the site is already fully paved?

9.71

The **Water Quality Technical Report**, Section 6 (p.14 and onward) of the report lists BMPs. However, nowhere does it state any definite commitment to any of these (they are “possible” or “should be done” or “recommended” “it is anticipated that.”). Nor is there description of the actual location, operation, and maintenance of these.

P. 21 states “The installation of in-line treatment facilities will be located within the project boundary (property of Westfield, Inc.) and will treat the entire on-site drainage area contributing to each of the storm drain systems, and will follow the last catch basin/inlet contributing on-site runoff to the storm drain system. Each post-construction BMP will be privately maintained and shall be the responsibility of the Westfield Corporation, Inc.”

The DEIR (ES-11) is proposing a Vesting Tentative Map that subdivides the land into 36 parcels. Presumably, any of them could be sold off. Moreover, the DEIR (ES-10) states that the residential/hotel portion of the project “would be pursued by another party, with the permission of the project applicant.” Given the vagueness of landownership in the future on this parcel, how will the drainage system and BMPs be assured during construction and maintained?

The **Water Quality Technical Report**, p. 22 states that “It is anticipated that approximately seven in-line treatment facilities along the perimeter of the UTC property boundary, two ClearWater BMP units and two vegetated swales will be necessary in order to provide water quality treatment for the entire UTC site.

Who will maintain these? Who will be legally responsible for monitoring and maintenance given that they land may be subdivided and sold off?

As an example of the vagueness of the section on BMPs, p. 15 states that the use of porous materials such as pervious concrete “may be considered.” How does this vague mention of a BMP mean anything? Specifically, where would it be used, how would it be maintained, and what evidence is there that it would be effective even if it were used and maintained?

9.72

The Water Quality Technical Report and Preliminary Drainage Study was first completed in Dec., 2002, and has since then had six revisions, most recently in July 2007.

Have these revisions provided sufficient information and updating of the project to meet CEQA and RWQCB and city requirements?

9.71

The water quality technical report provides an exhibit (Map Pocket 1) showing the location of each proposed treatment control BMP. It also includes a section (Section 7.0) addressing operation and maintenance of these BMPs. The proposed project is required to provide these or other equally effective treatment control BMPs with the proposed grading plans prior to approval for construction.

The ongoing operation and maintenance of these BMPs will be ensured through the execution of the City’s standard Storm Water Management and Discharge Control Maintenance Agreement (SWMDCMA). The applicant will be responsible for the installation and maintenance of these BMPs, which will be “assured” during the City review process and the execution of the SWMDCMA. If parcels are sold off to other owners, the applicant may continue to be responsible for these BMPs or choose to file a new SWMDCMA with the future owner and the City that would transfer responsibility to future owners.

Pervious concrete is specifically being considered within surface parking areas (not within parking structures) where soil conditions are deemed appropriate for its use. Actual locations and design will be determined during the final engineering process.

9.72

The report is based on the City’s Storm Water Standards Manual and the Drainage Design Manual. It is intended to meet the RWQCB requirements for drainage and water quality studies and similar disclosure requirements for the CEQA review.

- 9.73 The DEIR states that the project will increase ADTs by 17,800.
- There does not appear to be analysis of water quality impacts from road run-off in the vicinity of the project from this substantial increase in traffic, including both freeways and local streets. Given that most if not all of these streets drain directly into waterways (including Rose Creek) without any treatment, what impact will this have?
- The DEIR p. 5.5-5, Table 5.5-3 provides information on water bodies. Mission Bay, the recipient of UTC run-off is listed as an impaired water body. Rose Canyon Creek, into which the entire project will drain: "Entire 13-mile length exhibiting unknown water quality."
- How can water quality impacts be assessed or "no-impact" be assured when there is no data available on existing conditions in Rose Creek?
- 9.74 What treatment will there be for wastewater from restaurants?
- The **Water Quality Technical Report, Storm Water Requirements Applicability Checklist**.
- Automotive repair shop is checked "no." Doesn't the Sears Automotive Repair Shop drain into this system?
 - Project discharging to receiving waters in Environmentally Sensitive Areas is checked "no." This project discharges into Rose Creek, which is home to numerous California gnatcatchers and numerous species of concern and is part of the MHPA.
 - Vehicle or equipment fueling, washing or maintenance areas is checked "no." This is wrong. There is a car washing and detailing operation on the roof of the parking garage south of Sears (La Jolla Wash & Shop). Also, which of these activities does the Sears Automotive Center do? These will impact the area's runoff and must be considered.
- Section 5.9 Construction Effects**
- Section 5.9.2 Impacts**
- 9.76 Construction vehicles necessary to support the construction activities at UTC (as well as the transit center and Monte Verde) are acknowledged to bring noise, dust, and impact on traffic. (Also, diesel emissions are also likely to be an impact on air quality that is not mentioned.) The EIR acknowledges that the estimated 1000 ADT increase from construction will impact local traffic conditions. UTC occupies a Superblock that stretches on one side from the intersection of Genesee/La Jolla Village Drive to the intersection of Genesee/Nobel Drive. These intersections are among the most poorly functioning in University City. Slow moving construction vehicles will inevitably impact traffic. Debris from the vehicles will doubtless impact local traffic. Large construction vehicles also create potholes and cause significant wear and tear on the roads that will further impact traffic. **The EIR should consider debris, and wear and tear on the roads for their implications for traffic.**

- 9.73 Treatment of road runoff from existing local streets is addressed by the City as part of its Municipal Storm Water Permit. Any off-site road improvements (traffic mitigation) required as part of the proposed project will be designed in accordance with City drainage and water quality requirements. The proposed project will provide water quality treatment for stormwater runoff for the entire UTC site, where currently none exists. The treatment BMPs will comply with City standards and will improve water quality of stormwater runoff leaving the site. Stormwater will be required to be treated consistent with the standards in the Municipal Storm Water Permit prior to entering the City storm drain system which empties to Rose Creek. Therefore, significant impacts to water quality would not occur, as discussed in Section 5.5 of the EIR.
- 9.74 Wastewater from restaurants will be either treated or directed to the sanitary sewer system pursuant to the City's Municipal Permit.
- 9.75 The checklist in the Water Quality Technical Report has been updated to reflect "yes" for automotive repair shop and "yes" for vehicle or equipment fueling, washing, or maintenance areas as suggested in this comment. The 'project discharging to receiving waters within Water Quality Sensitive Areas' box is checked "no" because it does not meet either of two criteria for that priority project category as defined in Appendix I of the City Storm Water Standards Manual. Specifically, the project footprint is not located within 200 feet of a water quality sensitive area nor does it discharge to a water quality sensitive area without mixing with flows from adjacent lands.
- 9.76 The City acknowledges that construction traffic can cause temporary traffic delays, noise and dust, as noted in Section 5.9 of the EIR. Air quality emissions resulting from construction activities, including diesel particulate emissions, are discussed in Section 5.4 of the EIR and in response to comment 14.30 from Shute Mihaly & Weinberger. However, potential impacts from possible debris and wear and tear on the roads are not issues that would result in significant environmental impacts; they are nuisance effects from construction that are addressed during the construction permit phase of project development.

9.77

The impact to traffic is also described generally and qualitatively. It should be possible to estimate these impacts quantitatively. **The impact of construction vehicles should be assessed quantitatively.** In fact, it should *have* to be done to plan mitigation measures if possible. For example, off hour or weekend movement of construction vehicles may be possible.

Construction vehicles will also take over parking slots. The EIR speculates that this may have a greater impact in December (presumably because of holiday shopping.) **The impacts that construction vehicles will have on parking by eliminating parking spaces should also be quantified.** Since the UTC construction and Monte Verde construction will be going on in parallel, the EIR should analyze cumulative impacts from both projects.

6.0 Other CEQA Sections

The purpose of the DEIR is to analyze the “potential” of “direct or indirect population growth, economic development and additional housing construction” and in this case to examine and determine if the project is capable of removing “obstacles of growth by accommodating additional population or construction”. The DEIR must not assume “that growth in any area is necessarily beneficial, detrimental, or of little significance to the environment”. (DEIR, Pg. 6-1)

9.78

It is not clear whether the DEIR met this goal or not, as sufficient examination of the additional population created by the redevelopment and new development of this project was not studied to show concisely or empirically that the growth would be in fact beneficial to the community cumulatively.

The DEIR states (DEIR, Pg. 6-1) that “the land uses proposed for the project site are consistent with the land use designation in the *University Community Plan* and the proposed commercial zoning (CR-1-1).

Given the fact that this project site has already utilized its development allowance, the DEIR is deficient because it does not analyze the cumulative effects the project would create. How can growth above the adopted Community plan be consistent with the approved Community plan? This is not addressed in the DEIR. The Community Plan did not forecast growth above and beyond the development for this site that was approved when UTC was built. The DEIR does not address this obstacle of growth, it glosses over this important topic.

9.79

The DEIR states (DEIR, Pg. 6-1) that the “demand” for various construction trade skills and labor would increase and “would be met by the local labor force and would not require importation of a substantial number of workers that could cause an increased demand for temporary or permanent housing in this area”. The DEIR also states, (DEIR, Pg. 6-1) that “the labor pool within the project area is adequate”. On the surface this statement appears to be reasonable, yet there is no data to support these assumptions. The DEIR contradicts itself when it states, (DEIR, Pg. 6-1) that “while the project has the potential to foster economic growth for the City through expanded retail sales, it is expected to have a limited effect on regional

9.77

Please refer to response to comment 9.66 for a discussion of how cumulative construction traffic is addressed by the City. The City will address parking supply with the applicant as part of its traffic control plan. The applicant is not interested in creating construction effects on parking supply as that greatly influences customers shopping choices.

9.78

CEQA requires an EIR to “[discuss the ways in which the proposed project could foster economic or population growth, or the construction of additional housing, either directly or indirectly, in the surrounding environment.” CEQA Guidelines § 15126.2(d); Cal. Pub. Res. Code § 21100(b)(5); CEQA Guidelines § 15126(d). In connection with this directive, though, the CEQA Guidelines state, “It must not be assumed that growth in any area is necessarily beneficial, detrimental, or of little significance to the environment.” CEQA Guidelines § 15126.2(d). As the comment recognizes, the EIR sets forth this cautionary statement as well as a discussion of the growth-inducing impacts of the proposed project. As noted in Section 6.1 of the EIR, the project is not expected to contribute substantially to growth due to either the residential component of the proposed project or because of any growth associated with the creation of additional employment opportunities or office use infrastructure.

CEQA does not require, as the comment suggests, an empirical examination of whether “growth would be in fact beneficial to the community cumulatively.” CEQA merely requires a “general analysis” of projected growth. *Napa Citizens for Honest Government v. Napa County Board of Supervisors*, 91 Cal. App. 4th 342, 367-71 (2001). The EIR has provided an appropriate level of analysis given the nature of the project.

The comment is incorrect that there is no information supporting the EIR’s conclusion that the proposed project will not remove any physical barriers to growth. The EIR contains a detailed discussion of the project description and identifies the components of the project. The EIR did not identify any removal of barriers to growth, and the comment does not now identify any such barriers that will be removed by the project. Please also refer to response to comment 9.83 for additional discussion on the topic .

The EIR refers to the consistency of the proposed “*land uses*” with land use designation in the UCP. The intensity of those proposed uses will be increased with the Community Plan Amendment which does not present an absolute obstacle to growth, but rather ensures that development above and beyond the plan will be reviewed and analyzed by the appropriate decision making body.

9.79

The EIR found, in Section 6.1, that the “anticipated retail, hotel and/or office uses are [not] expected to require the importation of a specialized work force.” Unlike the permanent retail, hotel, or office positions, project construction, which is temporary in nature, will increase the demand for certain construction trade labor. However, that increased demand is not expected to significantly induce growth. The proposed project’s projected demand for construction jobs is analyzed in an economic analysis submitted under separate cover from the EIR and on file with the City.

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9.79 cont. population growth because it would draw from the local population for jobs". One project certainly does not meet the criteria that temporary construction jobs are beneficial to the specific project site or warrant building above and beyond the adopted Community plan. Temporary construction jobs are not permanent jobs.

9.80 The DEIR states (DEIR, Pg. 6-1) that "the completed development would create additional part-time and full-time employment, involving a wide variety of jobs from low to high wage scales". The DEIR is deficient because it does not state specifically what these jobs are or what the salary range would be. The project applicant has stated that the proposed "housing" on site would be high end luxury condos. That assumption would preclude potential buyers of these luxury condos to be "low to high wage" salaried employees in the redeveloped UTC project. The DEIR is deficient because there is no data presented regarding this topic. No analysis was presented to review.

9.81 Further, the DEIR states (DEIR, Pg. 6-1) that "the proposed project would not directly or indirectly increase population growth in the region". **How would 250 or more units not increase population growth?** The DEIR also states that "no significant pressure on local housing supply or demand is expected to result from development of the proposed project. Proposed residential development would accommodate growth predicted for the region." The DEIR is deficient because there is no data to support these assumptions and the DEIR does not define or analyze "regional growth" versus "local community growth" which must be presented in order to conclude that this project would not have a detrimental significance on the community and environment. The goals for regional growth are quite different from the specific adopted community plan's growth, and there is no analyze of this in the DEIR. To assume that the project can "accommodate" the growth neglects the current situation existing in the project area.

9.82 The DEIR states (Pg. 6-1) that the "economic growth associated with the expanded commercial space on the UTC property would have beneficial effects in the City of San Diego due to the increased sales tax revenues and would not trigger population growth or urban development which would have environmental consequences." Economic growth for the City of San Diego is only one aspect.

The DEIR is deficient because it does not adequately analyze the economic growth for the community. The DEIR has already stated that "low to high wage" jobs would be created but it does not discuss the benefit in detail to the community. Where is the data?

The DEIR states (DEIR, Pg. 6-2) in its conclusion, that "development of the proposed project would not remove any physical barriers to growth. Therefore, growth inducement would not be significant as a result of the proposed project."

9.80 The proposed project is an expansion of an existing retail shopping mall. It will, therefore, provide an incremental increase in the number and type of jobs that are currently provided by Westfield UTC. It is estimated that the existing center supports 2,197 full-time and part-time jobs on site, and that the net increase in floor area associated with the proposed project will add another 1,987 full-time and part-time jobs on site,, for a total of 4,184 jobs once the project is completed and occupied.

Because most retail jobs are considered entry-level positions that require relatively modest experience and educational requirements, they are typically filled from the labor force already resident in the area around a shopping center. Only a few supervisory, management and ownership positions have experience and educational requirements that would attract workers from outside the area. According to the State Employment Development Department, jobs in the retail industry exhibit the following general characteristics:

- Many sales positions are part-time only with schedules of 20-35 hours per week.
- Although people are often hired on as a "temporary," retail's high turnover rate makes it likely that permanent positions will become available.
- Some sales jobs require detailed knowledge of the product, but most jobs do not require specific training.
- The average beginning sales job will require no more than a high-school education, which makes these jobs attractive to young people and those without advanced technical skills.
- Solid store experience can lead to an array of retail management and store support career ladders. Promotions are possible into managerial positions, such as assistant manager, department manager, or regional sales manager, but a college education is important for these positions.
- Wages typically fall within a range of \$8.42/hr. (25th percentile) to \$13.48 per hour (75th percentile), but those who work on commission in stores with higher-priced products and services can earn higher average wages.

The EIR section quoted is within the context of Section 6.0, Growth Inducement. CEQA merely requires a "general analysis" of projected growth. *Napa Citizens for Honest Government v. Napa County Board of Supervisors*, 91 Cal. App. 4th 342, 367-71 (2001). The EIR has provided an appropriate analysis given the nature of the proposed project. Refer to response to comment 9.40 regarding affordable housing.

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- 9.81 The Housing Element of the City General Plan notes at HE-122 that, “From 1980 to 1988, net in-migration was the largest component of population increase. However, in the early 1990s, 83 percent of San Diego’s population growth was due to natural increase. This shift was mainly due to the recession of the early 1990s which significantly slowed local employment growth. SANDAG’s 2030 forecast projects that natural increase will continue to be the primary component of population growth (about two-thirds), while net in-migration will account for the remaining growth.” As shown in this section from the General Plan Housing Element the majority of population growth in San Diego is the result “natural increase” in births over deaths and is not the result of additional housing units being built.
- The City General Plan Housing Element at HE-148 also notes that, “the SANDAG 2030 forecast projects that between 2000 and 2030 the overall demand for housing in the region will increase by 30 percent.” Housing development is a reaction to growth pressures and does not in and of itself increase population growth.
- The Adequate Housing Sites Inventory of the City General Plan Housing Element provides that up to 3,364 net housing units will be developed in the University Plan area in the years 2003 to 2010. This includes 1,158 units in review with plan amendments according to Table 29 at HE-211. “The Adequate Housing Sites Inventory is a Housing Element discussion required by state law. The inventory must demonstrate that the housing potential on land suitable for residential development is adequate to accommodate the City’s housing allocation of 45,741 total units over a seven-year period between January 2003 and July 2010.” The Westfield UTC residential project units have been included in the Adequate Housing Sites Inventory as a way for the City to accommodate the stated housing need in the Housing Element of the General Plan. The residential units included in the proposed project are therefore consistent with the City’s planning regime.
- 9.82 Development and operation of the proposed Project would produce a variety of economic and fiscal benefits in the immediate vicinity of the Project site, the City of San Diego, and the San Diego region. For example, as noted above, in response to Comment No. 9-80, 1,987 additional full-time and part-time jobs will be supported at the Project site by its annual operation, and that most of these jobs will be drawn from the labor market surrounding the site. This will be associated with about \$ 46.4 million in worker compensation (i.e., salary and benefits). In addition, the investment in Project development is estimated to support 7,834 direct jobs, including 6,476 direct construction jobs, according to analysis prepared by HR&A Advisors, Inc. Most construction jobs will also be filled by workers already located within the immediate labor market as discussed in the EIR.

COMMENTS

RESPONSES

9.82 cont.

The purchases of goods and services by construction contractors and the project's retail, dining and other tenants will generate second round (i.e., "indirect") jobs, compensation and general economic activity, some of which will support businesses in the community, as well as those elsewhere in the City of San Diego and the remainder of the San Diego region. Finally, the household expenditures by direct and indirect workers create a third round of (i.e., "induced") economic activity that will take place in the neighborhoods where workers reside, including the community surrounding the project site. A full description of the direct, indirect and induced impacts of the project can be found in the economic analysis prepared by HR&A Advisors, Inc. that is on file with the City.

With regard to the removal of physical barriers to growth, please see responses to comment 9.78 and 9.83.

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- 9.82 cont. Those statements are assumptions that are not backed up by any data within the DEIR. The DEIR is deficient because it does not address the impacts of growth that this project would create.
- 9.83 The DEIR says that the project may not “remove any physical barriers to growth” but what barriers would the project create? What does this mean? What are the physical barriers? The sentence is vague. This project is above and beyond the development of the adopted Community Plan. There is not significant land left allocated for development in this project area. This is a Plan Amendment request but the DEIR does not address that aspect.
- Pressure on local infrastructure, specially the streets and freeway on/off ramps in this project area already operate at an “F” service level, how can growth inducement not be directly affected? The DEIR is inadequate because it does not address these important issues.
- 9.84 The DEIR states (DEIR, Pg. 6-2) that “the proposed project would result in long-term, irretrievable losses of non-renewable resources such as fuel and energy.” It also states that an “incremental increase in energy demand would also occur during post-construction activities including lighting, heating and cooling of the proposed structures.” Only two paragraphs are devoted to these important topics in the DEIR, and the DEIR is deficient because it does not state what the specific amount of incremental increase would be due to the project. The DEIR does not define “incremental demands” nor does it define the regional or community repercussions of incrementally reducing “existing supplies of fuel oil, natural gas and gasoline.” These are very substantial significant irreversible effects and the DEIR must examine in detail and state the empirical findings. Without such findings cumulative effects of the proposed structures cannot be fully determined or reviewed.
- 9.85 The DEIR fails to adequately study, analyze, and present factually the water supply needed for the proposed project. Water is essential to our growing economy and quality of life. The City of San Diego imports approximately 90 percent of its water supply. Population growth has continued to push up overall water use and the City projects it could need 25 percent more water in 2030 than today. The City faces challenges of ensuring its water supplies are reliable and environmentally sustainable. The need to import water, including water transfers, may also have incidental or unintended effects on other California ecosystems. The DEIR is silent on these facts.
- Approximately 80 to 90 percent of all drinking water in the City originates from outside the State. Arizona and Nevada are approaching full use of their water allocations, thereby reducing the likelihood that surplus Colorado River water will be available for purchase by the Metropolitan Water District (MWD) and other California water users.
- Currently, 1.3 million people live in San Diego and use an average of 210 million gallons of water per day of potable water, and the City has long recognized the need to develop local water

- 9.83 The proposed project does not create barriers to growth nor does it induce growth. The proposed project does not create any essential resources necessary to induce population growth such as increased food supply or additional energy supplies beyond what the proposed project needs. Therefore the proposed project does not remove any physical barriers to growth.
- The proposed project increases the allowed density of uses within the community plan area. A community plan amendment is proposed for the project to make the project consistent with the amended plan. The proposed project provides a site plan to allow adequate land for the commercial and residential uses proposed. These uses and their placement have been analyzed thoroughly and consistent with CEQA in the EIR. The application for a Community Plan Amendment is addressed at pages 3-3 to 3-4 in the EIR.
- EIR section 5.3 provides a thorough discussion of traffic impacts related to the proposed project. In addition a Traffic Impact Study provided as Appendix B of the EIR provides the analysis of all impacted freeway ramps, street segments and intersections.
- 9.84 CEQA Guidelines Section 15126.2(c) requires that an EIR discuss “[u]ses of nonrenewable resources during the initial and continued phases of the project [that] may be irreversible since a large commitment of such resources makes removal or nonuse thereafter unlikely.” The example given by the Guidelines is “highway improvement which provides access to a previously inaccessible area. The EIR appropriately addresses the project’s long-term, irretrievable losses related to fuel and energy. Again, CEQA does not require an empirical analysis of the project’s use of irretrievable resources.
- 9.85 Potable water demand and the demand associated with each land use is quantified in Table 5.7-1 of the EIR. The information in this table has been updated in the Final EIR in response to the Water Supply Assessment issued by the City Water Department (and appended to the Final EIR). The proposed project will use reclaimed water from the North City Water Reclamation Plant for all irrigations uses. The existing project uses approximately 40,578 gallons per day (gpd) of potable water for irrigation use.. The proposed project will convert this irrigation usage to reclaimed water consistent with the City Council resolution encouraging the use of reclaimed water for customers adjacent to the reclaimed water delivery system. A review of specific water demands of the existing project, and each of the eight water supply scenarios was developed by Dexter Wilson Engineering and is provided as an attachment to the Water Supply Assessment (WSA) attached as Appendix M to the EIR. The report by Dexter Wilson Engineering also provides information relative to the use of LEED standards for water conservation. Please refer to response to comment 9.26 for a discussion of water supply.

9.85
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supplies to balance and reduce this dependence on imported water.³ A family of four typically uses 450 gallons of water per day. How much water would the proposed project use during and after construction? How much a day/month/year for commercial and how much a day/month/year for residential? The project will create the need for more water. The DEIR is silent on the City's goal to develop local water for commercial use as it relates to the proposed project.

The City has been delivering recycled water to customers for non-potable irrigation and industrial uses on a larger scale since the completion of the NCWRP (North City Water Reclamation Plant) in 1997. The North City Water Reclamation Plant total planned reuse by 2010 with completion of ongoing reuse projects is 9 MGD from the existing beneficial reuse currently of 6 MGD.

The DEIR addresses using the LEED certification program as part of the proposed project expansion. Cooling water for commercial air conditioning systems comprises the largest use of recycled water. Using recycled water for cooling is beneficial for the supplier as it typically has a more constant demand than landscape irrigation.

Resolution R-297487 passed by Council on December 9, 2002, authorized City staff to develop specific criteria to be applied in determining which particular properties would be required to use recycled water for suitable and approved purposes. New development that meets the proposed criteria would be identified in the tentative map approval process and required to use recycled water. The use of "dual plumbing" could be required of new buildings in excess of 55 feet in height, projected to have at least 800 occupants or encompass 80,000 square feet (Pg. 4-15, City of San Diego Water Reuse Study, March 2006). Dual-plumbed buildings, where recycled water could be supplied to toilets and urinals presents an opportunity for the applicant. The DEIR is silent on this issue.

6.1 Growth Inducement

9.86

The draft EIR's description of the growth inducing potential of the project is inaccurate and inadequate.

The draft states: "The land uses proposed for the project site are consistent with the land use designation in the University Community Plan (UC Plan) and the proposed commercial zoning (CR-1-1)." This statement is materially misleading. As the project applicant and its consultants are well aware, under the UC Plan development intensity is directly related to the infrastructure program established by way of the North University City Facilities Benefit Assessment (North

³ 'A Sept. 17 memo from the City Attorney's office described the implications of a recent District Court decision that would severely constrain San Diego's ability to get surplus water. The City Attorney offered the memo at the Council hearing for Monte Verde, but it should be equally applicable to UTC expansion. It stated that further CEQA analysis and re-evaluation of the future water supply would be necessary. The City, and Westfield, can no longer base their assumptions of water availability on San Diego's 2004 water study.' See Attachment #1

9.86

The current North University City Public Facilities Financing Plan and Facilities Benefit Assessment Fiscal Year 2007 (NUC 2007) plans infrastructure based on buildout of the *University Community Plan*. According to NUC 2007, remaining development in the plan is 1,878 multi-family residential units and 72,000 commercial ADTs. The additional impacts of the proposed project's traffic and infrastructure needs have been fully analyzed in the EIR, and mitigation measures have been proposed consistent with these impacts, as set forth in the Mitigation Monitoring and Reporting Program.

The comment does not specifically identify any findings allegedly made by the City that conclude that commercial development is growth inducing, or how any such findings relate to the characteristics of the project. The fact that there is more development in the vicinity of UTC today than when UTC opened in 1978 is not evidence that UTC caused this growth to occur. The comments attributed former Mayor Wilson notwithstanding, regional shopping centers are, by definition, population-serving rather than population-inducing. They are not an economic sector that exports goods and services outside the community, that in turn would drive its growth. They depend on an existing base of household population with threshold income characteristics, and reasonable projections of household and household income growth over time, which is caused by growth in population and the expansion of basic industries. In general, about 70 percent of shopping center sales come from the trade area surrounding the site. Investment in such development and loans for construction of such development are predicated on evidence of existing and reasonable projections that households will be present; they do not cause the households to occur.

The TIS does analyze the impact of the proposed project on the Nobel/I-805 interchange, the La Jolla Village/I-5 interchange, and Genesee Avenue from Nobel to SR 52. Project features are proposed to improve both freeway interchanges referenced. The TIS analyzes the proposed project both with and without the widening of Genesee. The widening of Genesee is currently included in the *University Community Plan*, although a Community Plan Amendment has been initiated by the City of San Diego to remove the widening. The proposed project does have significant impacts along portions of this section of Genesee Avenue, as described on page 5.3-20 through 22 of the EIR. These impacts would be mitigated to a level of less than significant if the City chooses to proceed with the widening as proposed in the current Community Plan. If the City chooses not to proceed with the widening and instead removes it from the Plan, the project's impacts on these segments would remain significant and unmitigated.

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UC FBA). (See Jones v. San Diego.) The UC Plan purposely limits development intensity of individual parcels so that overall at plan build out development in North UC does not overwhelm available transportation and recreational infrastructure. The North UC FBA pays for identified infrastructure projects by imposing assessments based on their development intensity. Nothing in the UC Plan or the North UC FBA provides for or finances the infrastructure needed to accommodate the 17,800 ADTs the project will generate. The impact of these additional ADTs is staggering. By way of comparison ALL of the remaining nonresidential development in University City will generate approximately 27,000 ADTs and 1,000 dwelling units.

Because the project goes well beyond the intensity limitations of the UC Plan it will necessarily require reconsideration of the infrastructure needs of the community and the projects financed by the North City FBA. Any such reconsideration and provision of additional infrastructure will inevitably induce further growth.

The draft states: "The economic growth associated with the expanded commercial space on the UTC property . . . would not trigger population growth or urban development which would have environmental consequences." This statement is simply not true. The city itself has consistently recognized in other areas of the city that this sort of substantial investment in commercial development does in fact trigger substantial additional development which in turn has substantial consequences. Indeed the history of the UTC property itself demonstrates the impact such a large development will have on an urban environment. When UTC opened in 1978, there was substantially less development in north UC than exists today. City officials, including former Mayor Peter Wilson, have consistently pointed to UTC as the trigger for the current level of development in North UC. Because the applicant proposes to double the size of the shopping center, it is clear that it will in fact trigger a whole new round of development.

The draft states: "The proposed project would not require the extension of public services, utilities or infrastructure to an area not already serviced by local utilities or services. It would not require extension of any roads." This statement is misleading. It does not analyze the likelihood that because of its impact on the Nobel/ Interstate 805 and La Jolla Village/Interstate 5 interchanges the project will require the widening of Genesee from Nobel to SR 52 and that the widening will in turn induce further growth.

Section 6.3.10 Recreation.

9.87

This entire section is vague, inaccurate, uninformative and non-committal. It fails entirely to meet CEQA standards for a project level EIR. The conclusion on p. 6-8 of no significant impacts upon recreational resources is not based on substantial facts.

p. 6-8: DEIR states the project will add up to 1,475 new residents? How is this calculated? Assuming the maximum 725 new residential units and any of the other alternative scenarios, what will the mix of unit sizes be?

9.87

According to the SANDAG's regional growth forecast, the average household in the North University City has approximately 2.02 persons each. SANDAG's forecast is based upon many factors, including census data per household. Therefore, the project's maximum 725 multi-family dwelling units would provide homes for approximately 1,465 people. The size and mix of the residential units will be part of the subsequent development review process outlined in the Master PDR, and will be based on the market demand at that time.

The General Plan standards for acreage for population-based parks varies between approximately 1.32 to 2.4 acres per thousand people. In order to meet the population-based parks standards for the maximum residential development of 725 units, the Master PDR identifies 4.1 acres of usable open space that may be provided on site, depending on the number of residential units developed. This includes 2.1 acres of Torrey Trail, which is privately owned by Westfield. Although Torrey Trail is identified as open space in the *University Community Plan*, it is not dedicated open space, nor is there a public easement. It remains in private ownership.

Part of the current approval will be to grant a permanent public recreation easement over portions of the Torrey Trail land use district and/or the other identified spaces on the UTC property to satisfy population-based park requirements based on the number of residential units developed. In addition, Westfield will retain the obligation to improve and maintain it for public park or open space purposes.

- 9.87 cont. p. 6-8: DEIR proposes to satisfy population-based park requirements by providing on-site park improvements associated with the “Torrey Trail” district. What is the justification for satisfying the requirement for new parks by taking away open space that was already used for approval of the existing development? This is robbing Peter to pay Paul.
- How do a tot-lot and park benches and lighting mitigate for both project-specific impacts and the cumulative impacts of thousands of new residents on recreation resources?
- 9.88 P. 6-8 lists four population-based parks within 1.5 miles of the proposed project site. What will be the project impacts and the cumulative impacts on each of these recreational facilities of all project increases in the residential population? The DEIR also fails to address the impacts in light of the fact that the City’s recreation centers are closed much of the time on evenings and weekends. How do these facilities meet the recreational requirements when they are not open much of the time many people are most likely to use them?
- 9.89 The DEIR states that the applicant would be responsible for constructing, operating and maintaining the on-site recreation facilities. How can a privately owned area satisfy public population-based park requirements? Given that the applicant is applying to divide the project area into 36 separate parcels, what is the guarantee that this private park will continue to exist and be maintained?
- 9.90 The University Community Plan (p. 236) states, the area has only 90.6 acres of the 138 acres of population-based park it should have for the proposed population (58,263) – only 60% of the total. The EIR needs to identify NEW park acreage and explain how the land will be acquired and developed. In addition, the EIR needs to analyze the park shortfall in light of the cumulative impacts from all projects approved or proposed that would add more residents than are identified in the community plan. This includes but is not limited to: Monte Verde, La Jolla Crossroads, La Jolla Commons, and any others that have received approval for or are proposing more residents than in the plan.
- 9.91 How would the tot-lot, park benches and landscaping or “other park-like features” that the DEIR lists the Torrey Trail area “could include” satisfy the project’s population-based parks requirements? What specifically will be done? Saying something could be done is meaningless.
- The DEIR states that to implement these improvements “may require regrading” of the area but fails to describe the impacts of this or whether it would be allowed. The DEIR also fails to analyze the direct and cumulative impacts of these on-site park improvements on the existing nearby residential areas, including noise, lighting and community character and aesthetics.
- 9.92 **7.0 Cumulative Impacts**
- An EIR must discuss cumulative impacts of a project when the project’s incremental effect is cumulatively considerable. CEQA Guidelines § 15130(a). “Cumulative impacts” are defined as

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- 9.88 As discussed in EIR Section 6.3.9 and response to comment 9.87, no significant park impacts would occur. Each year the City Council completes a budget for the Park and Recreation Department. This budget determines the hours that parks and recreation centers are open during the year. Hours of operation are not controlled by this project.
- 9.89 The *University Community Plan*, as noted in response to comment 9.87, states at page 225, “Open space can also include urban areas such as developed parks, private recreational facilities, plazas or malls.” The continued maintenance of the privately maintained recreation area would be maintained by Westfield in accordance with the public recreation easement to be recorded over any public park improvements constructed on site.
- 9.90 According to the Open Space and Recreation Element of the *University Community Plan* (page 225), “Open space can also include urban areas such as developed parks, private recreational facilities, plazas or malls.” For that reason, portions of the University Towne Center development qualify as open space recreation areas because UTC provides a place for both active and passive recreation. At the time the Community Plan was adopted in 1987, there may have been a shortfall of park space. However, since that time, more than 42 acres of new park space has been developed (i.e., Doyle Community Park and Recreation Center, 18 acres; Nobel Athletic Area, 24 acres).
- Furthermore, the page 4:28 of the Master PDP identifies up to 4.1 acres of new public park space to satisfy population-based park standards. This acreage exceeds the amount necessary for the maximum residential development scenario of 725 residential units. See response to comment 9.87 for further discussion of the population-based parks.
- 9.91 As discussed in the EIR (page 6-8), the applicant would seek community input on the specific types of recreation within the Torrey Trail district, in accordance with Council Policy 600-33 “Community Notification and Input for City-wide Park Development Projects.” Therefore, exact design of this area is unknown at this time. It was assumed that the Torrey Trail district would include recreational uses and required lighting, etc., therefore it is incorporated throughout the EIR analysis of noise, lighting and community character/aesthetics.
- 9.92 Cumulative impacts are analyzed in Section 7.0. As no specific reference regarding the adequacy of the EIR is identified, no further response can be made.

9.92
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“two or more individual effects which, when considered together, are considerable or which compound or increase other environmental impacts.” Id. § 15355(a). “[I]ndividual effects may be changes resulting from a single project or a number of separate projects.” Id. A legally adequate cumulative impacts analysis views a particular project over time and in conjunction with other related past, present, and reasonably foreseeable future projects whose impacts might compound or interrelate with those of the project at hand. “Cumulative impacts can result from individually minor but collectively significant projects taking place over a period of time.” Id. § 15355(b). The cumulative impacts concept recognizes that “[t]he full environmental impact of a proposed . . . action cannot be gauged in a vacuum.” *Whitman v. Board of Supervisors* (1979) 88 Cal.App.3d 397, 408.

Cumulative Traffic Impacts

The DEIR’s cumulative traffic analysis appears to assume the implementation of several roadway and freeway improvement projects, yet provides no evidence that these will be operational prior to buildout of the region’s land use projects. Indeed, the DEIR essentially admits that I-805 and freeway ramp improvements would not be implemented until after build out of the Project. DEIR at 7-4 and 7-5.

Importantly the DEIR substantially understates the cumulative impact to the region’s freeways and interchanges because the geographical size of the study area is artificially limited. The DEIR explains that the expanded UTC shopping center is intended to attract shoppers from the entire region, not just the University City community. DEIR at 5.1-22. Moreover, traffic from the cumulative projects listed in the UTC DEIR— including especially traffic from the UCSD Long Range Development Plan’s ten million square feet of development – would certainly travel north of the I-5/I-805 interchange and south of SR-52.

Traffic from the UTC Project along with traffic from the cumulative development anticipated in the region will overwhelm area freeways. The revised DEIR must identify each freeway segment, ramp and interchange that would be significantly impacted by the UTC Project, together with other planned development, analyze the impacts, and identify feasible mitigation.

Cumulative Visual and Community Character Impacts

A dozen major land use projects are proposed in the vicinity of the UTC Project. DEIR Table 7-1 and Figure 7.1. Each of these projects would undoubtedly change the underlying character of the community yet. The DEIR fails to describe how the entire community will look once all these projects are constructed. The DEIR recognizes that a few other projects in the vicinity – La Jolla Commons and Monte Verde – would affect the area’s visual character. However the draft EIR fails to describe how the University City area would look upon buildout of the UTC Project together with these other projects.

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9.93

The EIR acknowledges that the proposed project will generate an additional 17,800 average daily trips (ADT) as a result of the project. The EIR acknowledges and discloses significant impacts to roadway segments, roadway intersections, and freeway segments and provides mitigation measures to address those impacts. Freeway ramps would remain unmitigable even though the project applicant has proposed improvements to increase queue storage within affected ramps. These improvements were inadvertently identified as mitigation in the Draft EIR but have been clarified as project improvements in the Final EIR (see pages 5.3-54 and 55 of the Final EIR). The EIR discloses that with mitigation and project improvements in place there will continue to be significant and unmitigable impacts to roadway segments, freeway ramps and freeway segments.

As acknowledged in the Traffic Impact Study (page i), “[t]he methodologies used were conservative and may overstate the project impacts.” These conservative methodologies included:

- The use of the Series 9 versus the Series 10 traffic forecast model to evaluate the project. In a comparison of Series 9 versus Series 10 models the results indicated the Series 9 Model (overall) was approximately 16% higher than the Series 10 Model. The Series 10 Model is based solely on Community Plan land uses. There are numerous planned Community Plan Amendments (CPAs) in the University Community that would result in higher density and traffic. The Series 9 Model was calibrated to include such developments, including the Monte Verde project (at a much greater density than was ultimately approved), and therefore represented higher volumes (*see* June 20, 2005 memorandum from Walter Musial at LLG to City of San Diego in EIR Appendix B).
- The forecast Model assumed a conservative transit network. The Model was based on the current transit network with no planned improvements. The “Reasonably Expected Revenue” or “Mobility 2030” networks were not assumed and account for major transit improvements, particularly in the University City area.
- No transit reduction was applied to the retail trip generation, despite a regional transit center on site and planned future transit improvements.
- A new driveway is proposed, yet project trips were still assigned to the existing driveways only.
- Traffic generation rates used by the City of San Diego are typically more conservative than those utilized by the Institute of Transportation Engineers (ITE).

Therefore, the traffic numbers provided in the EIR are the most conservative estimates and are meant to provide a “worst case scenario” analysis for decision makers.

9.93 cont.

The project has been designed and planned consistent with approved growth plans including the Strategic Framework Element of the City of San Diego General Plan (Approved by the San Diego City Council through resolution R-297230) and the San Diego Association of Governments (SANDAG) Regional Comprehensive Plan approved by the SANDAG board in July of 2004. Both strategies focus on the development of mixed use urban nodes that combine housing, employment, shopping, recreation and public services near transit hubs. The City of San Diego Strategic Framework Element revolves around the “City of Villages” strategy which focuses on the development of diverse village centers around the City. A key policy of the “City of Villages” is to “focus more intense commercial and residential development in new or redeveloped mixed-use village centers in a manner that is pedestrian-oriented and preserves the vast majority of single-family neighborhoods (page 31).” In addition the City of Villages seeks to, “Design and locate mixed-use centers, civic uses, and neighborhood and community commercial uses to be accessible by foot, bicycle, and transit, in addition to the car (Page 42).” The project is designed to be consistent with the smart-growth policies approved by the City Council and embodied in the Strategic Framework. Through higher density development in an already urbanized area, the City has determined that single-family neighborhoods and open space areas will be protected from the over consumption of land.

In addition, “The City of Villages is designed to complement and support other long-range, growth-management strategies in the region. The City continues to work closely with the County of San Diego and regional planning entities, including the San Diego Association of Governments (SANDAG) and the Metropolitan Transit Development Board (MTDB) (page 17).” The SANDAG Regional Comprehensive Plan similarly supports the integration between development and transit as a way to better achieve regional success in managing traffic and urban sprawl. SANDAG has targeted the North University City area as an existing, planned, and potential Urban Center, on the Smart Growth Concept Map. An Urban Center is defined by SANDAG’s fact sheet entitled “Mapping Smart Growth in the San Diego Region,” as including mid- and high-rise residential, office, and commercial buildings; medium to high levels of employment; draws from throughout the region with many from the immediate area; and is served by transit lines. The project is consistent with the elements of a project in an Urban Center.

Although the project EIR acknowledges the continuing traffic problems caused by additional traffic trips attributed to the project, the City of San Diego has decided to follow specific growth strategies that may trade specific impacts in one area for regional benefits in other areas.

As it relates to traffic, the SANDAG Regional Comprehensive Plan (Executive Summary page 21), notes that the strategies in the plan, “may not be able to reduce traffic in the short run, but it will give us more ways to avoid it over the long haul by providing other travel options. It will give us more housing styles to choose from. It will give us more opportunities to live and work in the same neighborhood. By saving more land for habitat, the RCP will help us leave a greater legacy by safeguarding the future for our children and grandchildren.”

9.93 cont.

Creating compact, mixed-use village areas also provides the density necessary for public transit to be successful. The proposed project mixes shopping and residential uses and integrates those uses with a major on-site transit center. This type of development, although uncommon in the past, is the type of development that is desired by the City's City of Villages and The SANDAG Regional Comprehensive Plan. As stated in SANDAG's Regional Transit Vision document, "The moderate to higher density, mixed-use villages will be a major factor that shapes the conceptual transit network. Depending on their size and density, these village centers will become destinations of the Yellow and Red Car transit networks. The centers will be the focal points of the Green Car routes, where passengers will transfer to and from the high-level services (Page 14)." The Regional Transit Vision finds that "Transit-oriented land uses are critical to maximize the number of people with access to transit. Local jurisdictions must establish neighborhood and community centers with a mix of retail, office, service and residential uses (page 25)." And although higher density village centers are likely to see increased traffic in the short run, the increased integration between transit and pedestrian mobility will reduce traffic in the long-term as attitudes about transit change, land use and transit are better integrated and investments are made in the public transportation infrastructure of the area.

One such Transit First project that implements the Regional Transit Vision in the University City area is the Super Loop shuttle system. The Super Loop is proposed to provide high speed, local service to residents and workers in the UTC area. The UTC transit center is planned as a major destination stop on the Super Loop route. The Super Loop depends on the higher densities of the University City area to succeed in getting people to walk to upgraded stations to take the super loop instead of using their cars. According to Frequently Asked Questions section of the SANDAG web site on the Superloop (http://www.sandag.org/programs/transportation/public_transit/superloop/faqs.asp#32) the "traffic pattern studies show that 60percent of vehicles traveling in University City make internal trips. The Super Loop is expected to reduce the number of vehicles on the road by absorbing the traffic created by internal travelers." High density centers of office, commercial and residential uses is necessary to make this system viable.

The density of the project and the facilities provided by the project will support pedestrian and bicycle use of the area. The project will improve the network of pedestrian bridges connecting the center to adjacent residential, office and commercial centers. These pedestrian bridges will also link the on-site transit center to those uses and allow for enhanced transit ridership from residents in the area. The center will also activate the major streets bordering the shopping center to enhance the pedestrian experience and reduce the auto-oriented nature of the current shopping center and surrounding development.

9.93 cont.

The project trade area is defined by Interstate 8 on the South, State Route 78 in the North, the Pacific Ocean in the West, and Interstate 15 to the East. The project is anticipated to shorten trip lengths for shoppers who would typically bypass UTC or travel longer distances to other malls like Fashion Valley, North County Fair the Carlsbad Outlets, or shopping centers in Orange County. Shorter trips equate to reduced traffic on the regional freeway system and reductions in air pollution emissions, and global warming impacts. These are the desired results of development strategies in the Strategic Framework Element of the General Plan and the Regional Comprehensive Plan that the project implements. Therefore, although localized impacts may occur from the project, there are long term regional benefits associated with employing smart growth strategies of linking residential and commercial development with transit in established urban centers.

The California Energy Commission has also stated that “transportation accounts for 41% of California’s 2004 total greenhouse emissions; gasoline use alone accounts for 27% of the 2004 total.” Therefore according to the CEC the reduction of vehicle miles traveled (VMT) is a primary goal for how to reduce greenhouse gas emissions in the State.

The CEC’s June 2007 report *The Role of Land Use in Meeting California’s Energy and Climate Change Goals*, states that “most urban growth over the last 30 years has been characterized by travel-inducing features; low-density, a lack of balance and accessibility between housing, jobs and services (P.7)” and that, “density may have the most profound effect on travel and transportation outcomes, with higher density reducing vehicle miles traveled (P.1).” Density provides an ability for housing to be built in close proximity to mass transit, commercial development and job-centers, thus lowering commute times, and providing transportation alternatives to the automobile. The project places housing in a jobs-dense region, and will provide an opportunity for workers employed in the City to live closer to their work and to reduce their total vehicle miles traveled. Therefore, although there are new automobile trips assessed to the project, the higher density housing and mix of land uses on the site, may reduce overall vehicles miles traveled and provide additional benefits which provide an overriding policy basis for increased density on the site.

The cumulative traffic analysis assumes the implementation of the circulation element of the *University Community Plan*, with funding and timing based on the North University City FBA. Where there is no timing and the improvements are not secured financially, the EIR concludes that impacts would be significant and unmitigable; see response to comment 9.60. Please refer to response to comment 9.31 for a discussion of the geographic limits of the traffic study area. The Traffic Impact Study and EIR both present the cumulative impacts on freeway segments, ramps and interchanges as suggested in this comment. In fact, Figure 5.3-5 illustrates the locations of the direct and cumulative traffic impacts, including freeway segments, ramps and interchanges.

COMMENTS

RESPONSES

- 9.94 Cumulative aesthetic impacts are discussed on page 7-3 of the EIR. The project site is located in the urban core of the University Community. All of the projects proposed in the community are a continuation of the urban character that already exists and is anticipated in the Community Plan. Within the urban core, there are currently 15 office towers or hotels that are 10 or more stories in height. In the future, new towers are approved or under construction at the La Jolla Common property and at the Monte Verde site. When combined with the towers proposed on the UTC project site, the bulk and scale of the community would increase over time. Although proposed urban development would continue to change the aesthetics of the community, it would not be considered cumulatively significant because there is no established architectural pattern, no community landmarks would be impacted, no scenic views would be blocked and light reflectivity would be kept to minimum pursuant to the SDMC. For these reasons outlined in the City EIR significance thresholds, the cumulative analysis presented in Section 7.2.1 of the EIR focuses on the bulk and scale impacts of development in the community, which would be exceeded by the project and some of development projects in the area.

- 9.95 **Cumulative Land Use Impacts**
- The DEIR concedes that the UTC Project would not be consistent with the Community Plan's development intensity planned for the site. DEIR at 7-6. Nonetheless the DEIR boldly concludes that the cumulative land use impacts would be less than significant. If the level and intensity of the UTC Project is inconsistent with the Community Plan, the draft DEIR have no basis upon which to conclude that the intensity of other projects will be consistent. The revised DEIR must actually evaluate the consistency of each of the projects listed in the cumulative impacts chapter with the Community Plan.
- 9.96 **Cumulative Noise Impacts**
- The DEIR's purported analysis of cumulative noise impacts merely states that "[t]he noise-sensitive receptors potentially affected by the UTC Revitalization Project would not also be affected by other projects proposed in the area due to distance from those sites." DEIR at 7-8. Given the proximity and size of the Monte Verde project this statement is simply not accurate.
- 9.97 **8.0 Alternatives**
- The EIR must describe a reasonable range of alternatives that could feasibly attain the basic objectives of the project while avoiding or substantially lessening the significant impacts of the project upon the environment. The 11 project objectives are appropriately stated clearly and listed up front in section 8.0 Alternatives. The objectives are the goal of the project action. Several of the project objectives raised questions that may be relevant to the alternatives analysis, or be relevant to the analysis of other sections of the EIR.
- 9.98 **Objectives - Questions raised (pp. 8-1-8-2):**
1. Objective 2-create land use districts that will provide applicant with flexibility of land use within each district based on changing market demand. A mixture of retail, residential, hotel and/or office uses would be possible in each district according to market demand. The Community Plan has, since 1987, designated the land use on 75.35 acres (1,061,000 sq. ft.) at University Towne Center as Regional Commercial (p. 170). **What is the purpose of changing land use to also include residential dwelling units? Is there a need for more residential housing?** There are legitimate concerns that Substantial Conformance Review will be used. We would object to a process that would keep the public out of any meaningful input into UTC development. **What process is proposed for making the public aware of proposed changes based on the market, and what public input and formal approval processes will exist?**⁴

⁴ A Westfield mailer, "imagine the new utc" [sic], includes a disclaimer along with its attractive graphics and exhortory text: "We reserve the right, at our sole discretion, to vary the plans for the center at any time." It is this same "sole discretion" that reinforces our concerns about stifled public input regarding this project.

- 9.95 The *University Community Plan* contains a Development Intensity Element which provides thresholds that identify the maximum allowable intensity for properties. The purpose of the element is to allow development within the projected traffic capacity, based on the adopted circulation element of the *University Community Plan*. Whether a project site was developed or approved for development at the time of the plan adoption affects the maximum intensity stated in the plan. For some sites the maximum intensity is expressed as the existing or approved development, for others the maximum is stated in square feet per acre. It should also be noted that the *University Community Plan* acknowledges that projects uses and/or intensities may be proposed that differ from those in the Land Development Intensity Element, and that such projects would require a community plan amendment.

In 2005, the City Planning Commission held workshops to review the proposed plan amendments in University City. As part of those workshops, the City identified specific issues related to proposed amendments in the Urban Node and set forth design guidelines for development and criteria for plan amendments to ensure integration of the development proposals in the Urban Node. Those design guidelines and criteria include mixed-use development, integration with transit, improvements to the pedestrian network, and traffic circulation.

Of the 13 development projects proposed in the UTC area listed in Table 7-1 and shown in Figure 7-1, three of them propose community plan amendments to change the land use designation and/or the development intensity table: Monte Verde which was approved in September 2007, Equity Office which was initiated in 2001 and Regency which was initiated in 2004. The other development projects listed in Table 7-1 and Figure 7-1 do not conflict with the environmental goals of the Community Plan, would be consistent with the development intensity in the Community Plan, would not be incompatible with the adopted Community Plan, would not convert designated open space to a more intensive land use, or be incompatible with the MCAS Miramar land use plans, cumulatively significant land use impacts were not identified in Section 7.3.1 of the EIR.

- 9.96 The cumulative noise analysis referenced in the EIR page 7-8 refers to construction impacts. The cumulative noise analysis takes into account construction noise that could be generated by all the related projects listed in Table 7-1, including Monte Verde. The City acknowledges the possibility that both the proposed project at UTC and Monte Verde could be under construction at the same time. However, cumulative noise impacts were not identified as significant in the EIR because: 1) construction noise from both projects would have to comply with the hourly Leq noise limit of 75 dB at the property line in the City noise ordinance limit, 2) construction noise from both sites would be masked by the louder road noise produced by

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9.96 cont.

traffic along Genesee Avenue and La Jolla Village Drive, 3) the closest noise sensitive uses (residences) adjacent to their common boundary (i.e., Genesee Avenue) are over 1,000 feet away and 4) the combination of ambient traffic noise and distance prevent any cumulatively significant construction noise effects.

9.97 Comment noted. As no specific reference regarding the adequacy of the EIR is identified, no further response can be made.

9.98 The City General Plan Housing Element at HE-148 notes that, “the SANDAG 2030 forecast projects that between 2000 and 2030 the overall demand for housing in the region will increase by 30 percent.” The addition of housing in the project area will meet the projected demand for housing in the San Diego region cited in the Housing Element of the City General Plan.

The proposed project has been designed and planned consistent with approved growth plans including the Strategic Framework Element of the General Plan (approved by the San Diego City Council in resolution R-297230) and the San Diego Association of Governments (SANDAG) Regional Comprehensive Plan approved by the SANDAG board in July of 2004. The Strategic Framework Element revolves around the “City of Villages” strategy which focuses on the development of diverse village centers around transit hubs. According to the Strategic Framework, “a village is defined as the mixed-use heart of a community where residential, commercial, employment and civic uses are all present and integrated...Individual villages will offer a variety of housing types affordable for people with different incomes and needs. Over time, villages will connect to each other via an expanded regional transit system.” The proposed project provides all aspects of village development envisioned by the approved Strategic Framework plan including residential units. The inclusion of residential units in the proposed project is consistent with the growth policies of the City.

Refer to response to comment 9.11 regarding a discussion of the SCR process.

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- 9.99 2. Objective 3-develop commercial space in "a comprehensive and economically feasible manner," to allow commercial tenants to be competitive in their changing marketplace. **What are the standards for economic feasibility? What shopping centers are considered to be the main competitors?** The developer acknowledged at a Sept., 2007 UC Planning Group meeting that Westfield has in mind Fashion Valley as a prime competitor. We will proceed in our comment assuming that Fashion Valley is UTC's primary competitor. **Why is the current size of UTC Mall (1.061 M sq. ft.) economically infeasible?**
- 9.100 3. Objective 4-create an improved street presence by removing the existing landscaped berms, and placing buildings on the perimeter. **What exactly is an "enhanced street presence?" Why is it a positive result? How is removal of the berms, congruent and aesthetically compatible with the Superblock concept embodied in the University City Plan that has been implemented in the rest of University City with green berms on the periphery, and setbacks that place the large buildings in the middle of the block, not on the periphery?** The berms block noise from the UTC Mall. **Why are there no studies of the impact that removal of the berms will have on ambient noise at UTC?**
- 9.101 4. Objective 5-introduce residential use in the shopping center to minimize local trips and encourage transit use. **What are the standards for success of minimizing local trips? How will residency in the shopping center encourage transit use, and public transportation that currently is so little used by local residents in UTC, and in San Diego as a whole where car culture currently prevails.**
- 9.102 5. Objective 6-reserve a right of way for a transit center to support transit-oriented development in UTC. **Does "development" refer to development of transit facilities, trolleys etc. or the residential development proposed in this project? What consideration has been made of phasing the residential development and the plans for transit development?** The concern expressed here is about transit enhancements being in place to serve UTC shoppers and/or residents. **What types of transit development are assumed?**
- 9.103 6. Objective 9-offer goods, services, dining and entertainment options that promote extended stays at the center thereby reducing peak hour commute trips to the project area. This objective acknowledges the intent to push UC retail from a Neighborhood Commercial Retail focus, increasingly toward a Super Regional Mall function. People who do not live or reside in University City will also be attracted by these same offerings to come to UTC, thereby increasing the number of vehicles coming to UTC at evening rush hour, particularly on the freeways.. **Has there been traffic analysis of this incoming traffic effect? Is it assumed that the reduction in resident trips that might occur at peak hour to shopping and entertainment centers, will not be more than offset by trips made by workers and residents from all the areas into the project area to shop and dine and be entertained? Is there any evidence to support that assumption? Has the economic impact of UTC expansion on other retail areas in UC been considered?**

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- 9.99 As discussed by the commenter, the Fashion Valley Mall, as a super-regional shopping center in the County of San Diego, is a primary competitor. Other competitors include a variety of shopping centers in San Diego County, such as Westfield Mission Valley and the Forum Shops in Carlsbad. Competitors also include shopping centers in Orange County with a significant draw from Northern San Diego County, such as South Coast Plaza and Fashion Island.
- "Economically feasible" generally means that a project is capable of generating a return on investment that is commensurate with the level of risk involved in its development and operation. Economic feasibility is measured in different ways for different kinds of real estate products. The EIR does not state that the current size of the UTC is economically infeasible, as the comment suggests. Rather, the reasons that the project is being proposed include the need: (1) to refresh the center's retail mix and physical facilities to respond to changing consumer tastes and demands; (2) to improve the physical operation and appearance of the center and enhance the customer experience; (3) to respond to the specific space challenges as opportunities associated with the closure of the Robinsons-May store and the needs of the other anchor department stores that attract most of the center's customers and (4) to accomplish all of the objectives listed in the EIR.
- 9.100 Please refer to response to comment 9.12 for a discussion of the positive effects of berm removal on street vitality and enhanced street presence. As noted in that response, the superblock development pattern is a problem that the UCP policies are trying to overcome.
- Berm removal would not cause an increase in noise exposure to the interior of the UTC site because the retail buildings that would be placed along the street yard to enhance pedestrian access and street vitality would also attenuate (reduce) noise exposure by providing a physical barrier between the roads and future development. In addition, any residential units would be situated within towers above a base of retail development such that they would be set back from and elevated above the road noise. Any useable open space areas for the residences would be situated behind the street-level buildings and not exposed to elevated noise levels. Likewise, the buildings on the perimeter of the UTC project would block any interior noise from emanating beyond the property line to off-site areas.
- 9.101 Please refer to response to comments 9.38, 9.41 and 9.93 regarding the potential use of transit by future residents and how that achieves the referenced project objective. Success will be measured by compliance with established growth policies.
- 9.102 Transit-oriented development is typically mixed-use development such as the proposed retail, residential and office uses, that maximizes access to transit. As noted on page 3-19 of the EIR, the transit center would be relocated and constructed in the first construction sequence, whereas the residential would be constructed in the third sequence of construction. Besides the larger transit center, it is the responsibility of the regional transit agencies (i.e., MTS, SANDAG and NCTD) to expand the transit opportunities available at the UTC site, not in the applicant's control. Please refer to response to comments 9.13 (regarding future transit improvements planned in the community) and 9.69 (for additional discussion about the transit center phasing).

9.103 The *University Community Plan* (Figure 33) designates the University Town Center property as Regional Commercial. The UTC mall has never had a “Neighborhood Commercial focus” asserted by the commenter and is instead classified in the Community Plan as Regional Commercial. Page 195 of the University Community Plan states: “The distribution and location of commercial functions for the community are detailed in Figures 32 and 33. The implementation of the land uses shown in Figure 33 will help to balance the commercial land inventory within the community. The Plan recognizes the continuing role of the community as a major regional commercial retail and commercial office center, by designating sufficient land for those purposes.” As noted above, Figure 33 designates UTC as Regional Commercial. The Regional Commercial designation assumes that trips to the project will be generated from outside of the immediate community.

As described on page 5.3-17 of the EIR, the traffic generation estimates were developed based on the City Trip Generation Manual, assuming “regional retail” and “multi-family residential” land uses. The project traffic distribution is shown on Figure 5.3-2. The traffic analysis considered trips coming into and leaving the proposed project. The traffic analysis includes a reduction in trips as the proposed project is considered a community mixed-use as permitted by the City’s TIS Manual. The term “community mixed-use” is used in the analysis to describe a community of diverse and compatible land uses emphasizing a pedestrian-oriented environment and reinforcing alternative modes of transportation while not excluding automobile use. As noted on Page 23 of the Traffic Impact Study, a 10 percent community mixed-use reduction in project ADT was applied due to the mixed-use nature of the project, and a 5 percent transit reduction in residential ADT was applied due to the on-site transit center. As shown in Table 5.3-7 of the EIR, the community mixed-use reduction amounts to 2,295 ADT for the retail, and 150 for the residential, for a total reduction of 2,445 ADT. This community mixed-use reduction represents a small percentage of total traffic, and would not offset trips made by project employees and community members to the proposed project. However, the applicant hopes to capture peak hour trips from surrounding office/employment areas by enticing them to stay in the area longer by expanding their entertainment and restaurant offerings.

According to CEQA Guidelines 15131, “Economic or social effects of a project may be used to determine the significance of physical changes caused by the project.” The University Towne Center is an existing retail center that would be expanded and revitalized. No other department-store anchored regional retail centers exist within the University Community. Although new retail uses that would occupy the expanded University Towne Center are unknown at this time, it is expected that they would be similar in nature to those already existing at the center.

As the existing University Towne Center does not have an economic impact on local commercial centers resulting in the physical change of the environment, the expansion is likewise not expected to cause an economic impact resulting in a physical change of the environment.

9.104

7. Implement a green building program under the LEED certification process. There is currently no LEED certification for neighborhood commercial developments. Westfield is going to be part of a "pilot project" to create one. It appears that Westfield has announced that it will be LEED certified at the basic level. Basic is pretty basic. The City of SD requires its new city buildings to be LEED certified at the higher Silver level (gold and platinum are yet above that) – which means getting more points on the rating scale for things you incorporate into your project. (For example the new library nearby UTC is rated "Silver.") **What were the considerations and justification for the project not choosing a more stringent level of certification?** The Draft EIR needs more description of the LEED levels and certification process. **Where are the definitions of such certification in the EIR?** Also, a big weak link in the LEED system is verification and monitoring. This is primarily a self reporting system to get your certification, and there are judgment calls involved in terms of whether you have qualified for various points in the rating system. Also, once people occupy the buildings, they may well undermine what you have done – i.e. paint with more toxic paint, put in space heaters for employees, etc. **How does Westfield plan to obtain and maintain its LEED Certification? Does Westfield plan to incorporate LEED certification into any residential component?** Westfield also promoted UTC enhancement as "a green vision for the new UTC" and co-sponsored the *San Diego Green 2007* conference. **Doesn't the lowest level of LEED certification merely reflect contemporary building and usage practices that are practiced elsewhere in developing shopping centers, and should be reasonably expected in 2007?**

9.105

8. Provide a range of "for sale, market rate housing, including required affordable housing on site." The developer has said the market will dictate whether for sale, rental or a mix of housing will be available. **Why does this stated objective not include rental housing?** There is a broad range of available housing in UTC housing market, from moderately priced rentals and condos to luxury properties. **What particular market is being targeted? Is there existing or planned housing in UC that would be comparable, if so, what is it? Will the affordable housing reflect the proportionate range of housing choices that will be made available in the residential buildings?** E.g. Monte Verde residential towers just across Genesee have proposed to offer the same proportion of 1-, 2-, and 3-bedroom units as affordable rental housing as the proportions of luxury units for sale in the development. **Are lofts planned in the affordable units and may they be converted into bedrooms?** These loft → bedroom conversions can create more dense housing occupancy than that presented the local Planning Group or public.

9.106

Alternatives Analysis.

Section 8.1 Alternatives Considered But Rejected

S. 8.1.1 Relocated Parking Garage Alternative- this alternative was proposed to "minimize potentially significant aesthetic impacts of placing large parking garages adjacent to two highly traveled public roadways, La Jolla Village Drive and Genesee Avenue." However in other sub-

9.104

Implementation of LEED standards is not a City of San Diego requirement of the proposed project. The applicant is pursuing LEED certification as a separate and distinct procedure from the requirements of the City of San Diego Municipal Code. The City of San Diego does not require LEED certification as part of the project approval process.

The level of LEED certification achieved by the proposed project cannot be ascertained due to the fact that LEED certification at the final stage is provided after construction of the proposed project is completed. As noted by the commenter, the proposed project has been accepted as a pilot project in the LEED for Neighborhood Design. The LEED program is administered by the U.S. Green Building Council, which sets standards and determines certification ratings. The City of San Diego does not administer this program and cannot comment on the level of certification being sought by the proposed project. Information about the LEED-ND program and the rating system used can be found at <http://www.usgbc.org/ShowFile.aspx?DocumentID=2845>.

As noted in the EIR at page 3-14 and 3-15, "To reduce utility loads, the project applicant proposes to implement a green building program, designed to increase resource efficiency and sustainability (Westfield Corporation 2007). The project applicant intends for UTC to be a facility that achieves a high degree of sustainability through the use of high performance architecture, low energy systems, renewable power generation on site, sustainable landscape and water conservation. The project applicant intends to achieve a high certification within the LEED Green Building Rating System, which is the nationally accepted benchmark for the design, construction, and operation of high performance green buildings. The proposed project has been accepted as a LEED-ND (Neighborhood Development) pilot project by the U.S. Green Building Council. The LEED-ND pilot program integrates the principals of smart growth, new urbanism and green building. The project applicant has generated sustainability strategies for the redevelopment of the UTC shopping center, including those associated with landscape, lighting, electrical, structural, and HVAC systems. Landscape strategies would include the use of reclaimed water, as well as xeriscaping and use of drought tolerant native plant species. Lighting strategies may involve the use of natural daylight and photosensors to optimize use of daylight. Electrical strategies may include generation of the electrical load on site from renewable sources (e.g., sun) and incorporation of high-efficiency appliances. Structural strategies may include the use of recycled steel and concrete. HVAC strategies may involve the incorporation of natural ventilation, implementation of thermal zoning and providing a central plant for heating and cooling. More discussion of the UTC green building program is provided in Sections 5.4, *Air Quality*, 5.7, *Public Utilities*, and 5.8, *Water Conservation*," of the EIR.

Additional LEED project components proposed by the applicant can be found at page 5.4-38 and 5.4-39 of the EIR. LEED certification is a standard that exceeds California Title 24 standards for energy efficient construction, and therefore exceeds contemporary building and usage practices. Please refer to response to comment 9.39 for a discussion of LEED certification and the sustainability measures that would be incorporated into the proposed project.

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9.105 The market for condominiums or other residential units fluctuates over time. At present, the region is experiencing a softer market for condominiums available for sale than in recent years. By historical standards, prices for condominiums remain high. It is impossible to predict with certainty the future market for condominiums or other residential units. It is clear, however, that over the long term, there is significant demand for residential units in the region generally, and in the University City area in particular. The project objective cited in this comment does not exclude rental housing, it just does not call it out separately from market rate housing. A clarification to objective #11 has been made in the Final EIR in response to this comment.

The affordable units will reflect the proportionate range of market range units by type.

The exact number of bedrooms is unknown at this time, and will be based on the residential housing partner that the applicant selects. It is unknown at this time if lofts would be included in any affordable units. However, it should be noted that the number of potential new residents estimated by SANDAG is determined by census data per total household, not by the number of bedrooms within each household. In addition, the Trip Generation Manual estimates the number of trips generated by a residential project based on the type of unit (e.g. multi-family vs. single-family). The number of bedrooms is not a factor used to calculate trip generation. While the specific product type and target demographics will be determined at a future date after the residential partner has been selected, the residential component is anticipated to be a high-density residential project similar in scale to other residential projects in the community, both those planned and already constructed. Examples of high-density residential development in the area include the existing towers west of the project site on the Costa Verde property and further to the west along Nobel Drive, and the planned residential towers at the Monte Verde site and the La Jolla Commons site. The level of detail in the EIR is sufficient to allow for meaningful analysis of the project's impacts.

9.106 The Relocated Parking Garage Alternative was suggested by City staff early in the planning process for the UTC project because of their concern that parking decks would not be aesthetically appealing from the street compared to structures with articulated facades. Staff's concern was not about the size or location of the structures relative to the street. In fact, placing structures near the streets is consistent with urban design policy in the *University Community Plan* (UCP).

The overall urban design goals for the UCP are stated on page 5.1-6 of the EIR and include providing for the needs of pedestrians and ensuring that every new development contributes to street livability (page 43 of the UCP). The UCP notes that development along La Jolla Village Drive and Genesee Avenue does not contribute to street livability because amenities, such as fountains and courtyards, are "not in locations with high visibility from the street" (page 62). As discussed in response to comment 9.12, the UCP encourages buildings "at or near the property line" to achieve street livability (page 70). According to the UCP, the

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9.106 cont.

existing Superblock pattern of development, such as the existing UTC site and the Wells Fargo complex across the street, barricades pedestrians from entering adjacent properties and increases congestion. However, there are numerous examples within the urban node of the University City community where tall buildings are situated at or near the property line. The bases of those structures are articulated architecturally and with landscaping to make them more pleasing for the pedestrian. In contrast, the landscape berms along La Jolla Village Drive and Genesee Avenue adjacent to UTC restrict pedestrian access into the site along the driveways, the ramp from La Jolla Village Drive that intersects with the pedestrian bridge and the steep staircase from Nobel Drive. In addition, the existing sidewalks along the UTC perimeter are contiguous to heavily traveled roads and seldom used. As a result, there is limited pedestrian use of the adjacent sidewalks within the Urban Node of the community.

Consistent with the UCP policies, a primary intent of the proposed project's design is to break down the Superblock development pattern by opening up the UTC site to the street, as summarized on pages 3-17 and 3-18 and illustrated in Figure 3-4 of the EIR. That intent, described in detail in the Master PDP, would place structures near the property line (see Figure 3-4 in the EIR), create a 25- to 35- foot building base along the sidewalk wherein the upper floors of the high-rise are stepped back at an angle from the street (see Figure 5.2-5 in the EIR) and create architectural interest along the periphery of the site (see Figure 3-6 in the EIR) to engage pedestrians and encourage entry into the UTC property. Although this is a departure from what exists today on the UTC site, it would implement the urban design goals of the UCP for the Urban Node and is not unlike development in other parts of the University City community, including the recently approved Monte Verde project, another example of this continuing trend toward placing buildings at or near the property line.

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sections of the alternatives analysis, the visual/aesthetic impacts of residential towers are ignored. **Doesn't the above statement imply that there also is a visual/aesthetic impact of placing *any* large buildings, including *both* parking garages and residential towers nearby these busy roads? Shouldn't the Draft EIR acknowledge that building a residential tower adjacent to Genesee and/or La Jolla Village Drive would have a similar environmental impact on the visual character of the existing neighborhood?**

S. 8.1.2 Alternative Location- alternative locations do not have to be evaluated in every case. Only locations that would avoid or substantially mitigate environmental effects need to be considered. But the Draft EIR has chosen to include this alternative. CEQA requires to the extent possible, the analysis of alternative locations to use previous documents e.g. plan, policy, or program level EIR's (Guidelines sec. 15126.6(f)). **Were any other previous documents considered from other considered or planned UC developments? For example, have development plans at La Jolla Village Square been considered by other entities? If so, what has been concluded?**

9.107

In considering the La Jolla Village Square site as an alternative, this section asserts that this area would likely lead to greater impacts in UTC expansion because the capacity of the roadway network and freeway system serving La Jolla Village Square is less than near UTC. The freeway that serves La Jolla Village Square is I-5, North and South. **How does this assertion make sense when evidence indicates that the intersections of La Jolla Village Drive and Genesee, and Nobel and Genesee are the worst in UTC (see the Monte Verde EIR, certified by the City Council on September 17, 2007)? How does this assertion make sense when the most serious current and future ramp impacts are at I-805, the freeway more likely to serve UTC than La Jolla Village Square that is located nearby I 5? (See Attachment 1, tables summarizing the Monte Verde EIR's traffic study freeway ramp delays.) What will be the impact of UTC enhancement upon commercial activity in La Jolla Village Square?** There has already been evident of a downward migration in the nature of its retail offerings. **Won't the upscale expansion of the UTC Mall exacerbate these changes? Couldn't the overall impact of UTC expansion on UC's retail activity be a loss in jobs and retail?**

Section 8.2 No Project Alternative.

9.108

S. 8.2.2 Environmental analysis-land use-this section asserts that no project alternative would not necessarily implement the housing and employment goals and urban design policies of the university community plan e.g it would not revitalize the streetscape or use drought tolerant landscaping. But not building an expanded UTC adheres to the existing Community Plan's allocation of ADT's and the no project alternative also maintains the original Superblock concept, preserving the green berms and setbacks. **In contrast, isn't the proposed project expanding UTC, a pronounced departure from this original land use concept? Couldn't drought tolerant native plants like cyanothus be used to provide green berms that would conserve water and be attractive?**

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9.107

As Section 8.1 of the EIR indicates, the Alternative Location alternative was considered but rejected during the EIR preparation process. The comment correctly notes that an alternative location must be considered only if it will avoid or substantially lessen any of the significant environmental impacts of the proposed project. According to the CEQA Guidelines, "Among the factors that may be taken into account when addressing the feasibility of alternatives are site suitability, economic viability, availability of infrastructure, general plan consistency, other plans or regulatory limitations, jurisdictional boundaries (projects with a regionally significant impact should consider the regional context), and whether the proponent can reasonably acquire, control or otherwise have access to the alternative site (or the site is already owned by the proponent)." CEQA Guidelines section 15126.6(f)(1). Here, the Alternative Location alternative was rejected because the project applicant did not own, control, or have access to a suitable alternative site, because an alternative site within the relevant trade area could not support a new regional shopping center and did not and could not satisfy the need for an expanded regional shopping center, and because an alternative site is not zoned for a commercial regional shopping center. Additionally, the expansion of La Jolla Village Square was deemed to be infeasible, as the site cannot satisfy the project objectives and the additional retail development on that site would require extensive horizontal expansion into the parking lots, conversion of remaining lots to parking structures and an overall vertical intensification.

According to CEQA Guideline Section 15126.6(f)(2)(C), "Where a previous document has sufficiently analyzed a range of reasonable alternative locations and environmental impacts for projects with the same basic purpose, the lead agency should review the previous document." There is no previous document for this area that analyzed regional commercial uses in another location. Furthermore, the City is unaware of any proposed development plans at La Jolla Village Square and, consequently, has not reviewed any documents (including development plans) related to such an expansion.

The EIR states that the traffic associated with the La Jolla Village Square location would likely be greater than the proposed project due to the capacity of the roadway network and freeway system, meaning the local intersections and freeway ramps. The capacity of a roadway network differs from the operational rating or LOS. Therefore, while the intersections serving La Jolla Village Square may have a better LOS than the proposed project intersections, the capacity is not as great as those for the proposed project because the roads are simply narrower. Furthermore, this alternative location was not rejected based on transportation/circulation impacts, it was rejected because of insufficient space on site which would not achieve the basic objectives of the proposed project.

As discussed in response to comment 9.103, the existing University Towne Center would not have an economic impact on local commercial centers resulting in the physical change of the environment. The expansion is likewise not expected to cause an economic impact resulting in a physical change of the environment at other centers in the area because they serve different needs. UTC is a regional shopping center whereas LJVS is a community commercial center.

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| 9.108 | <p>Not building the proposed project, as suggested by the No Project Alternative, would be inconsistent with City policies to expand housing in the Housing Element of the <i>Progress Guide and General Plan</i> (General Plan) (see page 5.1-25 of the EIR); policies that encourage transit contained in the Transportation Element of the General Plan (see page 5.1-27 of the EIR); policies regarding the renewal of older commercial centers contained in the Commercial Element of the General Plan (see page 5.1-28); policies encouraging water conservation and high water quality in the Public Facilities Element of the General Plan (see pages 5.1-29 through 31 of the EIR); policy on energy efficient design contained in the Energy Conservation Element of the General Plan; policy on improving the neighborhood environment from the Urban Design Element of the General Plan (see page 5.1-34 of the EIR); and policies on creating village centers that focus on more intense commercial and residential development contained in the Strategic Framework Plan (see page 5.137 through 39 of the EIR). Although the No Project Alternative is consistent with the Development Intensity Element of the <i>University Community Plan</i>, it is not consistent with the urban node policies of the plan that encourage street vitality and <i>discourage</i> the Superblock pattern of development. As discussed in Section 8.2, while the No Project Alternative would not implement some of the goals of the UCR, no significant land use impact would occur. Please refer to response to comment 9.12 for a discussion of the beneficial effects of removing the existing landscaped berms. Also, refer to response to comment 9.113 regarding the project's compliance with the growth projections for the County.</p> |
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- 9.109 **Aesthetics/visual quality-** this section says that continuing the existing berms reinforce the "Superblock" appearance that the Community Plan has identified as an issue in the community. **How is a periphery of green berms, with setbacks that scale to the largest buildings in the center of the Superblocks an issue? By definition, wouldn't the no project alternative be consistent with the look of University City, while large buildings on the periphery as proposed for the project would be a jarring departure from the current aesthetics. Wouldn't such a departure be an issue?**
- 9.110 **Hydrology/Water Quality-** this section that there are no significant hydrology impacts under the no project alternative, and that treatment controls would not be integrated into the existing storm drain system. The City Storm Water Standards will be updated by January 2008 (See Draft EIR p. 5.5-9). **Will the existing storm drain system meet the new standards if no new treatment controls are integrated into the existing system?**
- 9.111 **Public utilities-**the assertion is made that there are no significant impacts to the infrastructure capacity for water or storm water either with the no project alternative or the proposed project. **Isn't surface runoff increased by the pavement in a mall, so if the amount of pavement is not equal for the existing mall or the proposed expanded mall, shouldn't there be a difference in surface runoff water?** There are new criteria for allowable surface runoff. **Would the no project alternative (or the other proposed alternatives) meet these new standards?**
- 9.112 **Water conservation-**this section suggests that recycling of water and using drought tolerant vegetation in an expanded project will offset additional demand, so expansion will not increase water demand over that of the existing mall. **Is there a study of water demand that corroborates this asserted trade-off? Will the new state standards for water use be incorporated into the project planning?**
- 9.113 **Conclusion-** this section asserts that if the UTC Mall is not expanded, then housing needs would be met on undeveloped or underdeveloped land that has approved residential density. But it would not offer UTC's proposed transit connections. **Are the "housing needs" referenced above, UC community's or San Diego's housing needs? Wouldn't development of residential housing in less developed areas of the city inevitably have a less serious impact on surface and freeway traffic than will be true of development of housing at UTC? Wouldn't this approach provide jobs and housing in areas of the city badly in need of them, not in areas that are already over served and clogged with traffic? Are there other undeveloped areas of the city with existing transit connections that have been investigated for a residential housing development?** UCSD is the driving engine for the San Diego economy. There are serious concerns in the UC community that development of residential housing in UC may worsen already unacceptable traffic conditions, consequently impairing UCSD's growth and the San Diego economy.

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- 9.109 Please refer to response to comment 9.12 regarding berm removal and response to comment 9.106 for a discussion of why placing large buildings near the street is consistent with Community Plan policy. The No Project Alternative would not be consistent with Community Plan policies because it would reinforce the superblock pattern of development that the urban design policies attempt to break down. Therefore, as discussed on page 8-5 of the EIR, although the aesthetics of the streetscape would not change, the No Project Alternative would be inconsistent with land use policies.
- 9.110 Treatment controls will not be installed unless the proposed project is approved. There are no provisions in the regulations to retrofit existing storm drain systems.
- 9.111 As stated on EIR page 5.7-6, the internal project storm drain system would be modified to accommodate the proposed project, however, it would not result in an increase in peak runoff generation, and no impact would occur. Also refer to responses to comments 9.68 and 9.70. As the No Project Alternative would result in no change to the site, this alternative would not be required to meet new standards. However, the proposed project and all other alternatives resulting in new construction would be required to meet the new standards.
- 9.112 The proposed project proposes to use reclaimed water for all of its irrigation needs, which would reduce the potable water demand of the existing facility by approximately 45 percent. Refer to the Water Supply Assessment, which outlines the water demands for the proposed project, included as EIR Appendix M to the Final EIR, and the water use analysis conducted by Dexter Wilson and Associates attached to the Water Supply Assessment.
- The proposed project would be built in accordance with the City's Land Development Code regarding water. It is unclear what "new state standards for water use" the commenter is referring to, therefore no specific response can be provided. However, the project will comply with all regulations related to the use and discharge of water at the site.
- 9.113 Please refer to response to comment 9.98 regarding the need for residential uses. The City General Plan Housing Element on page HE-148 notes that, "the SANDAG 2030 forecast projects that between 2000 and 2030 the overall demand for housing in the region will increase by 30 percent." The addition of housing in the proposed project area will meet the projected demand for housing in the San Diego region. In addition, The Adequate Housing Sites Inventory of the City of San Diego General Plan Housing Element provides that up to 3,364 net housing units will be developed in the University Community Planning area in the years 2003 to 2010. This includes 1,158 units in "review with plan amendments" according to Table 29 at HE-211. "The Adequate Housing Sites Inventory is a Housing Element discussion required by state law. The inventory must demonstrate that the housing potential on land suitable for residential development is adequate to accommodate the City's housing allocation of 45,741 total units over a seven-year period between January 2003 and July 2010 (Page HE-203)" Because the residential units proposed by the project are included as units that could fulfill housing needs in San Diego and the University Community Planning

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9.113 cont.

area, the proposed project is consistent with the Housing Element of the General Plan and the growth policies of the City of San Diego.

The proposed project has been designed and planned consistent with approved growth plans including the Strategic Framework Element of the City of San Diego General Plan (approved by the San Diego City Council through resolution R-297230) and the San Diego Association of Governments (SANDAG) Regional Comprehensive Plan approved by the SANDAG board in July of 2004. Both strategies focus on the development of mixed use urban nodes that combine housing, employment, shopping, recreation and public services near transit hubs. The City of San Diego Strategic Framework Element revolves around the “City of Villages” strategy which focuses on the development of diverse village centers around the City. A key policy of the “City of Villages” is to “focus more intense commercial and residential development in new or redeveloped mixed-use village centers in a manner that is pedestrian-oriented and preserves the vast majority of single-family neighborhoods (page 31).” In addition the City of Villages seeks to, “Design and locate mixed-use centers, civic uses, and neighborhood and community commercial uses to be accessible by foot, bicycle, and transit, in addition to the car (Page 42).” The proposed project is designed to be consistent with the smart-growth policies approved by the City Council and embodied in the Strategic Framework. Through higher density development in an already urbanized area, the City has determined that single-family neighborhoods and open space areas will be protected. Development of housing in less developed areas of the City is contrary to the approved Strategic Framework growth policy.

Creating compact, mixed-use village areas provides the density necessary to for public transit to be successful. The proposed project mixes shopping and residential uses and integrates those uses with a major on-site transit center. This type of development is the type of development that is desired by the City’s City of Villages Strategy and The SANDAG Regional Comprehensive Plan. As stated in SANDAG’s Regional Transit Vision document, “The moderate to higher density, mixed-use villages will be a major factor that shapes the conceptual transit network. Depending on their size and density, these village centers will become destinations of the Yellow and Red Car transit networks. The centers will be the focal points of the Green Car routes, where passengers will transfer to and from the high-level services (Page 14).” The Regional Transit Vision finds that “Transit-oriented land uses are critical to maximize the number of people with access to transit. Local jurisdictions must establish neighborhood and community centers with a mix of retail, office, service and residential uses (page 25).” And although higher density village centers are likely to see increased traffic in the short run, the increased integration between transit and pedestrian mobility will reduce traffic in the long-term as attitudes about transit change, land use and transit are better integrated and investments are made in the public transportation infrastructure of the area.

Although the provision of housing and job centers in less developed areas could provide benefits to those areas, the stated growth policy of the City of San Diego is to promote the growth of mixed use villages in already developed areas to safeguard open space and single-family neighborhoods, and efficiently utilize existing and planned infrastructure.

- 9.114 **Section 8.3 Alternatives Considered in Detail**
- S. 8.3.1 No Residential Alternative**
- 9.114 **Description-** this section states that the applicant would likely rezone the property to a regional commercial designation. This area is described as Community Commercial but it is described as a Regional Mall. The City is promoting this re-zoning effort to make it consistent with the *University Community Plan*. **What are the considerations and justifications to change the zoning to *Regional Commercial*?**
- 9.115 **Environmental analysis-**
- Land-use-** this section asserts that the proposed residential development would not have significant Land-use or policy impacts, but it acknowledges policy effects that would be associated with placing residential structures near low rise structures. **Why wouldn't there be policy effects of locating very high residential structures on the corner of a busy intersection and pedestrian sidewalk, violating the Superblock set back objectives inherent in the original community plan?** (Superblocks place the highest buildings in the center of these large blocks, with low buildings at the periphery.)
- Aesthetics/visual quality-** see the above question concerning land use. **Why is there an impact for very tall buildings built near a low rise residential area, but not on top of UTC's busiest intersection?**
- 9.116 **Transportation/circulation-** this section asserts that no residential alternative would still produce more traffic than anticipated in the community plan and that 94% of project trips would be produced by retail. It further says that the trip reduction would not eliminate unmitigable impacts to the street segments, freeway ramps and freeways in the project area. **Even if both these statements are assumed to be true, why should a 6% reduction in trips that will reduce waiting times and the length of queues at freeway ramps be so cavalierly dismissed?** (See Attachment 1 for a projection of ramps delays.) **Also, given that street segments and freeway interchanges at Fashion Valley Mall, slightly smaller than an expanded UTC Mall, are currently impossible between Thanksgiving and Christmas, why does this EIR not consider the additional burden that this project will place on traffic and circulation in UC during the holidays?** The traffic study data was taken in March, 2002. **How can these data be used to project holiday traffic?** **Traffic data should also be gathered during the holiday period.** Also, it must be noted that for CEQA courts, a drop in the bucket metaphor may not be used to justify dismissal of small increases or decreases that a project will create for an already failing situation.
- 9.117 **Public Utilities-** see the preceding section with respect to the drop in the bucket metaphor. This section acknowledges that residential users consume more water and generate more wastes per unit than retail users. **Wouldn't elimination of a large residential component significantly**

- 9.114 Please refer to response to comment 9.2.
- 9.115 Please refer to response to comment 9.106 for a discussion of building height. No policy effects are identified because it would be consistent with the UCP.
- 9.116 Despite the fact that the No Residential Alternative would result in a six percent reduction in trips the alternative has been rejected due to, significant and unmitigable traffic impacts would still occur. As stated on pages 8-8 and 8-9 of the EIR, "The trip reduction realized by this alternative would not eliminate or substantially lessen significant unmitigable project and cumulative impacts to street segments, freeway ramps and freeways in the project area." Therefore, the reduction is not "cavalierly dismissed" as suggested by the commenter. The alternative would not meet several of the project objectives as noted in the Final EIR. Please refer to response to comment 9.51 for a discussion of holiday traffic.
- 9.117 As discussed in Section 8.3.1, the No Residential Alternative would reduce project demand for solid waste, therefore the impact on Miramar Landfill would be reduced. The retail component is estimated to generate approximately 2.01 tons of waste per 1,000 square feet annually. Therefore, the retail component (750,000) would generate approximately 1,511.03 tons of waste annually, which exceeds the City's threshold of 52 tons of solid waste per year for new commercial developments. The applicant has committed to LEED-ND certification, which includes the integration of a number of waste reduction measures into the proposed project design, however, it is difficult to determine how much waste would be reduced. Refer to response to comment 9.39 regarding the LEED certification process. As discussed in the Final EIR, the no residential alternative, despite any reduction in demand for solid waste, was found to not meet project objectives and rejected on that basis. For the purposes of the CEQA analysis, a worst-case scenario is analyzed. It is unlikely that even with waste reduction and recycling measures, that this alternative could reduce waste generation to below the City's significance threshold of 52 tons per year.

- 9.117 cont. **reduce the amount of waste produced, therefore the impact on the Miramar landfill? Wouldn't it be possible to implement policies in retail tenant rental agreements that would greatly facilitate reduction in waste and recycling? Wouldn't it also be possible to provide infrastructure that would facilitate reduction in waste and recycling? Please describe if this has been considered.** There could be significant improvements in how restaurants handle wastes at UTC.
- 9.118 **Water conservation-** this section asserts that there are no significant impacts to water supply for either the retail only alternatives, or the mixed retail and residential alternatives. However, under state law the city must verify that there will be a sufficient supply of water over a 20 year window before developments exceeding 500 dwelling units may be approved. CEQA also requires water conservation. The no residential alternative, would not trigger the state requirement, because it does not involve dwelling units. The other alternatives with up to 725 dwelling units, would trigger these requirements for any proposal exceeding 500 dwelling units. The EIR should not base water conservation on the 2004 Water Supply and Assessment Report. Certification of water availability should reflect the consequences of the recent District Court ruling that would restrict the pumping of water from the Bay Delta to San Diego County. **Will the Draft EIR be modified to require such a reassessment for the residential housing alternatives? Will it also guarantee a reassessment for such a massive retail expansion, even if it is not required by state law.**
- S 8.3.2 No Retail Expansion Alternative.
- 9.119 **Description-** this section states that a Community Plan amendment would be required to increase development intensity and to allow for residential use on site to construct up to 725 residential units. The current Community Plan as mixed residential/commercial has already reached its maximum. It further states that a Vesting Tentative Map would be created to create a separate lot for the residential structure. If this separate residential lot were created, then the maximum density allowed under the current Community Plan is 45-75 dwelling units per acre. **How will density calculations be made? Given the proposed lot size, what would be the density ranges created by the 250 dwelling unit proposal and the 725 dwelling unit proposal?** This section also states that in no retail expansion alternative, the Project applicant would not relocate or expand the bus transit center. **Given the objective of reducing traffic impacts in UTC by placing the residential tower in this urban node close by public transportation, why wouldn't the residential tower (as opposed to retail "revitalization") justify an expansion of transit capabilities for existing retail customers, residents and their visitors?** This section also asserts that construction schedule for the residential project would be substantially shorter than that for the retail project. **What is the approximate timeframe for residential construction? What would be the approximate timeframe for retail construction? Have the construction schedules been considered in light of the planned construction of 560 dwelling units at the Monte Verde site?** (The Monte Verde construction

- 9.118 Please refer to response to comment 9.26. The updates to the water supply discussion have been integrated into the Final EIR (Sections 5.7 and 5.8). The Water Supply Assessment for the Proposed project considers the projected potable water demand at the site for the full range of land use scenarios. Thus, the Water Supply Assessment adequately addresses the water supply for all possible land use scenarios discussed in the EIR. The commenter has also expressed concerns regarding reliance "2004 Water Supply and Assessment Report." However, it is unclear to which document the comment is referring.

Moreover, the comment suggests confusion between a Water Supply Assessment (as required by the Costa Bill, SB 610) and a Water Supply Verification (as required by the Kuehl Bill, SB 221). The general goal of both documents is to determine whether adequate water supplies for a project exist before the project is approved. However, the following differences between assessments and verifications are significant. The purpose of a Water Supply Assessment is to require land use and water supply planning agencies to communicate with one another, without requiring a particular result. Local land use authorities may approve projects despite future water supply difficulties, provided such water supply problems are disclosed in the CEQA findings. On the other hand, the water supply verification is intended to be a "fail-safe" mechanism to ensure the availability of water before construction of a subdivision of more than 500 dwelling units.

Moreover, water supply assessments are required for a broader array of projects. Water supply assessments are required for any project that is subject to CEQA and involves a water demand equivalent to 500 dwelling units or more, including proposed hotels, offices, or industrial buildings of sufficient size. *See* Cal. Water Code Sec. 10912(a). In contrast, water supply verifications are required for a much narrower category of projects, namely, the approval of subdivisions of more than 500 dwelling units. *See* Cal. Gov't Code Sec. 66473.7(a)(3). Also, the documents must be completed at two different stages of development. Water supply assessments must be issued prior to the completion of the EIR. On the other hand, water supply verifications are not required until the tentative or parcel map stage. *See* Cal. Gov't Code Sec. 66473.7(b)(1). Thus, the City need not "verify" whether there are adequate water supplies for the Proposed project unless and until the applicant intends to build more than 500 residential units, and has applied for a tentative subdivision map. Should neither of those conditions be met, the water supply assessment will satisfy the water planning requirements under California law.

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- 9.119 The existing zoning for the project site is CC-1-3. The proposed zoning for the site is CR-1-1. Both the existing and the proposed zoning permit residential development at a density of 1 unit per 1,500 square feet of lot area, or 29 units per acre. The residential density would be calculated over the entire site, consistent with past practice in the City and the Development Intensity Element and site designation in the *University Community Plan*. For the UTC site of 75.35 acres, the zoning (either existing or proposed) would permit up to 2,188 residential units to be developed. However, the residential density allowed for the site would be further limited by the proposed project under the MPDP and the *University Community Plan* to a maximum of 725 residential units, significantly less than the 29 units per acre allowed under the zoning.
- 9.120 As stated on EIR page 8-11, this alternative would not include the relocation or expansion of the bus transit center because “no changes in the configuration of the retail and parking areas would be required.” MTS asked the applicant to expand the transit center as part of the relocation; without the relocation (to accommodate the retail expansion), the expansion could be proposed by MTS but would not be triggered by the proposed project or the residential units.
- 9.121 As discussed on page 5.4-20 of the EIR, Phase 1 construction is assumed to occur over 36 months, and Phase 2 construction is assumed to occur over 12 months. These timeframes have been added to the Construction Schedule discussion on Final EIR page 3-19. Please refer to response to comment 9.66 for a discussion of potential cumulative impacts with the Monte Verde project, response to comment 9.96 regarding cumulative construction noise and cumulative dust would not be significant because all projects would be required to implement standard dust control measures during construction (as stated on page 7-5 of the EIR). If construction of the proposed project and the Monte Verde project occurs at the same time, each project would be required to implement traffic control plans that take into account construction throughout the University City Community.

- 9.121 cont. should create cumulative impacts with respect to traffic from construction vehicles, dust, noise etc.)
- Environmental analysis-**
- 9.122 **Land-use-** this section acknowledges policy effects that would be associated with locating residential structures near low rise structures. **Why wouldn't there be policy effects from placing very high residential structures on the corner of a busy intersection and pedestrian sidewalk, violating the Superblock set back objectives inherent in the original community plan? How would the building design that features "an angled building envelope plane, articulated features and landscaping" avoid potential impacts with respect to low rise structures or setbacks?**
- 9.123 **Aesthetics/Visual Quality-** this section acknowledges significant unmitigable neighborhood character impacts because the residential towers exceed structure heights in the community. **Don't the proposed residential towers exceed structure heights of neighboring commercial buildings, and other multiunit residential buildings and hotels in the neighborhood? What are the scenic vistas referred to that will not be obstructed by the residential towers? Have the effects of light and glare and obstruction of view by the proposed residential towers being considered for nearby residential units that are not part of the UTC complex e.g. Costa Verde, Monte Verde?**
- 9.124 **Transportation/Circulation-** this section asserts that the no retail expansion alternative would still produce more traffic than anticipated in the Community Plan. But that it would reduce impact to intersections, roadway segments and freeways, using the traffic study threshold in the City's *Traffic Impact Study Manual*. The city introduced new thresholds in January 2007. These new thresholds eventually halved the previous thresholds and were intended to apply to current conditions. Our traffic analysis indicates that using the newer thresholds greatly increases impacts on intersections, roadway segments and freeway access. **Please contrast the old standards and the new standards, and explain why it is justifiable to use the old standards to predict future impacts, when the city obviously found them to be in adequate?** This section quite properly acknowledges that there are cumulative traffic effects on certain intersections, roadway segments and freeway facilities, and that the no retail expansion alternative would worsen these conditions. **If this is true, why did the section on the no residential alternative appear to minimize the benefits of removing this residential traffic from the future UTC traffic anticipated in a retail only scenario?** The draft EIR appears to want to have it both ways, minimize an impact when it suits its argument, and properly assert its impact on the converse applies. This section also acknowledges significant impacts associated with the holiday peak demand period. **Shouldn't the EIR examine the impacts of residential expansion versus retail expansion that might be expected during the holiday period, particularly in view of the Christmas shopping gridlock observed in Mission Valley and Fashion Valley in the past?**

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- 9.122 Please refer to response to comment 9.106 for a discussion of building heights near the street. No significant policy effects are identified for the No Retail Alternative because it would be consistent with the UCP. As discussed on page 5.2-6 and illustrated in Figure 5.2-6, the massing of all high-rise structures would be stepped back away from lower-rise structures in the area using the "Angled Building Envelop Plane" approach, which is consistent with Section 131.0444(b) of the SDMC. The angled massing would prevent the taller structure from dominating the low-rise structure. Articulated facades would provide visual interest, rather than a monotonous appearance. Landscaping would provide screening and soften the façade of the taller structure. Collectively, the design features would prevent potential aesthetics impacts associated with siting dissimilar structures adjacent to one another. This is further described in the Master PDP (on file with the City of San Diego). Additionally, exhibits from the Master PDP are included as Appendix E to the Final EIR.
- 9.123 Please refer to response to comment 9.106 for a discussion of building height. As discussed on page 5.2-10 of the EIR, no public view corridors are identified in the project area within the UCP, and in addition, the proposed project would not block public views from parks or views of natural features. Thus, as no impact is identified for the proposed project, no impact is identified for this alternative since they are similar in this area.
- The effects of light and glare were analyzed as Issue 4 on EIR pages 5.2-10 and 5.2-11. No impact would occur to surrounding buildings as excessive amounts of glass materials would not be used, and lighting would be focused toward the proposed project.
- The General Plan and UCP do not protect private views; therefore, potential view obstructions from the approved Monte Verde project are not analyzed.
- 9.124 Please refer to response to comment 9.56 for a discussion of traffic thresholds. The No Retail Alternative would reduce project trips and reduce the potential for significant project impacts on transportation and circulation. Cumulative significant impacts would not be avoided. The EIR does acknowledge the reduction in trips associated with this alternative and does not intend to minimize the benefit of the No Retail Alternative in this area. However, please note that the No Retail and No Residential Alternatives were both rejected for failure to meet project objectives.

The new traffic thresholds are to be applied to projects deemed complete after January 1, 2007. Please refer to response to comment 9.56. Please refer to response to comment 9.51 for a discussion of holiday traffic.

- 9.125 **Air quality-** this section asserts that construction dust emissions for the no retail expansion alternative would not likely exceed the significance threshold. **What is the significance threshold? Are the cumulative effects from Monte Verde construction included in this calculation?** (After all, the dust from Monte Verde merely has to migrate across Genesee Avenue.) **Are diesel emissions from construction vehicles from both projects also being considered?**
- 9.126 **Public utilities-** this section states that the no retail expansion alternative exceeds the City's significance criterion for solid waste, 60 tons per year. **How is this calculation made? What are the waste projections for the 250 unit and the 725 unit residential projects?**
- 9.127 **Water conservation-** See the section above (p. 4) discussing water conservation for the no residential alternatives. This section for the no retail expansion proposal asserts that water conservation measures for the residential only alternatives would not be integrated into the existing shopping center. **Why, in a project that describes itself as "Green," would it not be possible to recycle water from the residential unit to be used in the existing shopping center, e.g. using "gray" water to irrigate.** Also as we observed above, under state law the city must verify that there will be a sufficient supply of water over a 20 year window before developments exceeding 500 dwelling units may be approved. Alternatives that exceed 500 dwelling units would trigger the requirement. The EIR and the 2004 Water Supply and Assessment Report should reflect the consequences of the recent District Court ruling that would restrict the pumping of water from the Bay Delta to San Diego County. **Will the draft EIR be modified to require such a reassessment for the residential housing alternatives, both those required by law because they exceed 500 dwelling units and/or any alternative with less than 500 dwelling units?**
- 9.128 **Construction effects-** this section acknowledges potentially significant effects caused by haul vehicles and construction noise. **Why aren't these effects acknowledged for every alternative except for the no project alternative? Why doesn't the draft EIR also include the cumulative effects from the Monte Verde project that will be proceeding simultaneously?**
- 9.129 **8.3.3 Reduced Project Alternative**
Description- this section states that this alternative was calculated by defining a level of development that would avoid significant unmitigable traffic impacts to **"the freeway mainline of I-805,"** and to reduce Project trips on I-5 and SR-52. But as our comments have pointed out, the major traffic impact is at the **freeway ramps** (See Attachment 1). The freeway mainline is *not* the major issue. Clever "wordsmithing" does nothing to diminish 5 hour waits at the ramps to I-805 and queues of vehicles that are 7 miles long! **Isn't this calculation both misleading and irrelevant?** But even if the calculation is presumed, calculation of 435,000 ft.² of retail expansion included no residential, hotel or office uses at UTC. But major residential development will be going on directly across the street on a 4 acre lot at Monte Verde.

- 9.125 The significance thresholds for assessing dust impacts are listed on pages 5.4-8 and 5.4-9 in the EIR. Dust and diesel emissions from Monte Verde or other related projects are not included in the calculations for the project because the thresholds are applied only to individual projects and not cumulative conditions. Cumulative dust would not be significant because all projects in the study area would be required to implement standard dust control measures during construction (as stated on page 7-5 of the EIR) which would lower their contribution to dust by approximately 50 percent. Cumulative diesel emissions would not be significant because it would be temporary in nature with no potential for chronic exposure (as stated on page 5.4-20 of the EIR).
- 9.126 Based on the information presented on page 5.7-6 of the EIR, each residential unit would generate approximately 3.55 tons of waste per year. The retail component is estimated to generate approximately 2.0 tons of waste per 1,000 square feet annually. Therefore, the residential component of the proposed project (250 units) would generate approximately 889 tons of solid waste annually and the retail component of the proposed project (750,000 sf) would generate approximately 1,511 tons of waste annually, for a total annual waste generation of 2,400 tons. As discussed in the EIR, the Maximum Residential scenario would generate approximately 2,578 tons annually. It is correct to conclude in the EIR that the No Retail Alternative would result in significant impacts to solid waste capacity because just the residential component of both scenarios would trigger the significance threshold of 60 tons of waste annually.
- 9.127 The proposed project will feature "green" design elements. Specifically, the applicant is committed to designing and constructing at least 90% of the new buildings within the project to incorporate strategies that in aggregate use 30% less water than the water use baseline calculated for the building (not including irrigation) after meeting the Energy Policy Act of 1992 fixture performance requirements. All irrigation on the project site will use reclaimed water. However, if no retail expansion is constructed, as described for the No Retail Alternative, there would be no retrofit of the existing center and recycled water would only be used for the residential portion of the project. Direct recycling of grey water from the residential units, as suggested in this comment, is not feasible due to the need to double plumb residential units. Greywater is not approved for spray irrigation used at the project site. The City has issued a Water Supply Assessment, which determined that the project would not affect the City's ability to provide potable water; it is appended to the Final EIR as Appendix M. The Water Supply Assessment for the proposed project considers the full range of land use scenarios proposed in the Master PDP. Please refer to response to comment 9.26 for additional discussion of water supply given the Delta Smelt pumping restrictions referred to in this comment. Sections 5.7 and 5.8 of the Final EIR have been updated to reflect the current information on project demand and supply context.

COMMENTS

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| 9.128 | <p>Construction effects are analyzed for all of the project alternatives evaluated in detail in Section 8.0 of the EIR. Potentially significant construction effects are noted for the proposed project and each project alternative. Cumulative construction effects are discussed in Section 7.0 of the EIR, which concluded the impacts would not be considerable. Please refer to response to comment 9.96 for additional discussion of cumulative construction noise and response to comment 9.121 for additional discussion of cumulative dust and traffic.</p> |
| 9.129 | <p>The Reduced Project Alternative was presented for its ability to minimize impacts to local freeway mainlines, which would experience significant and unmitigable impacts that are beyond the City's jurisdiction (i.e., Caltrans, SANDAG). The City acknowledges that the freeway operations are predicted to get worse; therefore, the Reduced Project Alternative was included in the EIR to evaluate a reduced version of the proposed project that would not impact freeways and would only impact local roadways which the City has jurisdiction (and mitigation responsibility) over. Without the freeway impacts, the only significant and unmitigated traffic impacts would be along segments of La Jolla Village Drive or Genesee Avenue, which would not be mitigated for policy reasons not because of being out of the City's jurisdiction. Impacts to ramp meters are under the jurisdiction of Caltrans.</p> <p>While the EIR acknowledges the impacts at freeway ramps, mitigation of freeway ramps is not technically possible except through the addition of physical capacity to the freeway mainlines, which is beyond the applicant's control.</p> <p>The analysis of this alternative does take into account the residential units from Monte Verde since they are a part of the cumulative traffic setting. Furthermore, the analysis is conservative in that it assumes the original Monte Verde proposal for 1,084 units, significantly more than the 560 units that were eventually approved for that site.</p> |

- 9.129
cont. **Shouldn't the calculation also include the 560 dwelling unit Monte Verde project that is being developed simultaneously?** Presumably, it should reduce the 435,000 ft.² figure. The section further states that this reduced retail project would require construction of two department stores with a net increase (after demolition of two existing department stores) of 200,000 ft.² and up to 235,000 ft.² of general retail shops. An important aspect of the green revolution is re-using materials when possible and re-cycling. Common sense demands that Westfield must apply these principals to the development plans. **Why must the existing department stores be totally demolished, rather than enhanced? Are there plans to re-use these building materials or just to dump them in the Miramar landfill?** This also raises the question of competitive necessity. **How comparable in size would the new department stores be to competitors in San Diego?** (See Description section (p. 3) comments and question above concerning rezoning to *Regional Commercial*.)
- 9.130

Environmental Analysis

- 9.131 **Transportation/circulation-** see comments (e.g. concerning the drop in a bucket metaphor), and questions (e.g. on the choice of a significance criterion) concerning Transportation/Circulation for the expanded retail project (p. 5). The reduced project alternative, by scaling down the retail enhancement, should proportionally reduce impacts relative to the expanded retail project. Relative to the preferred alternative acknowledged by the Developer at a September UCPG meeting (250 dwelling units, 725,000 ft.² of retail expansion), the reduced project alternative should reduce the traffic impact very significantly. **What is the exact percentage of this reduction? Why the Monte Verde traffic projections and the UTC enhancement traffic projections differ with respect to significant unmitigable impacts on the freeway ramps, particularly I-805.** (See Attachment I. The Monte Verde EIR predicts a 2020 wait at the southbound I-805 ramp of five hours.) On street parking has been discussed as a way to handle overflow parking needs, this may be particularly true during the holiday shopping period. **Won't on street parking produce a lane reduction that will impact traffic flow? Have the effects of parking on Genesee and La Jolla Village Drive been taken into consideration in the traffic analysis for any or all of the alternatives? Has the holiday shopping window been factored into these calculations.**
- 9.132
- 9.133

- 9.134 **Air Quality-** see above comments concerning the dust from the Monte Verde construction, and the drop in the bucket metaphor. This section states that a high level of LEED certification and therefore emissions reduction may not be feasible. (See our comments on LEED certification, pp. 2-3.) **Why is the lowest level of LEED certification being sought? Why is a higher level not feasible?** This is important because the UTC expansion is promoted by Westfield as leading the way for "green development" in San Diego. **Isn't it likely that by seeking the lowest level of certification, this project will lower the standard for future "green developments" of shopping malls in San Diego? Are LEED standards expected to become more rigorous over time? Has Westfield considered upgrading the standard sought, since**

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- 9.130 As part of its sustainable development program, Westfield UTC is committed to recycling a minimum of 50 percent of construction and demolition waste, including waste resulting from the demolition of existing buildings. Due to the location of the existing department stores to be demolished (generally on the interior of the site), the site planning requirement to integrate the new development with the existing shopping center, and the plan to construct the new development within the confines of the existing developed land area, retention of the existing department stores is not feasible, despite the expenses associated with their demolition and construction of new buildings. The new department store buildings have been planned by the department stores to respond to the market growth which has occurred since the buildings were originally constructed in the 1970's and 1980's, as well as to accommodate expected future market growth."

- 9.131 As stated on page 8-16 of the EIR, the Reduced Project Alternative would reduce trips by approximately 7,476 daily trips. The proposed project would result in a total of 17,800 ADT, therefore this alternative would result in a total of 10,324 ADT, which represents a 58 percent reduction in project ADT.

- 9.132 No errors or omissions were discovered in the ramp meter analysis. In reviewing the results between UTC and Monte Verde, no measurable differences were discovered that may affect the calculated impacts of the project. Of the six (6) interchanges commonly analyzed, the UTC TIS reported the most conservative results for five (5) of them (see table below).

RAMP METER ANALYSIS COMPARISON
HORIZON YEAR

Interchange	Period	Horizon Year + Project			
		Monte Verde ^a		UTC ^b	
		Delay	Queue	Delay	Queue
Nobel Dr/I-805 SB	AM	293.8	36,115	196	23,570
	PM	257.2	31,610	399	47,880
Nobel Dr/I-5 SB	AM	37.0	9,243	40	11,468
	PM	60.4	15,098	125	36,240
La Jolla Village Dr/I-5 NB	AM	52.5	7,875	173	16,825
	PM	— ^c	— ^c	296	28,825
La Jolla Village Dr/I-805 NB	AM	49.6	8,828	53	8,021
	PM	135.6	24,128	150	22,493
La Jolla Village Dr/I-805 SB	AM	22.4	5,525	31	6,211
	PM	20.4	5,050	58	11,651

Footnotes:

- Baseline (2020) + Monte Verde project + Plan Amendments with Regents Bridge.
- Baseline (2020) + cumulative projects + UTC project. Regents Bridge and Genesee Widening assumed.
- Not analyzed.

General Notes:

- Bold indicates a significant project impact.

COMMENTS

RESPONSES

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| 9.133 | <p>Please refer to response to comment 9.51 for a discussion of holiday traffic. Parking is discussed on pages 5.3-69 through 5.3-72 of the EIR. As discussed on page 5.3-71 of the EIR, “on-site parking supply would be sufficient to meet project parking demands during all hours of the day, no matter the land use scenario, with the exception of weekend days in December, when the proposed project would operate an off-site employee parking program.” Therefore, all parking would be accommodated onsite except for employee parking, and no on street parking is proposed, as suggested in the comment. Any new street parking along Genesee Avenue would be taken from the right-of-way dedication being provided by the applicant and would not result in any loss of travel lanes or widths. Street parking may shift along La Jolla Village Drive but would not result in any loss of travel lanes or widths. Therefore, no effects on roadway capacity would occur.</p> |
| 9.134 | <p>Please refer to response to comment 9.39 for a discussion of LEED certification. As discussed on EIR page ES-9, the applicant proposes to achieve a high certification within the LEED Green Building Rating System.</p> |

9.134
cont.

there is anticipated such a long, flexible window of UTC development that will likely be accompanied by changes in technology?

9.135

Water conservation- this section states that no significant impact to water supply would occur for this alternative as is true for the proposed project. **What standards are being employed for water availability?** The San Diego 2004 study relied upon has been outmoded by the recent District Court decision (p. 6). **Shouldn't Westfield consider this reduced retail alternative, and in fact, every alternative, in the context of the potential water crisis created by the District Court ruling discussed above. As a green project, shouldn't the current water crisis inspire greater conservation efforts as part of UTC expansion?**

9.136

Conclusion- this section asserts that although the reduced Project alternative would lessen impacts on the freeways (but as we pointed out would not mitigate the impacts on freeway ramps) and avoid unmitigable impacts of neighborhood character, it would not be economically feasible because the retail base could not offset the costs of expanding the two department stores. **What alternatives to completely demolishing and rebuilding and expanding department stores have been considered? Why would the reduced retail expansion be economically infeasible, when the shopping center that would result (1.496 M+ sq. ft.) would about 88% of the size as its main competitor, Fashion Valley (1.7 M sq. ft. after its own expansion), and in addition would be more suitably located to capture customers N. of San Diego?** The proposed not-reduced retail expansion of 750,000 sq. ft. at UTC would in fact leave UTC's retail space (1.81 M sq. ft.) about 6.5 % larger than Fashion Valley's. **Why would a retail center that is larger than Fashion Valley and more suitably situated to capture customers from the most affluent part of San Diego County also require a massive residential housing development, particularly given the impacts of traffic? Would retail alone in some configuration be economically viable?**

9.137

8.3.4 Reduced Building Height Alternative-

Description- this section asserts that reducing the height of buildings from a maximum of 390 feet, to a maximum of 240 feet above grade would result in a less than significant impact on visual character. It compared these proposed reduced alternatives to the Wells Fargo building. **Why is the Wells Fargo building, built on a hill, in the middle of a Superblock per the Community Plan's setback requirements, considered to be mutually equivalent to the proposed "reduced" residential towers that would be built adjacent to busy roads with greatly reduced setbacks?** The Wells Fargo building is arguably less conspicuous because it is built in the middle of the block, surrounded by a green berm and much lower buildings near the roadways.

9.135

Please refer to response to comment 9.26 for a discussion of water supply. Water availability is based on regional demand and supply as outlined in the Water Supply Assessment. City decision-makers will have to weigh several issues in considering project approval, including the concept of the current setting of water supply unreliability.

9.136

Please refer to response to comment 9.22 for a discussion of the feasibility of the Reduced Project Alternative. With regard to the demolition of the existing department stores, please see response to comment 9.130.

As discussed in the EIR and in responses to comments 9.81, 9.93, 9.98, 9.113 and elsewhere, the retail component of the project furthers mixed use development goals and the demand for housing in the region. A retail-only development is discussed in the EIR as the No Residential Alternative and is economically feasible. However, the alternative would not result in the elimination or substantial lessening of significant impacts, with the exception of aesthetics/visual quality caused by excessive bulk and scale of the residential towers. Please refer to response to comment 9.116.

9.137

Please refer to response to comment 9.106 for a discussion of why tall buildings are appropriate near the property line. The purpose of this alternative is to address bulk and scale, relevant to the building height. Building height and dimensions, and not setbacks, are the descriptors most commonly used to assess bulk and scale impacts in accordance with the City significance thresholds. For this reason, the description in Section 8.3.4 of the EIR compares the height of the Reduced Project Alternative to the height of the Wells Fargo building because its roofline is the highest in the community's skyline. This approach of comparing proposed structures to the highest roofline in the community is consistent with the visual analysis in the Monte Verde EIR, which also identified significant and unmitigable bulk and scale impacts related to building heights.

COMMENTS

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9.138	Environmental analysis- Land Use - see the above comments and question (p. 7). This section asserts the alternative would not produce any significant land use or policy impacts. Why wouldn't there be policy effects of locating very high residential structures on the corner of a busy intersection and pedestrian sidewalk, thereby violating the Superblock setback objectives inherent in the original community plan?	9.138 Please refer to response to comment 9.106 for a discussion of building height. No policy effects are identified because it would be consistent with the UCP, as described in response to comment 9.122.
9.139	Aesthetics/visual quality- see the same sub-section, p. 7. This section asserts, using the Wells Fargo Bank Building as a standard, that the alternative conforms to the “bulk and scale patterns” established in the community. But currently, tall buildings in UC’s Superblocks are not located immediately adjacent to the sidewalk and roads. Setback requirements mean that buildings near roads are not nearly as high. Even at 240 ft. a UTC residential tower would “tower” over the buildings currently located in the nearby neighborhood. Why won’t the proposed UTC residential towers, exceeding heights of neighboring commercial buildings, and other multiunit residential buildings and hotels in the neighborhood have unmitigable impacts relating to “bulk and scale”? This section also asserts that this reduced building height alternative will not obscure “scenic vistas.” What are the scenic vistas referred to that will not be obstructed by the residential towers? Obstructed from whose perspective? Have the effects of light and glare and obstruction of view by the proposed residential towers being considered for nearby residential units that are not part of the UTC complex e.g. Costa Verde, and Monte Verde?	9.139 Please refer to response to comment 9.106 for a discussion of building height. No policy effects are identified because it would be consistent with the UCP, as described in responses to comments 9.122 and 9.137. As discussed on page 5.2-10 of the EIR, no public view corridors are identified in the project area within the UCP, and in addition, the proposed project would not block public views from parks or views of natural features. Thus as no impact is identified for the proposed project, no impact is identified for this alternative. The effects of light and glare were analyzed as Issue 4 on EIR pages 5.2-10 and 5.2-11. No impact would occur to surrounding buildings as excessive amounts of glass materials would not be used, and lighting would be focused toward the proposed project.
9.140	Water conservation- see the previous comments on water conservation (that consider future restriction of the San Diego water supply provided from the Bay Delta, pp. 6 and 8). Will the draft EIR be modified to require the water-crisis-induced reassessment for the residential housing alternatives discussed above? Will it also guarantee a reassessment for the proposed, accompanying retail expansion, even if it is not required by state law?	9.140 Please refer to response to comment 9.26 for a discussion of water supply. Updates to the water supply discussion have been integrated into the Final EIR (Sections 5.7 and 5.8). The Water Supply Assessment for the proposed project considers the full range of land use scenarios proposed in the Master PDP.
9.141	Conclusion-this section asserts that a reduction in building height would reduce design flexibility for residential/hotel/office towers and “could prevent the applicant from being able to achieve its affordable housing requirements.” Even without this flexibility though, recent approval of the Monte Verde project suggests that the City believes that purely residential uses of towers of a comparable size makes sense in University City. The Monte Verde applicant offered data purporting to demonstrate that non-residential developments were not economically feasible. (It must be noted that much of the UC community disagrees with the City’s certification of Monte Verde FEIR, to a great extent because of the unmitigable impacts on traffic.) What is the evidence that hotel or office uses are even economically feasible in this location? Following so close by the City’s certification of the Monte Verde FEIR, this Westfield assertion about flexibility does not ring true. It conjures up suspicions that the vaunted “flexibility” is actually a negotiating ploy. It is true that Westfield does not have to explain differences between its own EIR assertions and Garden Communities’ assertions concerning the Monte Verde	9.141 Hotel and office uses are permitted under the zoning designation for this site, further justification for such uses is not required by CEQA which requires the preparation of information documents designed to ensure a full and complete environmental review. The Master PDP provides flexibility to the applicant to react to market conditions which may or may not make a hotel or office use economically feasible. It should be noted that, in response to public comments, the project applicant has decided to not pursue any of the land use scenarios containing hotel or office uses. See revisions in Section 4.0 of the Final EIR.

9.141
cont.

development, but such contradictions will likely have to be addressed at the UC Planning Group, San Diego Planning Commission and San Diego City Council. The repeated mantra about “flexibility” also stimulates concerns about an SCR process being used in the future to substantially change the actual development at UTC without providing proper public participation in the process.

9.142

As to affordable housing, Westfield deserves credit for proposing to offer affordable housing onsite. This stands in marked contrast to Garden Communities’ Monte Verde plan to neither provide affordable housing on-site, nor pay in-lieu fees. Garden Communities has proposed meeting the inclusionary housing requirements by offering rent reductions from its own portfolio in UC. (An August 2007 report, *Tenants’ Give Thumbs Down to Apartments Proposed for Inclusionary Housing*, is sharply critical of this Garden Communities proposal.) But it is not evident why onsite inclusionary housing is only feasible with a massive residential building. **Why does the reduction in the height of the buildings from 35 stories to approximately 20 stories preclude on-site affordable housing? How does the developer propose to satisfy San Diego’s affordable housing requirement if it is not onsite?**

Section 8.4 Summary of Project Alternatives

8.4 Summary of Project Alternatives.

Table 8-1- this section asserts that no residential alternative is considered to be the environmentally superior alternative. While this may be inferred from the summary of impacts for various project alternatives, there are a number of asserted impacts that are open to challenge. They include:

9.143

- Land use policy and visual quality are rated as less than significant for all the alternatives that include residential buildings. In several places we have questioned whether locating these buildings close by streets and sidewalks do not change the visual character of UTC as they have been acknowledged to do when placed next to low-rise buildings.
- Water conservation has been rated as less than significant for all the alternatives to expand UTC in some fashion. We have questioned whether this analysis has taken into consideration the recent district court ruling that restricts pumping of water from the Bay Delta. (The 2004 San Diego Water Study is no longer adequate to support findings according to the City Attorney.)
- The draft EIR uses the 2004 significance standards for traffic that were upgraded in January, 2007-essentially reducing the standard in half. We suggest that this EIR’s traffic studies ought to use the new standards. This will increase potential negative traffic impacts of the various alternatives.

9.142 Please refer to response to comment 9.23 regarding the Reduced Building Heights Alternative.

9.143 For a discussion of visual character/height, please refer to response to comment 9.106. For a discussion of water supply, please refer to response to comment 9.26. For a discussion of traffic thresholds, please refer to response to comment 9.56. For a discussion of cumulative impacts with the proposed Monte Verde project, please refer to response to comment 9.66. For a discussion of parking, please refer to response to comment 9.133. For a discussion of holiday traffic, please refer to response to comment 9.51. For a discussion of traffic thresholds, please refer to response to comment 9.56. For a discussion of Regents Road Bridge, please refer to response to comment 9.50. The purpose of EIR Table 8-1 is to summarize the conclusions reached for each alternative compared to the conclusions reached for the proposed project.

9.143
cont.

- Construction effects are rated significant but mitigable. This EIR should include the Monte Verde construction schedule as a cumulative impact.
- Questions also arise about traffic analysis even though it is acknowledged that pursuing *any* alternative leads to significant unmitigable "Transportation/Circulation" impacts ("SU" in the table, p. 8-23). The questions include:
 - What are the effects of parking on La Jolla Village Drive and Genesee?
 - What are the likely seasonal increases in retail traffic? (data on which the study based were taken in March 2002, long after the end of the holiday shopping window.)
 - Why are outmoded traffic significance levels used?
 - Why don't studies include traffic projections for all four possible alternatives for building the Regents Road Bridge and widening Genesee Ave.: in-in, in-out, out-in, out-out?

Answering these questions should provide a lot more granularity for the environmental analysis of alternatives, than that provided in Table 8-1. **Attachment 1**

Delays at Freeway Ramps

Summary from Monte Verde EIR traffic analysis

MV= Monte Verde

W= Westfield

Intersection AM/PM

Nobel Drive/I 805-South A.M.

	2005 baseline	2005 + MV	2005 +MV + W*	Comments based on 2002
data,				
Delay min	126.3	131.4	133.7	conservative metering,
Queue ft	15530	16154	16440	no bridge, no widening
	2020 baseline	2020 + MV	2020 +MV + W	
Delay min	283.0	288.0	293.8 (4.9 hrs)	conservative
metering				
Queue ft	34780	35404	36115 (6.9 miles)	bridge, widening
	2020 baseline	2020 + MV	2020 +MV + W	
Delay min	286.4	291.5	297.2 (5.0 hrs)	conservative metering
Queue ft	35201	35825	36536 (7.0 miles)	no bridge, no widening

Nobel Drive/I 805-South P.M.

2005 baseline	2005 + MV	2005 +MV + W	based on 2002 data
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Page 41

9.144 Comment noted. Attachment 1 appears to address the new traffic significance thresholds, which are not applicable to the proposed project, as described in response to comment 9.56.

9.144
cont.

Delay min	106.5	108.7	123.7	conservative metering
Queue ft	13097	13361	15210	no bridge, no widening
	2020 baseline	2020 + MV	2020 +MV + W	
Delay min	226.5	228.7	257.2 (4.3 hrs)	conservative metering
Queue ft	27848	28111	31610 (6.1 miles)	bridge, widening
	2020 baseline	2020 + MV	2020 +MV + W	
Delay min	254.7	256.9	285.3 (4.8 hrs)	conservative metering
Queue ft	31311	31575	35074 (6.7 miles)	no bridge, no widening

* Several projects likely to expand in University City were not included in the analysis

Delays at Freeway Ramps (Continued)

Intersection AM/PM

Nobel Drive/I 5-South A.M.

	2005 baseline	2005 + MV	2005 +MV + W	Comments
Delay min	0	.8	1.5	based on 2002 data
Queue ft	0	195	368	conservative metering
	2020 baseline	2020 + MV	2020 +MV + W	
Delay min	30.4	34.2	37.0	conservative metering
Queue ft	7610	8546	9243	bridge, widening
	2020 baseline	2020 + MV	2020 +MV + W	
Delay min	31.7	35.4	38.2	conservative metering
Queue ft	7918	8854	9551	no bridge, no widening

Nobel Drive/I 5-South P.M.

	2005 baseline	2005 + MV	2005 +MV + W	based on 2002 data
Delay min	5.6	7.2	10.4	conservative metering
Queue ft	1405	1801	2598	no bridge, no widening
	2020 baseline	2020 + MV	2020 +MV + W	
Delay min	50.3	51.9	60.4	conservative metering
Queue ft	12580	12976	15098	bridge, widening
	2020 baseline	2020 + MV	2020 +MV + W	
Delay min	58.6	60.2	68.7	conservative metering

COMMENTS

RESPONSES

9.144
cont.

Queue ft	14648	15044	17167	no bridge, no widening
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Intersection AM/PM**L.J. Village Drive/I 5-North A.M.**

	2005 baseline	2005 + MV	2005 +MV + W	Comments
Delay min	33.3	38.9	40.2	based on 2002 data
Queue ft	5000	5832	6035	conservative metering no bridge, no widening
2020 baseline	2020 + MV	2020 +MV + W		
Delay min	46.8	49.5	52.5	conservative metering
Queue ft	7025	7425	7875	bridge, widening
2020 baseline	2020 + MV	2020 +MV + W		
Delay min	47.2	52.7	55.7	conservative metering
Queue ft	7075	7907	8360	no bridge, no widening

L.J. Village Drive/I 805-North A.M.

	2005 baseline	2005 + MV	2005 +MV + W	Comments
Delay min	24.9	27.3	42.2	based on 2002 data
Queue ft	4425	4850	7500	conservative metering no bridge, no widening
2020 baseline	2020 + MV	2020 +MV + W		
Delay min	39.8	42.1	49.6	conservative metering
Queue ft	7076	7492	8828	bridge, widening
2020 baseline	2020 + MV	2020 +MV + W		
Delay min	45.1	47.4	54.9	conservative metering
Queue ft	8018	8434	9775	no bridge, no widening

L.J. Village Drive/I 805-North P.M.

	2005 baseline	2005 + MV	2005 +MV + W	Comments
Delay min	114.8	115.8	120.0	based on 2002 data
Queue ft	20425	20600	21350	conservative metering no bridge, no widening
2020 baseline	2020 + MV	2020 +MV + W		
Delay min	103.0	104.0	135.6	conservative metering
Queue ft	18328	18504	24128	bridge, widening
2020 baseline	2020 + MV	2020 +MV + W		
Delay min	134.2	135.2	166.8	conservative metering
Queue ft	23873	24049	29673	no bridge, no widening

9.144
Cont.**Delays at Freeway Ramps (Concluded)**

Intersection		AM/PM		
L.J. Village Drive/I 805-South A.M.				
	2005 baseline	2005 + MV	2005 +MV + W	Comments based on 2002 data conservative metering no bridge, no widening
Delay min	14.2	17.1	19.1	
Queue ft	3500	4225	4725	
	2020 baseline	2020 + MV	2020 +MV + W	conservative metering bridge, widening
Delay min	14.6	17.1	22.4	
Queue ft	3600	4225	5525	
	2020 baseline	2020 + MV	2020 +MV + W	conservative metering no bridge, no widening
Delay min	14.6	16.3	21.6	
Queue ft	3600	4016	5325	
L.J. Village Drive/I 805-South P.M.				
	2005 baseline	2005 + MV	2005 +MV + W	based on 2002 data conservative metering no bridge, no widening
Delay min	2.8	4.0	16.8	
Queue ft	700	1000	4150	
	2020 baseline	2020 + MV	2020 +MV + W	conservative metering bridge, widening
Delay min	1.2	2.3	20.4	
Queue ft	300	575	5050	
	2020 baseline	2020 + MV	2020 +MV + W	conservative metering no bridge, no widening
Delay min	1.7	2.4	20.2	
Queue ft	425	601	5000	

11.0 Certification/Qualification

In conclusion, the UCPG has serious concerns about the UTC expansion, with the impact of added housing and traffic, as our greatest concerns. Our concerns include:

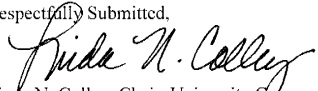
- Lack of justification for adding new ADT's to the community. Project site does not have the ADT allocations.
- Lack of justification for the rezoning. Project site is currently zoned regional commercial.
- Lack of specificity about what is to be built required by CEQA for a Project EIR

9.145

9.145 Please refer to responses to comments 9.1 through 9.144.

COMMENTS

RESPONSES

- 9.145
Cont.
- Additional housing and traffic impacts.
 - Bulk and scale, community character, visual aesthetics and lack of parks
 - Cumulative impacts and growth inducement
 - Lack of fire and police services in the Community
- 9.146 The DEIR is unacceptably vague in almost every respect. It fails to meet CEQA standards and should be redrafted and re-circulated.
- 9.147 The current UTC site is already over its allotted development and the traffic pattern in the area operates at "F" service level. There is nothing in the mitigation proposals in the DEIR that appear to be feasible or even if implemented would provide adequate solutions to the large increase in vehicular traffic.
- 9.148 The UCPG does not support rezoning to allow more residential dwelling units at the UTC site. The proposed dwelling units will permit residential densities which far exceed what was permitted and built at the site. This area was planned and balanced when originally approved and built and the density level was appropriate. The analysis of this current condition needs to be expanded in the Final EIR.
- 9.149 If the EIR is to be used in selecting an alternative, then Findings and a Statement of Overriding Considerations, if appropriate, should be presented for each project alternative studied in conjunction with the distribution of the Final EIR. The Findings should include the cost and funding source associated with each alternative since cost and funding will undoubtedly be major factors in determining the feasibility and selection of the project alternative to be implemented.
- The UCPG Executive Committee, and the UCPG members, look forward to receiving the Final EIR, Findings, and Statement of Overriding Considerations on behalf of the UC community. If you have any questions concerning this letter, please contact Linda N. Colley, Chair of the UCPG at (858-453-0435) or via email at lcolley1@san.rr.com.
- Respectfully Submitted,
- 
- Linda N. Colley, Chair, University Community Planning Group
- Cc: Thomas Tighe, Vice Chair
Pat Wilson, Secretary
Milton J. Phegley, Membership Secretary (UCSD Administration)
Charles Herzfeld, Resident 1 Representative
Brian Wilson, Resident 1 Representative
Lorraine Stein, Resident 2 Representative
Wendy Peveri, Resident 2 Representative
Marilyn Dupree, Resident 3 Representative
William H. Beck, Resident 3 Representative

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- 9.146 Comment noted. The City considered the comments contained in this letter and determined that recirculation was not warranted because it did not produce significant new information after public review that would have deprived the public of a meaningful opportunity to comment. Per State CEQA Guidelines Section 15088, "recirculation is not required where the new information added to the EIR merely clarifies or amplifies or makes insignificant modifications in an adequate EIR."
- 9.147 A feasibility study on all proposed transportation/circulation mitigation measures was prepared (Rick Engineering 2007a), which determined that all improvements recommended in the Traffic Impact Study and within the EIR are feasible from an engineering perspective. Although not all mitigation has been determined to be feasible for other reasons, as stated in EIR on page 5.3-49, "impacts to street segments, freeways and freeway ramps would remain significant and unmitigable". Refer to response to comment 9.93 that describes why the traffic analysis for the UTC may conservatively overestimate trips.
- 9.148 Please refer to response to comment 9.2 regarding the rezone.
- 9.149 Findings will address the proposed project and its alternatives. They will be attached to the staff report available to the public 10 working days before the Planning Commission hearing.

COMMENTS

RESPONSES

Petr Krysl, Resident 3 Representative
Nan Madden, Business 1 Representative
J. Deryl Adderson, M.D., Business 1 Representative
Harry Walker, Business 2 Representative
Tracie J. Hager, Business 2 Representative
Alice Tana, Business 3 Representative
Sherry Jones, Business 3 Representative
George Lattimer, Business 3 Representative
Juan H. Lias, MCAS-Miramar Representative
Dan Monroe, Planning Department

COMMENTS

RESPONSES

9.150 [

Attachment #1

9.150 Comment noted. Refer to response to comment 9.144 regarding the traffic significance thresholds.

COMMENTS

RESPONSES

Friends of Rose Canyon
P.O. Box 221051
San Diego, CA 92192-1051

Oct. 10, 2007

To: Martha Blake, DSD
City of San Diego Development Services

Submitted via email to: DSDEAS@sandiego.gov

Re: Comment letter on University Towne Center Revitalization Project Draft Environmental Impact Report/Project No. 2214

Dear Ms. Blake,

Thank you for the opportunity to comment on the DEIR. Friends of Rose Canyon has submitted under separate cover a comment letter and attachments from Shute, Mihaly and Weinberger (SMW). This comment letter is in addition to those comments.

10.1

As pointed out in the letter from SMW, "the overarching defect in the DEIR is its thoroughgoing failure to accurately describe the project. The document does nothing more than describe a conceptual plan for what may ultimately be constructed on the existing shopping center site." I am submitting here (Attachment 1) a copy of a mailer Westfield sent out that I received as a resident about a week ago. The mailer lists many features of "the new utc". However, on the back, it states in fine print: "This mailer is illustrative only and does not constitute any warranty or representation as to the proposed design, make-up, size, style, layout of appearance of Westfield UTC. We reserve the right, at our sole discretion, to vary the plans for the center at any time." This mailer illustrates how fundamentally flawed the EIR is: it provides a vague set of "mights", "maybes", "intends", and "coulds", providing Westfield the freedom to vary major aspects of the project at any time.

On page ES-4, under Project Description, the DEIR states as a "basic project objective": "Implement a green building program under the Leadership in Energy and Environmental Design (LEED) certification process which would result in a highly sustainable development through the use of low energy systems, sustainable landscape and water conservation." The DEIR must provide specifics: what does "highly sustainable" mean? What specifically will the project do, and what specific measures of sustainability would that provide?

P. 3-14-3-15 provides no specific measures and no measurable outcomes, and not even a commitment to implementing any of the possible measures listed:

10.2

"To reduce utility loads, the project applicant **proposes to** implement a green building program, **designed to** increase resource efficiency and sustainability (Westfield Corporation 2007). The project applicant **intends** for UTC to be a facility that achieves a high degree of sustainability through the use of high performance architecture, low energy systems, renewable power generation on site, sustainable landscape and water conservation. The project applicant **intends** to achieve a high certification within the LEED Green Building Rating System, which is the nationally accepted benchmark for the design, construction, and operation of high performance green buildings. The project has been accepted as a LEED-ND (Neighborhood Development) pilot project by the U.S. Green Building Council. The LEED-ND pilot program integrates the principals of smart growth, new urbanism and green building. The project applicant has generated sustainability strategies for the redevelopment of the UTC shopping center, including those associated with landscape, lighting, electrical, structural, and HVAC systems. **Landscape strategies would include** the use of reclaimed water, as well as xeriscaping and use of drought tolerant native plant species. **Lighting strategies may involve** the use of natural daylight and photosensors to optimize use of daylight. **Electrical strategies may include** generation of the electrical load on site from renewable sources (e.g., sun) and

10.1

Responses 14.1 through 14.55 address comments contained in the Shute, Mihaly & Weinberger letter. With regard to the adequacy of the EIR project description, refer to response to comment 9.3 from the University Community Planning Group. The application is being processed as a Master PDP pursuant to Section 126.0112 of the SDMC. Refer to response to comment 9.11 from the University Community Planning Group, which addresses the purpose of the Master PDP permit and the associated Substantial Conformance Review process that follows. The City cannot comment on the content of the mailer attached to this letter as it was not produced as part of the EIR process.

10.2

Please refer to response to comment 9.39 for a discussion of LEED certification and the specific water conservation strategies the applicant is committed to.

10.2
cont.

incorporation of high-efficiency appliances. **Structural strategies may include** the use of recycled steel and concrete. **HVAC strategies may involve** the incorporation of natural ventilation, implementation of thermal zoning and providing a central plant for heating and cooling. More discussion of the UTC green building program is provided in Sections 5.4, *Air Quality*, 5.7, *Public Utilities*, and 5.8, *Water Conservation*, of this report. **(Bolded items added to indicate the indefiniteness.)**

Throughout the entire document, the DEIR needs to state specific actions and specific results to back up the vague claims it makes to "sustainability." It should also state in what specific ways these sustainability claims are anything more than what is already either mandated by law or required for project consistency with the City of San Diego's Planning Policies, or actions the project would take in any case because they make financial sense.

For example, the DEIR's Table 5.1-1 addresses the City of San Diego's Planning Goal: "Reduction and/or minimization of the overall level of energy consumption in both existing housing and new construction." The DEIR responds (in part): "As part of the project's green program, the design guidelines include some use of native and other drought tolerant plant species. Water consumption could be further minimized through the use of water-efficient fixtures, as required by Chapter 14, Article 7, Divisions 3 and 4 of the SDMC." Thus, the DEIR makes no commitments, and in any case does nothing more than imply that the project in some manner may comply with the City's Planning Goals. Furthermore, it is vague even about doing that, committing to "some use of native and other drought tolerant plants" and "water consumption could be further minimized through the use of water-efficient fixtures."

On page 5.1-29, also in Table 5.1-1, the DEIR states: "Project demands on potable water supply would not be excessive. The proposed project would be required to comply with the SDMC requirements, is proposed as a LEED-ND pilot project and would connect to the recycled water system for irrigation, which would reduce the existing and expanded center's projected demand on water supply." Once again, the statements about what will be done and what the results will be are vague.

10.3

The DEIR Traffic Study Fails is inadequate because it fails to include a scenario without the proposed Regents Road bridge project.
Westfield was initially required by the City to study four scenarios in its traffic study regarding two controversial road projects: to assume construction of both the proposed Regents Road bridge project and the proposed Widening of Genesee Avenue, the construction of just one or the other, or neither. (See Attachment 2.) Curiously, the DEIR has eliminated from its traffic study the scenario without the proposed Regents Road bridge project. Presumably, the "bridge out" scenario may have been eliminated from earlier versions of the traffic study after the August 1, 2006 City Council vote to certify the North/South EIR and implement the Regents Road bridge project. However, in no longer considering the "bridge out" scenario, the DEIR relies on what is now an outdated situation. In March, 2007, the City Council rescinded its approval of the Regents Road bridge project and voted to proceed with a brand new project specific EIR before "implementation, if any" of the proposed Regents Road bridge project (italics added.) The city estimates that this new EIR will not be completed until October, 2009. Thus, the completion of the environmentally problematic Regents Road bridge project remains in doubt, with no EIR and no project approval. The traffic study must thus be redone to include the "bridge out" scenario.

Sincerely,

10.4

Deborah Knight
President, Friends of Rose Canyon
Attachments: 1. "Imagine the new utc." Westfield mailer (4 pages)
2. Emails between Bruce McIntyre, Gordon Lutes, Linda Morabian, Ann Gonsalves, et. al.

10.3

It is defensible for the project traffic study to have assumed Regents Road Bridge would be implemented as part of the *University Community Plan* and the project traffic study is not inadequate because it excluded an analysis of future conditions without the Regents Road Bridge, as discussed in response to comment 9.60 from the University Community Planning Group. Nonetheless, a supplemental analysis, without the Regents Road Bridge, was prepared by the project traffic engineer in response to comment 9.50 and various public review comments on the topic. That analysis showed that no new significant impacts would arise should the bridge not be constructed on schedule or at all. The analysis is summarized in response to comment 9.50 and included as Appendix K to the Final EIR.

10.4

Comments noted. No issues regarding the adequacy of the EIR are identified.



What's in store for Westfield UTC

More of what you love: open-air plazas, natural gardens, new boutique shopping and dining options, and more convenient parking. It's part of an on-going planning effort with the community to deliver revitalized retail, exciting public spaces and environmentally-friendly development. Visit thenewutc.com to get involved.

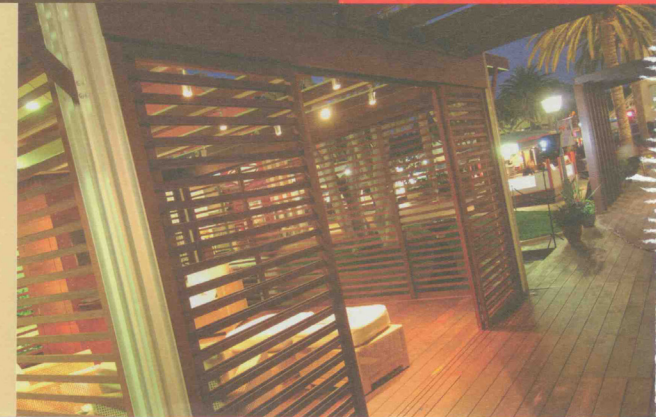
The UTC Experience: Now Open

You're invited!

Please join us for an open house
at the UTC Experience from 6-8pm

Imagine.

- Three new anchor stores
- 150 new shops
- Five new restaurants
- New state-of-the-art movie theater experience
- Revitalization of existing center
- Modern residences with separate parking

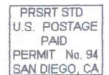


the
new
utc

Westfield UTC
4545 La Jolla Village Drive, Ste. E-25 San Diego, California 92122
Management office: (858) 453-2930

www.thenewuttc.com

This mailer is illustrative only and does not constitute any warranty or representation as to the proposed design, make-up, size, style, layout or appearance of Westfield UTC. We reserve the right, at our sole discretion, to vary the plans for the center at any time.



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297.00
Resident
6188 Agee St Unit 226
San Diego CA 92122-3839

In

Page 1 of 2

To: "Bruce McIntyre" <BruceM@ProjectDesign.com>,
 "Andy Schlaefli (E-mail)" <usai@urbansystems.net>
 Cc: "Sara Katz (E-mail)" <skatz@katzandassociates.com>
 Subject: FW: Re: UTC Expansion Project

FYI. On the bus tour, David Doll said that UTC's traffic analysis was based on the Community Plan Circulation element. Patti then said that it was her understanding that UTC was to consider the four cases in our scope: Regents Road Bridge only; widening of Genesee only; Regents Road Bridge and widening of Genesee; and neither project. Here are some emails to confirm Patti's understanding.
 Gordon

-----Original Message-----

From: Steve Frick [mailto:SFrick@SanDiego.gov]
 Sent: Tuesday, May 13, 2003 7:05 AM
 To: GordonL@projectdesign.com
 Subject: Fwd: Re: UTC Expansion Project

Gordon,
 Attached is an email from Linda Morabian. Apparently Westfield is required to analysis the four alternatives.
 Steve

From: Linda Marabian <LMarabian@sanDiego.gov>
 To: Steve Frick <SFrick@SanDiego.gov>
 Subject: Fwd: Re: UTC Expansion Project
 Date: Mon, 12 May 2003 13:18:02 -0700
 MIME-Version: 1.0
 X-Mailer: Internet Mail Service (5.5.2653.19)
 Content-Type: multipart/mixed;
 boundary="-----=_NextPart_002_01C31967.4E83C410"

Steve,
 Here's your answer. You are right, nothing has changed from our original agreement.
 Linda

From: Ann Gonsalves <agonsalves@SanDiego.gov>
 To: Linda Marabian <LMarabian@sanDiego.gov>
 Cc: Alireza Sabouri <ASabouri@SanDiego.gov>, Mark Rogers
 <MRogers@sanDiego.gov>
 Subject: Re: UTC Expansion Project
 Date: Mon, 12 May 2003 12:21:31 -0700
 MIME-Version: 1.0
 X-Mailer: Internet Mail Service (5.5.2653.19)
 Content-Type: multipart/mixed;
 boundary="-----=_NextPart_004_01C31967.4E83C410"

Linda,

Parsons has written us a letter requesting what is represented in yuor

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5/13/2003

In

Page 2 of 2

e-mail, I plan to write them back reiterating the deal from before. From our perspective, nothing has changed. So I'm assuming perhaps their request has something to do with the Westfield change from Dave Hokanson to David Doll.

Please let us know if you hear anything else... and we'll do the same for you.

Thanks,
 Ann

>>> Linda Marabian 05/12/03 07:28AM >>>

Ann,
 Please see attached. My understanding was they were going to study the 4 alternatives. Mark, can you shed some light on this too? Has anything changed?
 Thanks,
 Linda

Printed for Lyndi <usai@urbansystems.net>

5/13/2003

LA JOLLA VILLAGE COMMUNITY COUNCIL
8840-302 Villa La Jolla Drive
La Jolla, California 92037

October 3, 2007

Ms. Martha Blake
Senior Planner
SD Development Services Center
1222 First Ave., MS 501
San Diego, California 92101

Re: Project No. 2214, DEIR, Westfield UTC
University Towne Centre Revitalization Project

Dear Ms. Blake:

In response to our review, we have many concerns regarding intensity, height and traffic for Project No. 2214. We have outlined our 6 major concerns.

I. Traffic

Our community is located west of I-5, east of Gilman Drive, south of La Jolla Village Dr. and north of the point where I-5 and Gilman Drive intersect. We have ten commercial projects and 17 condominium and apartment projects totaling approximately 3626 units. We are very concerned with the I-5/La Jolla Village Drive interchange's operation. It is currently operating at LOS F today and needs a major redesigned and expansion. We believe this interchange should be designed and bonded prior to the granting of the first building permit. Also, the Nobel Drive and I-5 interchange is only a half interchange and should be completed to allow on ramps to I-5 north. Currently, you can only drive south from Nobel Drive on I-5. This additional ramp may take some pressure off of I-5 and La Jolla Village Drive.

We also believe that triple left hand turn lanes are dangerous. The driver of the middle turn lane is in danger of being hit by swerving automobiles. We oppose triple left turns.

II. Bicycle Lanes

We oppose any loss of bicycle lanes. The right-of-ways should accommodate safe bike lanes, no substandard widths.

11.1 The City agrees that the I-5/La Jolla Village Drive interchange experiences some congestion during peak periods; however analysis from the TIS was confirmed and indicates a LOS C or better under existing conditions. For comparison purposes, the recently approved Monte Verde project reported a LOS B for the interchange. There are currently no plans for improvement for this interchange, with the exception of project improvements related to the UTC project. The City Council will review the proposed project's statement of overriding considerations against the potential traffic impacts and determine whether or not to approve the Community Plan Amendment.

The City recognizes that I-5/Nobel Drive interchange is built to a half-diamond configuration and does not afford access to/from the north. Due to the close proximity between Nobel Drive and La Jolla Village Drive, completing the interchange with northerly ramps would introduce a dangerous configuration by providing ramp merge and diverge freeway sections too closely spaced. Furthermore, such a configuration would not meet Caltrans design requirements.

The project is not proposing any triple-left configurations. At the intersection of La Jolla Village Drive/I-805 southbound ramps the project is proposing a triple right-turn configuration as part of the project's mitigation requirements. Such a configuration does not have an adverse effect on safety at intersections that are properly designed and that have generous downstream intersection spacing, as is the case with this location.

11.2 As discussed on page 5.1-65 of the EIR, the proposed project would maintain the Genesee Avenue bikeway and would construct a bikeway along Nobel Drive as part of the improvements to UTC's frontage along Nobel Drive as part of FBA NUC-J. No bicycle lanes would be lost as suggested by this comment.

- 11.3 **III. Torrey Trail is supposed to be zoned open space and wouldn't allow a child care center in it. We oppose any rezoning of the open space and the addition of a child care center in it. The original UTC, the child care center was in the shopping areas so that it was easy to drop by and pick-up children. It should be incorporated in the design of the mall.**
- 11.4 **IV. Global Warming**

We believe that this subject hasn't been adequately addressed. It should be addressed with property mitigation measures. Global warming is more extensive than just LEED/Energy issues. It needs a more in depth review with mitigation measures for the additional 17,800 traffic trips, water usage, energy use, heating and air conditioning, less open space, more concrete, less landscaping and parkways; the ice rink.

LEED-ND is a new program and existing developments may not be able to comply with the program and point system. Visit www.ucsd.edu/leed for LEED-ND requirements.
- 11.5 **V. Air Quality**

We oppose any additional road dust and emissions that would degrade the air quality. We are especially concerned because there are 4 schools and 3 hospitals within two miles. The health of UC residents is our biggest issue. This hazard must be fully mitigated. Today UTC is dirty and needs washing, plus additional landscaping to mitigate air quality.
- 11.6 **VI. Visual/Community Character**

The community plan was designed for 2 and 3 story buildings at the intersection of La Jolla Village Dr./Genesee Ave, then stepping back to taller structures. We oppose any building taller than 21 stories and no closer than 150 feet to the corner property line. We oppose 35 story buildings because we believe that it will drastically change the community character. We are not Century City in Los Angeles. We are in San Diego near the coast and the UCSD campus. We believe that the community was primarily designed with 200 foot maximum height limits, like Mid-City in the Uptown area. We don't have a grid system to alleviate traffic on congested streets. See pages 11.1 to 11.7 in the UC community plan.
- 11.7 **In conclusion, we don't believe that you can adequately mitigate the significant impacts and that after reviewing these significant impacts, there could be improved**

- 11.3 The comment incorrectly identifies the zoning of the Torrey Trail district. The open space designation of Torrey Trail district in the *University Community Plan* is not consistent with the underlying zoning. As discussed on page 3-5 of the EIR, a small portion of the existing open space (Torrey Trail) is zoned residential (RS-1-14), and the remainder is currently zoned commercial (CC-1-3), including the portion where the childcare facility is proposed. The portion of Torrey Trail that is designated open space in the *University Community Plan* would continue to be zoned CC-1-3, while the portion outside that open space designation would be rezoned to CR-1-1. The existing residential zoning would remain unchanged. Because childcare facilities are permitted in commercial zones, this comment is inapplicable. The commenter's opposition to the placement of the child care center in Torrey Trail district is noted. However, the new drop-off/pick-up location will be only 150 feet southwest of the current location and would not be any less convenient than the existing child care center.
- 11.4 Global warming is discussed as Issue 4 of Section 5.4 in the EIR. The greenhouse gas emissions associated with increased energy use, water use and vehicular emissions due to project generated traffic are identified and quantified. As the proposed project would comply with provision of Assembly Bill 32, no impacts have been identified, and therefore no mitigation measures would be required. In order to be conservative, the emissions were calculated as a "worst-case" condition assuming no LEED certification, no water conservation measures, and no transit credit. It is unclear what the commenter is referring to regarding "property mitigation measures." Refer to response to comment 9.39 from the University Community Planning Group regarding the various design features the applicant is pursuing as part of its LEED certification.
- 11.5 All aspects of air emissions were addressed in Section 5.4 of the EIR. The analysis looked at both regional and localized emissions generated by the proposed project, including fugitive dust from construction and operations and localized CO hotspot impacts. With regard to regional emissions of particulate matter, the proposed project would temporarily produce elevated levels of PM_{10} and $PM_{2.5}$ during construction that would be minimized by dust control mitigation outlined on page 5.4-15. Operational emissions of PM_{10} would also exceed the City's significance thresholds, while long-term emission of $PM_{2.5}$ would not. Because vehicles are the primary source of operational PM_{10} , the EIR notes on page 5.42-26 that road dust would be generated; however, it should be noted that PM_{10} emissions are regional in nature and the resulting impacts are diffused throughout the San Diego Air Basin. Because the area is in non-attainment for PM_{10} , the EIR concluded that significant and unmitigable impacts would arise. With regard to localized emission, a CO hotspot analysis was performed to evaluate the potential public health effects caused by degraded traffic conditions near local intersections. As noted in Section 5.4 of the EIR, the proposed project would not cause significant CO hotspot impacts at any of the degrade intersections in the community; therefore no mitigation was required. In response to this comment, a localized PM_{10} analysis was conducted and is presented in the Final EIR. That analysis concluded that localized PM_{10} from road dust would be less than significant (see new discussion in Section 5.4 of the Final EIR under Issue 2)

COMMENTS

RESPONSES

- | | |
|------|--|
| 11.6 | There are no specific policies in the <i>University Community Plan</i> that state buildings cannot exceed two or three stories at the intersection of La Jolla Village Drive and Genesee Avenue. To the contrary, the Community Plan policies encourage buildings close to the street to encourage street vitality, as discussed in response to comment 9.106 from University Community Planning Group. The commenter's opposition to the height of the buildings is acknowledged. |
| 11.7 | As the commenter does not provide details regarding which impacts they do not believe can be adequately mitigated, no detailed response can be provided. It should be noted that the EIR has acknowledged significant and unmitigable direct impacts to aesthetics/visual quality, transportation/circulation, and air quality, and significant and unmitigable cumulative impacts to transportation/circulation, air quality and public services (solid waste). Any community benefits proposed to offset these impacts will need to be outlined in the Statement of Overriding Considerations if the City chooses to approve the proposed project. |

COMMENTS

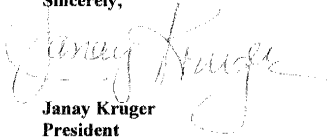
RESPONSES

11.7
cont.

design plans with less alternatives for residential, hotels and offices – too many variables.

The impacts will be extreme and we don't see any community benefits to offset the traffic, air quality and community character issues. We are opposed to a Master Plan project EIR and would recommend a defined project.

Sincerely,



Janay Kruger
President

Tt/nm/bp

COMMENTS

RESPONSES

UTC Revitalization comment letter Project No. 2214, SCH No

Page 1 of 5

From: Carolyn Chase [cdchase@movesandiego.org]**Sent:** Monday, October 08, 2007 3:10 PM**To:** Martha Blake**Subject:** UTC Revitalization comment letter Project No. 2214, SCH No 2002071071

Please use this comment letter thanks:

Move San Diego is a non-profit group dedicated to improving the connections between land use planning and the performance of transportation infrastructure.

I submit these comments for the record on behalf of Move San Diego, a California non-profit corporation and as a former Planning Commissioner for the City of San Diego on the Draft EIR for the UTC Revitalization Project (Project No. 2214, SCH No 2002071071).

1) We are concerned that the traffic analysis combined with the decisions being proposed for mitigation and phasing are being based upon outdated Traffic Significance Criteria and therefore the EIR is not certifiable and not in compliance with CEQA.

Page 5.3016 include Table 5.3-6 TRAFFIC SIGNIFICANCE CRITERIA along with the following text:

"In January 2007, the City Development Services Department adopted new traffic thresholds for project applications deemed complete after January 1, 2007. The new thresholds effectively halved the significance threshold for intersections and street segments operating at LOS F and added thresholds for freeways and their ramps. Because the application for the UTC Revitalization project was deemed complete in February 2002, the criteria do not apply and the analysis contained in the approved TIS and presented in the EIR reflects the thresholds in place at the time the application was deemed complete (and through December 2006)."

While jurisdictions are encouraged to set Guidelines for Significance, those Guidelines shall not take precedence with respect to the determination of actual impacts.

When I was on the Planning Commission we were told that new thresholds "effectively halved the significance thresholds" due to case law. Is this not the case?

Guidelines are not substitutes for addressing the real impacts - especially when the existing conditions are already at unacceptable levels of service.

2) We are also seriously concerned about the approach being pursued by the City and this applicant with respect to propagating significant, unmitigable impacts instead of properly mitigating them consistently and adequately.

On Page 7-5 it states, "The applicant has indicated that it would not implement street segment mitigation measures for Genesee Avenue and La Jolla Village Drive because it would conflict with the community plan classifications for the roads. The University Community Plan Update EIR identified cumulatively significant and unmitigable impacts caused by traffic congestion associated with community plan buildout and adopted a Statement of Overriding Considerations when approving the University Community Plan (City of San Diego 1987a)."

But this project proposes to create new, significant unmitigable impacts above, beyond and on top of the significant unmitigable impacts considered in that Plan.

Is it really the intent of the City that once an area is dysfunctional that then all other subsequent proposals to add

file://G:\PROJECTS\Enviro\VWXYZ\WCI-02\Final EIR\Comment letters\12_MoveSanDiego.htm 10/17/2007

12.1

12.2

12.1

Please refer to response to comment 9.56 from the University Community Planning Group for a discussion of traffic thresholds. The thresholds were not proposed in response to case law, as suggested by this comment. The new thresholds have not been adopted by SANDAG or by the majority of local jurisdictions in San Diego County.

12.2

The City and the project applicant recognize the existing traffic deficiencies at Genesee Avenue and La Jolla Village Drive and is not rejecting mitigation simply because of those deficiencies. The EIR specifically identified and acknowledged that the project would contribute to cumulative impacts at those segments. However, the project applicant and the City concur that the potential mitigation measures addressing those impacts are infeasible due to competing (and weightier) public policy concerns regarding the widening of those street segments. Those public policy concerns outweigh the benefits to be gained from the possible mitigation, as discussed in the EIR at p. 5.3-50, and are discussed in the *University Community Plan* on pages 16-18, 33, 37-39, 43, 47, 58, 63, and 67-68. Please note, too, that the segments at issue will, with the CPA, be reclassified from auto-oriented streets to a part of the UCP Urban Node Pedestrian Network to reflect and implement these policy concerns. The project's on-site transit center will further these goals as well. Refer to response to comment 9.93 regarding the traffic implications of the proposed project. Please refer to response to comment 9.50 regarding potential improvements to Genesee Avenue.

12.2

cont.

to the already impacted situation are then not required to mitigate where they could? Such mitigation could include phasing with planned transit improvements and fair share payments toward planned transit improvements.

The statement that certain improvements in the Community Plan are "no longer supported by City Council" is irrelevant unless and until the Community Plan is amended. The action that it seems the EIR is referring to is the debate over the Regents Rd bridge that debated a number of possible improvements to Genesee. Why aren't these possible improvements also being discussed?

12.3

3) The design of the UC Plan included transit service that has been delayed over and over again due to lack of funding - and still had to compete for both federal and state funds. I called the Federal Transit Administration and spoke with new staff for our region. He stated that as planned for the corridor, the proposed LRT is unlikely to compete successfully for funding. Therefore the City is depending on a plan that is unlikely to be realized. What is the plan if funding is not realized from the feds and the state for the LRT?

12.4

4) The lack of inclusion of this transit in the Plan's FBA (Financing Plan) and City's inconsistent application of their own Council Policy 600-34 (Effective Date May 20, 1986) has directly contributed to the traffic congestion.

Quoting from the purpose of CP 600-34:

"...to achieve high priority.... to achieve the protection and acquisition of transit rights-of-way and finding of local transit's capital, operating, and maintenance costs."

and under IMPLEMENTATION,

B."Where appropriate, the City shall utilize development agreements, development fees, and/or ordinances to allow for in-lieu fees, special assessment districts, air rights leasing, and other such mechanisms to obtain transit funding."

and

C. Appropriate levels of transit improvement financing shall be incorporated in all Facilities Benefit Assessment (F.B.A.) programs based on Council-approved community plans."

By not requiring fair-share contributions to the transit capital projects for this area, the City is not abiding by its own policies or planning or requiring adequate mitigation for the project. Their position that building of a transit center - which really only replaces existing facilities with hopefully some improvement - does little to nothing to advance the investments in the transit infrastructure projects needed to mitigate the overwhelming traffic in the area.

We feel that the applicant needs to redo all their traffic analysis and be required to pay their fair-share of regional transit capital infrastructure improvements to this area and not just provide improvements to the existing transit center. Furthermore, if certain project changes are made, then the transit mitigation will not happen at all.

12.3

The existing transit center would be expanded and relocated to a place where it could be used as a multi-modal transit station with the future light rail transit (LRT) line and station proposed by SANDAG. The expanded transit center would be used for buses regardless of when the LRT is funded. The transit center would be increased in capacity from the existing 6 bus bay center to 11 bus bays. The increased capacity of the transit center would also accommodate other high-capacity transit alternatives, such as the Super Loop and bus rapid transit. Because the retail portion of the traffic analysis did not assume any trip reductions for transit, the fact that LRT funding is not assured would not change the conclusions reached in the EIR.

12.4

Council Policy 600-34 provides that, "It shall be the policy of the Council to work closely with MTDB in planning for, and implementing the development of, public transit in the San Diego area. More specifically, the City shall pursue implementation measures (as listed below) in the area of planning; right-of way protection and acquisition; and the funding of guideway and facility construction, operation and maintenance." Fourteen implementation measures are listed. The City of San Diego has applied several of the implementation strategies in Council Policy 600-34 to the project. The list of implementation measures is meant as a guide for implementation of the larger policy, and all 14 measures are not required to be applied to each project.

The *University Community Plan* provides information on the application of Council Policy 600-34 in the planning area by noting, "improvements needed to ensure the success of regional bus service, the shuttle loop and LRT in the community shall be required as part of the project approval process, consistent with City Council Policy 600-34, Transit Planning and Development. Project applicants shall be required to consult with the San Diego Transit Corporation, the MTDB and other transit implementing agencies to determine the transit improvements needed, and these improvements shall be required as conditions of approval in the permit process (P144)." Consistent with the community plan and implementation measures in Council Policy 600-34, the applicant has been required to consult with MTS (formerly MTDB) and SANDAG on needed transit facilities. Not only did the applicant consult with MTS and SANDAG, but also they have met extensively with their staff to define a transit center location that is preferred by all parties involved (see MTS comment 6.2) and design that functions effectively. In addition, the project will provide dedicated easements for a bus transit center which will also provide stations for the Superloop shuttle system. Right-of-way reservations for the transit center and connections from the shopping mall to the future LRT system will be implemented in the permit process, consistent with the community plan and Council Policy 600-34.

Pages 16-19 of the North University City Facilities Financing Plan provides information on the implementation of some of the various funding measures in Council Policy 600-34. Each year the San Diego City Council approves a list of projects for funding in the Facilities

COMMENTS

RESPONSES

12.4 cont.

Financing Plan. Projects must be contained in the community plan for inclusion in the Facilities Financing Plan. The projects included in the Facilities Financing Plan have been reviewed and approved by the City Council, and are the expressed policy choices of the City Council. As the primary transit hub within the University City community, the expanded transit center may be added to the Facilities Financing Plan, should the City Council approve the proposed project. While detailed designs have not been completed for the transit center, preliminary cost estimates based on conceptual plans have ranged from \$20,000,000 to \$40,000,000. The project proposes to include the expanded transit center onsite and a portion of the Facilities Financing Fees generated by the project may be allocated by the City to fund the transit center improvements. The expanded transit center will be an important element of the transit infrastructure for the community and for the regional transit system, accommodating existing and future bus service, the Super Loop shuttle system, and the planned LRT system or other high capacity service such as bus rapid transit. The City and the project applicant have worked closely with SANDAG and MTS to assure that the transit center will effectively meet the needs of the UTC area and San Diego region well into the future.

The applicant is committed to public transit through its relocation and expansion of the existing transit center and does not need to revise their traffic analysis because it did not assume any retail trip reductions due to transit opportunities on site. The residential mixed-use trip reduction is justified because of the presence of the bus transit center and other future transit programs, such as the Super Loop. As noted in response to comment 9.93, the Traffic Impact Study utilized conservative methodologies which may overstate project impacts.

COMMENTS

RESPONSES

UTC Revitalization comment letter Project No. 2214, SCH No

Page 3 of 5

- 12.5 5) On Page 7-4 and 5 it states;
"Cumulative project impacts would not be considerable because all project-specific impacts would be mitigated to below a level of significance with the exception of impacts to segments of Genesee Avenue, La Jolla Village Drive and I-805 and freeway ramps. I-805 and freeway ramp impacts would remain significant and unmitigable until the implementation of improvements along I-805 as part of the Mobility 2030 plan. The timeframe for the freeway improvements would be such that project impacts to those freeway facilities would not be mitigated for a period of time because the plan's anticipated buildout year would be after buildout of the project."
- Our understanding is that this expansion is above and beyond the Planned land uses being considered in Mobility 2030. Mobility 2030 forecasts significant traffic congestion in this area for existing plan buildout. What is the basis for then claiming that when the improvements along I-805 are completed that the project impacts wouldn't be significant?
- What would indeed trigger a REGIONAL INFRASTRUCTURE reassessment?
- 12.6 6) What happens if any of the projects required for the Horizon Year are not feasible?
The EIR does not discuss alternatives if the Regents Rd bridge is not able to be built. Wouldn't the building of this bridge require an act of the legislature in order to abide by the terms of mitigation already accepted by the City in the bridge project area?
- 12.7 7) The EIR state on Page 5.3-50 that:
The applicant has indicated in a letter to the traffic engineer that is appended to the TIS that it would not implement all recommended street segment mitigation along La Jolla Village Drive because widening the roadway up to 10 thru lanes plus multiple additional turn lanes would be inconsistent with community character policies in the University Community Plan.
Yet in Table A in the Appendices (SIGNIFICANCE AVOIDANCE SENSITIVITY ANALYSIS - NEAR TERM SCENARIO October 23, 2006) it discusses widening from 6 to 7 lanes in WB direction.
What is the cost and feasibility of this smaller widening vs the 10 lanes they reference earlier in the EIR?
and La Jolla Village Dr between Towne Centre Dr and I-805
++ The Table lists this as potentially widening from 8 - 9 lanes. I noted in the EIR that they are proposing to widen from 7-8 lanes. Is this because they can't get the ROW to go to 9 lanes?
- 12.8 8) Table A, in the EIR Appendices
SIGNIFICANCE AVOIDANCE SENSITIVITY ANALYSIS - NEAR TERM SCENARIO
October 23, 2006
With respect to the Ramp meters, will this then mean that all the nearby Caltrans on ramps in all available direction to I-5 (Genesee and Nobel) and I-805 (La Jolla Village Dr.) will all have ramp metering signals operating on them during all peak periods?
Was there any consideration of ramp meter signalling for on-ramps to SR-52 from Genesee? or Regents?
And then the Freeway related:
I-805 (NB & SB) between Nobel Dr and Governor Dr
I-805 (NB & SB) between Governor Dr and SR 52

12.5 Though the SANDAG Mobility 2030 Plan does contain improvements to San Diego freeways that can expected to be implemented, please note that the EIR identifies impacts to I-805 and freeway ramps as significant and unmitigable, despite future improvements under the Mobility 2030 Plan.

It is beyond the scope of this project to determine the triggering event for the regional infrastructure reassessment stated in the comment.

12.6 Please refer to response to comment 9.60 from the University Community Planning Group for a discussion of Regents Road Bridge and why it is defensible to assume it will be implemented as part of the Community Plan.

12.7 The project applicant would not implement mitigation along La Jolla Village Drive by adding up to ten through lanes because it would be inconsistent with policies in the *University Community Plan* (UCP) to widen the roadway beyond its current roadway classification, not because of the cost of the improvements. Such widening would conflict with the Community Plan goals of increased pedestrian-friendliness, and the goal of the proposed Community Plan Amendment to incorporate these segments of La Jolla Village Drive and Genesee Avenue (currently within the "urban node" defined in the Community Plan) into the urban node pedestrian network. Page 37 of the UCP states that "All efforts will be made to increase street capacity by utilizing minimum acceptable travel lane widths, eliminating on-street parking, acquiring additional right-of-way or a combination of these techniques. Medians will not be converted to travel lanes." The plan further states (on page 38) that "there will be a point in time where the 'just widened' streets will be again congested. Further widenings will not be possible and the most convenient and rapid mode of transportation will be public transit." See response to comment 12.21 for additional discussion on the topic.

12.8 Currently along the I-5 corridor, the La Jolla Village Drive and Nobel Drive interchanges use ramp metering during the peak hours. Future planned improvements for the Genesee Avenue interchange, independent of the UTC Revitalization project, will include ramp metering for this location.

Currently, the SR 52/Genesee Avenue interchange does not implement any ramp metering. Caltrans is the authority in the identification and design of future ramp meter locations. It is Caltrans' intent to ramp meter every location in San Diego County; however, the timing of this specific location is unknown at this time and is not part of the project.

Mitigation Measure MM 5.3-10 requires the fair-share contribution of \$3.4 million toward the study, design or implementation of the managed lane improvements to I-805. Once studied,

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12.8 cont.

the City and Caltrans will know the scope of the preliminary engineering and costs associated with the improvements and can pursue funding to advance the design and construction. Without the preliminary engineering study and cost estimates, it is difficult to secure funding for freeway improvements. Refer to response to comment 3.45 from Caltrans which outlines the fair-share calculations for the proposed project.

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UTC Revitalization comment letter Project No. 2214, SCH No

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- 12.8 cont. and listed as mitigation cost prohibitive, future improvements planned.
- Do you have the cost estimates for these segments? How long is each? Would either require any widening of the existing ROW or is it just rebuilding in the existing ROW?
- Why wouldn't the applicant be requested to pay a fair-share toward these projects? I understand that they will pay \$3.4 million dollars to study these segments. Is that correct? Haven't these segments already been studied sufficiently? Why would any such study cost that much? Shouldn't such a large regional project actually be paying their fair share toward some of the capital costs of the planned improvements?
- 12.9 9) There are significant errors in assumptions used in the EIR with respect to existing LOS on certain freeway segments. For instance, Page 5.3-12 for instance the I-805 northbound main-lanes are LOS F during the AM Peak.
- 12.10 10) The EIR acknowledges the problems with modeling ramp meters and mentions how such analysis produces "unrealistic" results. EIR p. 5.3-13. There is no discussion of how the modeling was fixed to address this issue, and particularly the likelihood of "ramp shopping." The use of existing ramp queues, while interesting, does not address how traffic will behave in the future with additional development and delays. Why doesn't the EIR address these problems?
- 12.11 11) The EIR does not adequately define the environmentally superior alternative.
- 12.12 12) What is the proposed ACTUAL square footage? The EIR only discusses gross leasable square footage. What is the definition of gla? (Ref: Table 3.1)
- 12.13 13) The explanation of impacts if changes are made to the various scenarios is insufficient. For example, the EIR merely states that if more structures were allowed in a certain district, then that "would also exceed the height limit." EIR p. 5.2-7. In this and other respects, the EIR fails to provide the reader with a discussion of impacts in relation to how the various scenarios might be developed.
- 12.14 14) The project description is unintelligible. There are at least eight scenarios and multiple options within those scenarios. For example, deviations of up to 30 percent are allowed within each district for each of the scenarios. EIR p. 3-7. It is difficult to imagine what a substantial conformance review would involve where a project has so many possible scenarios. It should require additional environmental review and not be allowed without any additional public hearing.
- 12.15 15) Table 3-3 is incorrect because deviations can change these numbers.
- 12.16 16) There is no analysis of how the various alternatives will meet the project objectives. Because some of the features of the project might not be developed, the possible scenarios do not meet all of the project objectives. For example, the project might not include any residential features, so project objectives related to providing housing would not be met. These various possibilities of scenarios and their ability or inability to meet project objectives is not sufficiently discussed.
- 12.17 15) The various scenarios, if all implemented cumulatively, would have grave impacts above those analyzed. See EIR Table 3-1. Yet the only "restriction" holding back that outcome is an ill-defined "traffic parameter." Please explain this "traffic parameter" and how decisions would be made with respect to it.

- 12.9 The EIR section is based on the project Traffic Impact Study (TIS) contained in EIR Appendix B; the LOS reported in Table 5.3-4 in the EIR are consistent with Table 8-5 in the TIS. The commenter is not correct in their review of the EIR section, as the table shows that only the southbound mainlines are LOS F. Northbound mainlines operate at LOS C or better. Refer to response to Caltrans' comment 3.19 which discusses freeway LOS.
- 12.10 As discussed on EIR page 5.3-13, in order to address the "unrealistic" results of the fixed rate approach and driver behavior such as "ramp shopping," field observations of existing conditions were included in Table 5.3-5 for comparison of the maximum observed queue and delay at ramp meter locations. The fixed rate approach is appropriate because it considers a worst-case scenario in terms of determining impacts. The commenter is not correct in their review of the EIR section. The EIR presented future ramp meter conditions for both the Near-Term and Horizon Year scenarios in Tables 5.3-14 and 5.3-15.
- 12.11 State CEQA Guidelines Section 15126.6 requires identification of an environmentally superior alternative. In the case that the No Project Alternative would be the environmentally superior alternative, CEQA requires identification of an environmentally superior alternative among the other alternatives. As discussed on EIR page 8-22, in this case the environmentally superior alternative is the No Residential Alternative because it would reduce the severity of several project impacts. The No Residential Alternative is discussed in Section 8.3.8 of the EIR. As no specific reasoning has been provided as to why the commenter believes the environmentally superior alternative has not been adequately defined, no further response can be made.
- 12.12 Gross leaseable area (GLA) is the amount of retail floor space available to be rented. GLA is the metric used in the traffic impact analysis and the EIR to determine trip generation characteristics of the retail project, consistent with standard industry practices and institutions, such as Urban Land Institute and the Institute of Transportation Engineers, and the City's Trip Generation Manual (page B-1). GLA does not include common areas such as stairwells, bathrooms, elevators and parking floor area. The existing total GLA is 1,061,400 square feet, and the total GLA after site redevelopment would be 1,811,400 square feet. Gross building area (GBA) and/or gross floor area (GFA) for the retail project may be greater than GLA due to the inclusion of stairwells, bathrooms, elevators and other non-leaseable areas on the site.

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- 12.13 As described on page ES-7, the EIR evaluates the worst-case of all eight land use scenarios. Page 5.2-7 of the EIR does state that if additional structures are constructed under the various land use scenarios, they would also exceed the height limit for the regional commercial zone similar to the proposed project. The paragraph then continues to explain why this affect would not be uncharacteristic for the urban node. Refer to response to comment 9.3 from the University Community Planning Group regarding the definition of the proposed project.
- 12.14 Please refer to response to comments 9.3 and 9.11 from the University Community Planning Group regarding the adequacy of the project description and the substantial conformance review process.
- 12.15 Table 3-3 summarizes the square footages by district under the proposed project; however, the commenter is correct in noting that the other seven land use scenarios would modify the numbers. No revisions to the table have been made in response to this comment.
- 12.16 It is unclear whether the commenter is referring to the land use scenarios of the Master PDP or the project alternatives. With regard to the land use scenarios, it is true that not all of the objectives apply to each land use scenario. The State CEQA Guidelines do not require the proposed project (or the various land use scenarios) analyze how they will meet project objectives. The project objectives are statements of project goals being sought by the applicant and are used by the lead agency to develop a reasonable range of alternatives. With regard to alternatives, the purpose of the alternatives analysis is to ensure that the agency's decision-makers and the public are provided with a reasonable range of alternatives aimed at, to the extent feasible, avoiding or substantially lessening the project's significant environmental impacts while still achieving most of the project's objectives. The analysis presented in Section 7.0 of the EIR discusses each alternative and its ability or inability to meet the basic project objectives.
- 12.17 The various land use scenarios in the Master PDP would not be all implemented cumulatively, as suggested in this comment. The land use scenarios describe a combination of land uses that would produce similar traffic characteristics as the proposed project (i.e., scenario 1) and will provide the applicant flexibility when developing final engineering drawings. Please refer to response to comment 9.42 for a discussion of the traffic parameters that each combination of land use must fall within to be consistent with the proposed project. Table 3-1 of the EIR summarizes the proposed Community Plan Amendment, which would reflect all land use scenarios but there is no intention by the applicant to construct all land uses to their maximum; nor is there the ability to do so under the proposed Master PDP. In fact, the applicant has decided in response to comments to drop out office and hotel uses and only pursue retail and residential land uses on site; see revisions to Section 4.0 in the Final EIR.

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12.18

16) The conclusions in the 6.3.9 Public Services section that impacts to Fire and Police Departments services are less than significant are not supported by substantial evidence. A fair argument can be made that due to greatly increased and significant and unmitigable traffic impacts, that emergency vehicles will be stuck in traffic or experience increased delays.

For these reasons among others, the EIR is inadequate and requires recirculation.

Thanks for considering and responding to these comments.

Carolyn Chase
Move San Diego
c/o
P.O. Box 99179
San Diego CA 92169

12.18

Please refer to response to comment 9.27 from the University Community Planning Group. In accordance with Sections 15126.2(a) and 15382 of the CEQA Guidelines, impacts related to public services are evaluated in light of whether the impact would result in a physical change in the environment. Emergency access and response times, equipment, and staffing are areas of great concern to the City; however, they are not physical changes in the environment. Please note, though, that emergency service issues will be addressed in connection with the underlying development permits, which will require certain findings of adequacy.

**San Diego County Archaeological Society, Inc.**

Environmental Review Committee

16 August 2007

To: Ms. Martha Blake
Development Services Department
City of San Diego
1222 First Avenue, Mail Station 501
San Diego, California 92101

Subject: Draft Environmental Impact Report
University Towne Center Revitalization Project
Project No. 2214

Dear Ms. Blake:

13.1

I have reviewed the historical resources aspects of the subject DEIR on behalf of this committee of the San Diego County Archaeological Society.

Based on the information contained in the DEIR, we agree that the project should have no significant impacts to historical resources, and that no mitigation for such impacts are required.

Thank you for providing this DEIR to us for review and comment.

Sincerely,


James W. Royle, Jr., Chairperson
Environmental Review Committee

cc: SDCAS President
File

13.1 Comment noted. No issues regarding the adequacy of the EIR are identified.

SHUTE, MITALY & WEINBERGER LLP
ATTORNEYS AT LAW

F. CLERMONT SHUTE, JR.
MARK A. WEINBERGER (19405000)
LIAN M. LAYTON
KACHILL B. KOOPER
P. LYN J. GARRER
JAMINA S. GALANTER
ANDREW W. OGHIWARTZ
JILLIGON FDI K
RICHARD G. TAYLOR
WILLIAM J. WHITE
ROBERT D. PERLMUTTER
OSAL L. WOLFF
MATTHEW D. ZINN
CATHERINE C. KNOBCHG
AMY J. DRICKER
GARIBITI M. D. ROSS
DOROTHY L. KESTH
WENDY R. KONG
* (415) 552-5816

396 HAYES STREET
SAN FRANCISCO, CALIFORNIA 94102
TELEPHONE: (415) 552-7272
FACSIMILE: (415) 552-5816
WWW.SMWLAW.COM

KEVIN P. DUNDY
ELENA K. SAXONHOUSE
MICHELLE WILDE ANDERSON
DOUG A. ODEJO
LAUREL L. IMPETT, AICP
CARMEN J. BORO, AICP
URILAM PLANNING

October 9, 2007

VIA FEDERAL EXPRESS

Martha Blake
City of San Diego Development Services Center
1222 First Avenue, MS 501
San Diego, CA 92101

Re: University Towne Center Revitalization Project Draft Environmental
Impact Report/Project No. 2214, SCH 2002071071

Dear Ms. Blake:

This firm represents Friends of Rose Canyon ("FRC") with regard to the proposed University Towne Center Revitalization Project ("UTC Project" or "Project") in the City of San Diego. On behalf of FRC, we have reviewed the Draft Environmental Impact Report ("DEIR") circulated by the City for the Project. We submit this letter to inform the City that the DEIR does not comply with the requirements of the California Environmental Quality Act ("CEQA"), Public Resources Code Section 21000 *et seq.*, and the CEQA Guidelines, California Code of Regulations, title 14, Section 15000 *et seq.* ("CEQA Guidelines").

The overarching defect in the DEIR is its thoroughgoing failure to accurately describe the Project. The document does nothing more than describe a conceptual plan for what may ultimately be constructed on the existing shopping center site. Huge parts of the UTC Project — the design of the buildings, for example — are not described at all. Those aspects that the DEIR does attempt to describe are depicted with so little detail that a reader is left with no idea of what this massive development will ultimately look like or how it will work. As fully discussed below, the Project is so thinly described that it appears to be essentially unplanned, and certainly is not ready to receive approvals from the City.

The total failure of the project description makes the rest of the DEIR inadequate as well. Because the concrete details of what will actually be built on the existing shopping center site appear to be unplanned and therefore unknown, the Project's environmental impacts cannot be accurately analyzed, nor can effective mitigation be identified. The fog of uncertainty

14.1

14.2

- 14.1 The EIR consistently and accurately describes the project, and, while providing several options as to what will be developed, includes a meaningful and conservative analysis of the *maximum* impacts of the proposed land use variations. Please refer to response to comment 9.3 and 9.11 in the University Community Planning Group letter regarding the sufficiency of the project description and information about the type of permit proposed by the applicant.
- 14.2 As noted in response to comments 9.3 and 9.11 in the University Community Planning Group letter, CEQA does not require the project to have the "concrete details" outlined in order to evaluate the environmental impacts of the proposed project. Additional clarification of the scope of the proposed project has been provided in the Final EIR in response to this and other similar comments.

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14.2
cont.

surrounding the Project and its impacts leads inevitably to unacceptably vague analysis and mitigation.

This strategy, while made inevitable by the inadequate project description, is wholly unlawful under CEQA. An EIR is “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.” *Village Laguna of Laguna Beach, Inc. v. Board of Supervisors* (1982) 134 Cal.App.3d 1022, 1027 (emphasis added). The DEIR’s approach strips the document of its ability to provide such forewarning. As explained in detail below, this EIR will not be adequate unless and until the Project is fully described and the discussion of its various impacts completely revised. This blinkered approach to environmental review must be abandoned and replaced with a thorough analysis of the full scope of project impacts.

14.3

Among its many flaws, the DEIR fails to accurately disclose the severity of the Project’s extensive traffic impacts. The applicant would have us believe that the shopping center project is based on innovative planning—relying on the principles of green development. To this end, the applicant states that the Project would successfully protect and enhance the overall health, environment and quality of life of the community. See UTC Center to Expand With Environment In Mind, August 22, 2007, attached as Exhibit A. One need not delve far into the DEIR to discover that the end product would certainly not enhance, and indeed not even protect, the environment and quality of life of the community. The UTC Project would add at least 18,000 average daily trips to area roads every day and would result in about 60 percent more traffic than is currently allocated to the UTC site under the University Community Plan. DEIR at 5.3-57. This increase in traffic would cause significant and unmitigable impacts to the area’s freeways and freeway ramps as well as certain street segments. *Id.* at ES-18. Moreover, although the DEIR touts the Project as being transit oriented (*Id.* at 3), the reality is that only ten individuals are expected to ride transit in the a.m. peak hour, while seven are expected to use transit in the p.m. peak hour. *Id.* at Table 5.3-7.

14.4

Such a shift in the community’s character is the true significant traffic impact of the proposed Project; the numbers are only an indication of that change. By trying to spin the UTC Project as environmentally sensitive, the DEIR fails to accurately depict the severity and extent of traffic impacts. Although the document recognizes that several roadway and freeway segments and freeway ramps would be significantly impacted by the Project, the traffic analysis’ faulty assumptions and methodology result in a systematic understatement of the Project’s true effect on the region’s circulation system. For example, the DEIR assumes, absent any evidence, that numerous roadway projects would be operational by 2010. Indeed, the analysis assumes the Regents Road Bridge would be built within the next few years notwithstanding the fact that the City estimates the new EIR for the bridge project will not be completed until 2009, the bridge has not been approved by the City, the bridge project has not received its necessary regulatory

14.3

Comment noted; please refer to response to comment 9.93 from the University Community Planning Group letter regarding how conservative the traffic estimates are for the proposed project. This comment overstates the traffic impacts of the proposed project. Specifically, of the 70 street segments and 59 intersections studied in the EIR, the proposed project would have direct and/or cumulatively significant impacts to 6 street segments and 11 intersections. In addition, 2 freeway segments and 5 freeway ramps would be directly and cumulatively impacted. Figure 5.3-5 illustrates the locations where direct and cumulative traffic impacts are predicted to occur. As shown in the graphic, the impacts are not extensive compared to the size of the study area and represent the worst-case conditions under the Master PDP. It should also be noted that the conservative assumptions used in the analysis do not take into account any trip reductions for retail trips associated with having transit located on site. A much higher transit ridership is expected than is reported in the EIR. Please refer to SANDAG’s letter dated September 24, 2007 supporting higher ridership, stating the “additional analysis [should] be performed to evaluate...[an] increase to the conservative ... mode split for public transit.” Also, please refer to comment 6.1 in the letter from Metropolitan Transit System (MTS) that indicates there are 3,500 transit boarding and alightings currently at the UTC transit center. In addition, the maximum ADT for the project is 17,800.

14.4

The proposed project would not cause a major shift in the community’s character. The majority of the impacts attributable to the proposed project are cumulative in nature, meaning that it is the project’s trips combined with trips from past, present and future projects that would trigger the impacts. In fact, according to the *University Community Plan*, evolution of the community as an “urban node” is attributable to development of UTC as a regional shopping center and the accessibility of the community to the regional transportation system (see page 9). With regard to the traffic study’s reliance on the assumption that Regents Road Bridge would be in place by 2010, as assumed in the community’s FBA, refer to response to comment 9.60 from the University Community Planning Group.

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14.4
cont. permits (including a potential act of the State legislature) and construction itself is estimated to take 18 months.

14.5 Moreover, contrary to common sense and sound land use planning principles, the DEIR finds the Project to be consistent with the University Community Plan despite the fact that it would: 1) massively exceed allowable development intensities on the Project site; 2) exceed the amount of traffic allocated to the UTC Project site by 60 percent; 3) construct up to four high rise buildings, at least two of which would likely be 390 feet, in an infill development area where the maximum height of structures is restricted to 15 feet; 4) place parking structures and surface parking adjacent to the Urban Node Pedestrian Network and occupy more than 30 percent of the street yard; and 5) replace landscaped berms – that the Community Plan identifies as a “unifying theme” in the community – with retail buildings and parking structures. DEIR at 5.1-36 - 5.1-64.

14.6 Furthermore, although the visual effect of this Project on the community’s character is of vital importance to University City and Golden Triangle residents, the DEIR fails to provide a proper evaluation of the visual impacts of the Project. The Project would erect up to four high rise structures directly adjacent to one and two-story homes and would entirely redefine the community’s character by eliminating the landscaped berms along the Project site. Despite the stark visual changes that would come about with the proposed Project, the DEIR provides no visual image of these massive structures nor any photo-simulations of the Project superimposed upon the existing streetscape.

14.7 Of critical importance, the DEIR offers only one mitigation measure for ozone precursor emissions after conceding that the Project’s increase in these emissions would obstruct the ability of the San Diego Air Basin to attain and maintain air quality standards. In addition, although the California Air Resources Board now recognizes diesel emissions as a toxic air contaminant, the DEIR provides no analysis at all of the Project’s risk to public health from exposure to diesel particulate emissions.

14.8 Finally, the DEIR also fails to adequately identify or analyze a reasonable range of alternatives that could potentially reduce adverse impacts, as is required by CEQA. Ironically, the alternatives chosen for analysis have very little, if any, environmental benefit compared to the proposed project. Rather than imparting serious information about potentially viable alternatives that could reduce adverse impacts, the EIR offers alternatives that serve as “straw men” to provide justification for the Project. Such an approach violates the letter and spirit of CEQA.

14.9 In our opinion, the flaws of the DEIR are so fundamental as to render vulnerable any approval of the UTC Project. Because the DEIR fails both to adequately analyze impacts and mitigation measures and to identify an acceptable range of alternatives to the proposed

14.5 Section 5.1, *Land Use*, of the EIR discusses each of the policy inconsistencies with the Community Plan and acknowledges that approval of the Community Plan Amendment would be required to make the project consistent with the Community Plan.

14.6 An evaluation of the visual impacts of the project is provided in Section 5.2, *Aesthetics/Visual Quality*, of the EIR. Graphics from the Master PDP has been added to the Final EIR to further illustrate the scope of the proposed project. As discussed on pages 5.2-6 through 5.2-7 of the EIR, the bulk and scale impacts related to the transition between dissimilar uses (i.e., taller structures situated adjacent to lower stature buildings) would not be significant because the proposed structures would incorporate design features from the Master PDP to address the transition. Refer to response to comment 9.12 from the University Community Planning Group letter regarding why berm removal is consistent with Community Plan policies.

14.7 Refer to response to comment 14.30 for discussion on ozone mitigation and diesel emissions.

14.8 Section 7.0 of the EIR considered five alternatives to the proposed project:

1. The No Project Alternative (Alternative 1): The No Project Alternative assumes, generally, that the proposed project would not be adopted.
2. The No Residential Alternative (Alternative 2): Under the No Residential alternative, the 250 to 725 residential units would be eliminated from the Master PDP while the 750,000 square feet of expanded retail floor area would still be constructed.
3. The No Retail Expansion Alternative (Alternative 3): Under this alternative, up to 725 residential units could be developed as proposed and none of the retail expansion would be constructed.
4. The Reduced Project Alternative (Alternative 4): Under this alternative, the project would be scaled back to a 435,000 sf retail expansion with no residential, hotel or office uses allowed.
5. The Reduced Building Height Alternative (Alternative 5): Under the Reduced Building Height Alternative, taller structures in the four land use districts would be limited to the maximum height of nearby structures in the community, the tallest of which is 240 feet above grade.

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14.8 cont.

Additionally, two alternatives were considered but rejected during the EIR preparation process: (1) the Relocated Parking Garage Alternative, which was proposed to minimize potentially significant aesthetic impacts of placing large parking garages adjacent to two highly traveled public roadways, La Jolla Village Drive and Genesee Avenue; and (2) the Alternative Location Alternative. The Relocated Parking Garage Alternative is rejected since it would not reduce or avoid any of the significant project impacts. Because the alternative location does not meet the basic project objectives and is not feasible, it, too, was rejected during the EIR preparation phase.

According to CEQA Guidelines section 15126.6, an EIR “shall describe a range of reasonable alternatives to the project, or to the location of the project,” though an “EIR need not consider every conceivable alternative to a project. Rather, it must consider a reasonable range of potentially feasible alternatives that will foster informed decision-making and public participation.” *See also* Cal. Pub. Res. Code § 21002. Here, the EIR considered, either in full or in the preparation phase, seven different alternatives, including variations on location, type of use, density, and building height. The nature and scope of the range of alternatives is governed by the rule of reason and must be examined in light of the nature of the project, the impacts of the project, and relevant agency policies. *Mira Mar Mobile Community v. City of Oceanside*, 119 Cal. App. 4th 477 (2004). Given these factors, the alternatives analyzed by the EIR constitute an appropriate range of alternatives. Refer to response to comment 14.51 for additional discussion on this topic.

14.9

A recirculated EIR is not warranted because the EIR is adequate, as described in responses to comments 14.1 through 14.8 and response to comment 14.54.

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14.9
cont.

Project, a revised draft EIR must be prepared and circulated for public review and comment. CEQA Guidelines § 15088.5(a)(4). Only then can the public and the City be adequately informed about the environmental repercussions of the Project and meaningfully consider alternatives and mitigation measures to address the Project's adverse environmental impacts. At the same time, if the project description in the DEIR truly reflects the current state of the City's planning for the UTC Project, then this Project is not ready for approval. The first step in revising the DEIR must be serious planning by the City to a level at which the Project can be effectively evaluated.

I. THE DEIR FAILS TO COMPLY WITH CEQA.

14.10

An EIR must provide a degree of analysis and detail about environmental impacts that will enable decision-makers to make intelligent judgments in light of the environmental consequences of their decisions. See CEQA Guidelines § 15151; *Kings County Farm Bureau v. City of Hanford* (1990) 221 Cal.App.3d 692. To this end, the lead agency must make a good faith effort at full disclosure of environmental impacts. In order to accomplish this requirement, it is essential that the project is adequately described and that existing setting information is complete. See *County of Inyo v. City of Los Angeles* (1977) 71 Cal.App.3d 185, 199. Both the public and decision-makers need to fully understand the implications of the choices that are presented related to the project, mitigation measures and alternatives. *Laurel Heights Improvement Ass'n v. Regents of University of California* (1993) 6 Cal.4th 1112, 1123. In this case, the DEIR for the UTC Project fails to provide sufficient information to enable informed decision-making by the City and the public for the reasons set forth in detail below.

A. The DEIR Fails to Adequately Describe the Project and Provide Accurate Information About the Existing Environmental Setting.

14.11

1. The DEIR Provides an Inconsistent, Incomplete, Inaccurate and Confusing Description of the Project.

The DEIR is inadequate because it fails in one of the most basic CEQA requirements: to describe the proposed project accurately and completely. "Project" is defined in section 15378 of the CEQA Guidelines as "the whole of an action, which has a potential for resulting in a physical change in the environment, directly or ultimately. . . ." An EIR's project description must contain "[a] general description of the project's technical, economic, and environmental characteristics, considering the principal engineering proposals if any and supporting public service facilities." CEQA Guidelines § 15124(c). "The defined project and not some other project must be the EIR's bona fide subject." *County of Inyo*, 71 Cal.App.3d at 185. "A curtailed or distorted project description may stultify the objectives of the reporting process. Only through an accurate view of the project may affected outsiders and public decision-makers balance the proposal's benefit against its environmental cost, consider

14.10 The proposed project is adequately described as noted in response to comment 9.3 from the University Community Planning Group.

14.11 The proposed project is adequately described as noted in response to comment 9.3 from the University Community Planning Group. In addition, the City's Master PDP permit process allows this approach to describing a project as noted in response to comment 9.11 from the University Community Planning Group. The traffic parameters are described in detail on pages 5.3-58 and 5.3-59 of the EIR. Also refer to response to comment 9.42 from the University Community Planning Group. The site plan is shown in Figures 3-1, 3-3 and 3-4 in the EIR and in numerous graphics in the Master PDP, which was on file with the City throughout the public review period for the EIR. Graphics from the Master PDP have been appended to the Final EIR. The EIR analyzes the maximum potential impact of all land use scenarios and, therefore, any change in the project with lesser impacts would have been adequately studied in the EIR.

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mitigation measures, assess the advantage of terminating the proposal . . . and weigh other alternatives in the balance. An accurate, stable and finite project description is the *sine qua non* of an informative and legally sufficient EIR.” *Id.* at 192.

The DEIR for the UTC Project is inadequate because it fails to provide a stable and finite project description with respect to key aspects of the proposed Project which have the potential to result in significant environmental impacts not analyzed in the DEIR. The Project includes an amendment to the University Community Plan to allow up to 1,811,400 square feet of retail space, up to 725 residential units, a 250 room hotel, and up to 35,000 square feet of office space. DEIR at 3-4, Table 3-1. The Project also includes a Master Planned Development Permit (“PDP”) which would allow for flexibility in the application of development regulations. *Id.* at 3-6. The PDP would allow the applicant to build any one of eight different conceptual land use scenarios on the site’s seven land use districts. DEIR at 3-7. The DEIR all but concedes that the Project would evolve over time as the following statement demonstrates: “[t]he San Diego Municipal Code (“SDMC”) allows applicants to obtain a Master PDP to provide flexibility for projects in which *not all of the project components are fixed at the time of approvals.*” *Id.* at 3-6 (emphasis added). The DEIR goes on to state: “The SDMC allows for *detailed plans to be submitted in the future.*” *Id.* (emphasis added).

The only fact that appears stable in the DEIR’s project description is the type of allowable uses (i.e., retail, office, hotel and residential). Every other detail, including nebulous language regarding overall maximum allowable intensities on the Project site, would appear to be in a constant state of flux as demonstrated by the following language:

A density transfer between districts may be approved through the SCR process if the scenario complies with the requirements of the Master PDP and does not exceed the overall development intensity limit for the project site (based on traffic parameters). The Master PDP would allow any district to expand or reduce in size by up to 20 percent during the SCR process. Districts would also be allowed to gain up to an additional 30 percent of retail area during the SCR process provided the overall total does not exceed the limits established in the Master PDP. The transfer of residential units from one district to another (where permitted) would also be allowed through the SCR. A maximum of 750,000 sf of retail, 725 residential units, 250 hotel rooms and 35,000 square feet of office space would be allowed on site, as long as the mix of land uses development intensity (based on traffic parameters) is not exceeded. The development of hotel or office uses would require a commensurate reduction of retail space and/or residential units, as shown in Table 3-2.

14.11
cont.

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14.11
cont.

DEIR at 3-7. This project description is so vague and ambiguous as to render informed participation meaningless. It certainly does not come close to meeting CEQA's clearly established legal standards. Of particular concern is the fact that the Project's maximum allowable intensities appear to be based, not on land use, but on "traffic parameters." The DEIR does not explain how these traffic parameters would be measured, how they would be correlated with individual land uses, and how they would be monitored. This, and other nebulous language in the DEIR's project description, lends no assurance that the Project pending approval before the City would in any way reflect the Project that would actually be constructed.

Inasmuch as this EIR is intended to support construction of the Project, the document is obligated to analyze a specific development proposal, not conceptual land use scenarios.¹ CEQA requires a thorough analysis of reasonably anticipated impacts of the entire project; it does not permit an EIR to analyze only the general impacts of a conceptual plan when an agency is considering approval of a specific project. See *Stanislaus Natural Heritage Project v. County of Stanislaus* (1996) 48 Cal.App.4th 182. Although the applicant may desire a flexible planning approach, this need for flexibility does not release the DEIR from its obligation to define the Project in a manner that allows for meaningful analysis of environmental impacts.

The DEIR explains that the proposed Project is intended to serve as the town center for the University City and Golden Triangle communities. DEIR at 3-1. Any reasonably complete description of the Project would give the public and decision-makers a sense of what this redeveloped town center would look like, how it would work, and how it would fit into life in the greater community. The purported project description does none of this. It is effectively no description at all; it is merely a suggestion of the applicant's general conceptual scheme for the town center. The closest the DEIR comes to providing a sense of the UTC Project is Figure 3-1 (Conceptual Site Plan/Land Use Districts). Yet, the title of this graphic says it all – it is simply a "concept." Merely showing the location of retail, residential, and office uses is not sufficient. This lack of clarity and instability undermines the DEIR's impacts analysis.

14.12

As the purported town center, the Project should be the basic building block for a healthy, vibrant, and beautiful community. As will be discussed below, the DEIR provides no visual information – no photo-simulations or even text – to inform the community of how its redeveloped "town center" would look. The DEIR is silent as to specific buildings' architectural themes, and contains no information as to the types of building materials to be used, roof styles, projections, or color schemes. Nor does the DEIR provide the design standards and design guidelines that would be implemented to lend character and aesthetic quality to the Project. Among other things, design guidelines encourage architectural continuity, provide

¹ The applicant seeks approval of a site development permit and a vesting tentative map, both of which, if approved, would support construction of the Project.

14.12 The EIR summarizes the general design characteristics of the project that are detailed in the Master PDP (page 3-15) and provides a description of the specific design characteristics of various uses proposed on site (page 3-16 through 3-18). On pages 5.2-7 to 5.2-8 of the EIR, additional discussion of the building architecture is provided, including references to the architectural features (e.g., rectilinear shapes, complimented arcades, etc), proposed building materials (e.g., stone, wood, stucco and concrete) and neutral color palette. All of the design information is based on the details contained in the Master PDP, which was on file with the City and available during the EIR public review period. The Master PDP graphics have been appended to the Final EIR to augment the information already contained in the Draft EIR. The EIR need not provide photo simulations to adequately describe the proposed project as noted in response to comment 9.3 from the University Community Planning Group.

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14.12
cont.

guidance for site layout, offer suggestions for landscaping to create a pleasant streetscape and implement a consistent, visually pleasing theme for roadway and storefront signage. Although the DEIR project description contains a section entitled "Specific Design Characteristics" (at 3-16), even this section is completely lacking in detail. The document also refers to "Master PDP Design Guidelines." DEIR at 5.1-16. Yet, these Guidelines appear not to have been included in the DEIR and, indeed, it is not possible to tell whether they even exist. Because the DEIR is lacking in this basic information, the public and decision-makers are left in the dark as to what the UTC will look like upon completion.

The most striking example of this deficiency is the applicant's proposal to construct a 365-foot high rise tower near the intersection of Genesee Avenue and La Jolla Village Drive (at 3-10), two 390-foot high rises at the intersection of Genesee Avenue and Nobel Drive (at 3-11) and a 325-foot high rise at the intersection of La Jolla Village Drive and Towne Center Drive (*id.*). These high rises would be developed adjacent to an otherwise "low rise" streetscape, yet the DEIR provides no visual description of how these high rises will look or how they will fit in with the neighborhood.

14.13

Nor does the DEIR describe the component of the Project which would involve the relocation and expansion of the existing bus transit center. DEIR at 3-12. Other than the statement that the proposed transit center would be expanded, the DEIR provides no detail as to what exactly is planned. For example, is the applicant simply allocating space on the Project site for the transit center or will the applicant actually construct the center? Other important details remain undefined including the center's location, design and capacity. Clearly, decision-makers cannot be informed of the potentially significant environmental impacts of the Project without such critical detail.

14.14

In light of these deficiencies, the project description section of the DEIR must be revised. The revised DEIR must analyze a stable, consistent and whole project that includes every component of the project capable of generating impacts so that the public and decision-makers have sufficient information to understand the Project's true environmental impacts.

2. The DEIR's Description of the Environmental Setting Is Inadequate Under CEQA.

14.15

"An EIR must include a description of the physical environmental conditions in the vicinity of the project . . . from both a local and regional perspective. . . . Knowledge of the regional setting is critical to the assessment of environmental impacts." CEQA Guidelines §§ 15125 (a) and (c) (emphasis added). This requirement derives from the principle that in the absence of an adequate description of the project's local and regional setting, it is not possible for the EIR to accurately assess the potentially significant impacts of the project.

14.13 The EIR contains a figure (Figure 3-2) illustrating the layout for the bus transit center. On page 3-12 of the EIR it is noted that the applicant would construct the bus transit center, that two transit center locations were evaluated by SANDAG, MTS and the City, that the station would be integrated into the retail portion of the center, and that the Genesee Avenue location is preferred by the applicant. The Master PDP contains specific design guidelines for the transit center, as noted on page 3-16 of the EIR. In addition, the transit center evaluation upon which the EIR is based was appended to the project's Traffic Impact Study (see Appendix Q to EIR Appendix B).

14.14 The project description section of the EIR is sufficient under CEQA as described in response to comment 9.3 from the University Community Planning Group.

14.15 The Environmental Setting section of the EIR addresses the setting on-site and surrounding the project site, including the cumulative setting in the University City community. The future setting for the traffic analysis assumes that the Regents Road Bridge will be operational because it planned for in the *University Community Plan* and funded as a project in the North University City Facilities Benefit Assessment (FBA). See response to comment 9.60 from the University Community Planning Group on the topic. The EIR does not fail to identify bus routes using the UTC transit center; bus route information is provided on page 5.3-15 of the report. Ridership information is not required because the traffic analysis does not assume a reduction in retail trips due to the transit center. For the residential component of the project, a 5 percent overall trip reduction, including a 9 percent reduction during AM peak and 6 percent reduction during PM peak, was assumed based on ridership patterns contained in the City's Traffic Impact Manual. It should be noted that neither MTS nor SANDAG have disputed these trip reduction adjustments.

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14.15
cont.

As will be discussed below, the DEIR fails to include an accurate local and regional setting because it improperly assumes that several roadways projects, including the Regents Road Bridge, would be operational by 2010. The DEIR also fails to identify existing use of the San Diego Metropolitan Transit System and North County Transit District buses serving the community. Although the document identifies the bus routes, it provides no information on current loading capacities on existing routes. Such information is necessary inasmuch as the DEIR assumes trip reductions for transit use for the residential component of the Project. DEIR at 5.3-17.

B. The DEIR's Analysis of Environmental Impacts And Proposed Mitigation Measures Are Inadequate Under CEQA.

14.16

The DEIR's environmental impacts analysis is deficient under CEQA because it fails to provide the necessary facts and analysis to allow the City and the public to make an informed decision about the project. An EIR must effectuate a fundamental purpose of CEQA: to "inform the public and responsible officials of the environmental consequences of their decisions before they are made." *Laurel Heights Improvement Assn.*, 6 Cal.4th at 1123. To do so, an EIR must contain facts *and* analysis, not just an agency's bare conclusions. *See Citizens of Goleta Valley v. Board of Supervisors* (1990) 52 Cal.3d 553, 568. Thus, a conclusion regarding the significance of an environmental impact that is not based on an analysis of the relevant facts fails to fulfill CEQA's informational goal. Additionally, an EIR must identify feasible mitigation measures to mitigate significant environmental impacts. CEQA Guidelines § 15126.4. Under CEQA, "public agencies should not approve projects as proposed if there are feasible alternatives or feasible mitigation measures available which would substantially lessen the significant environmental effects of such projects. . . ." Pub. Res. Code § 21002.

As set forth below, the DEIR is riddled with conclusory statements regarding environmental impacts that are unsupported by relevant facts and necessary analysis, and repeatedly fails to identify measures to mitigate impacts of the UTC Project.

1. The DEIR Fails to Adequately Analyze and Mitigate Traffic Impacts.

14.17

One of the DEIR's most glaring deficiencies is its failure to adequately disclose, analyze and mitigate traffic and circulation impacts caused by the UTC Project. We have had the opportunity to review the September 21, 2007 letter from the California Department of Transportation and we concur with its conclusions. We incorporate that letter, by reference, into this letter.

14.16 Comment noted, refer to responses to comments 14.17 through 14.45.

14.17 Responses to the Caltrans comments 3.1 through 3.48 are provided in this Final EIR.

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14.18

a. The DEIR Understates the UTC's Traffic Impacts Because it Relies on the Wrong Significance Criteria.

The DEIR states that the City has adopted new traffic thresholds which effectively halve the significance threshold for intersections and street segments operating at LOS F and add thresholds for freeways and their ramps. DEIR at 5.3-16. The DEIR explains that these criteria do not apply to the UTC DEIR traffic analysis because the UTC application was deemed complete before the adoption of the new traffic thresholds. *Id.* Specifically, the DEIR informs us that the thresholds apply only to project applications deemed complete after January 1, 2007 and that the UTC application was deemed complete in February 2002. *Id.*

What the DEIR's traffic analysis fails to mention, however, is that the Project was revised significantly from the original 2002 application. Indeed, in the section of the DEIR entitled "History of Project Changes," the DEIR states that the project applicant has modified the Project twice, once in 2005 and again in 2007. DEIR at 4-1. The DEIR even refers to the "original application" when it describes the subsequent changes to the Project and states that "*the current proposed project would be similar to the 2005 application . . .*" *Id.* (emphasis added). Inasmuch as the DEIR admits that there was a 2005 application, the DEIR traffic analysis cannot assume the UTC application was deemed complete in 2002. Moreover, inasmuch as the 2005 changes constituted a new application, the 2007 changes (i.e., the Project is now being processed as a Master PDP) would also constitute a new application. Thus, the City's new traffic thresholds apply.

Had the DEIR relied on the new traffic thresholds of significance, it appears that street segments and intersections including the following would be significantly impacted:

Near Term Street Segment Operations:

- La Jolla Village Drive west of I-5
- Miramar Road from I-805 to Nobel Dr.
- Miramar Road from Nobel Dr. to Eastgate Mall
- Miramar Road from Eastgate Mall to Miramar Mall
- Miramar Road from Miramar Mall to Camino Santa Fe

Horizon Year Street Segment Operations without Genesee Avenue Widening:

- La Jolla Village Drive west of I-5
- Miramar Road from I-805 to Nobel Dr.
- Miramar Road from Nobel Dr. to Eastgate Mall
- Miramar Road from Eastgate Mall to Miramar Mall
- Miramar Road from Miramar Mall to Camino Santa Fe

14.19

14.18 The project application was deemed complete on December 19, 2001 per the letter from the City of San Diego Development Services Department contained in the development file for the project. Revisions to the application, such as those conducted in 2005 and 2007, do not trigger a new application or completeness check by the City. As such, the new traffic thresholds applicable to projects deemed complete after January 1, 2007 do not apply to the proposed project. Additional discussion on this topic is provided in response to comment 9.56.

14.19 The impacts noted in this comment are not assessed to the proposed project because they are based on significance thresholds that are not applicable. Refer to response to comments 14.18 above and 9.56 from the University Community Planning Group regarding the traffic significance thresholds.

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Near Term Intersection Operations:

- Genesee Avenue/Campus Point Drive, AM Peak Hour
- La Jolla Village Drive/Genesee Avenue, AM Peak Hour
- Miramar Road/Camino Santa Fe, AM Peak Hour

Horizon Year Street Intersection Operations without Genesee Avenue Widening:

- La Jolla Village Drive/Genesee Avenue, AM Peak Hour
- La Jolla Village Drive/Towne Centre Drive, AM Peak Hour
- Miramar Road/Camino Santa Fe, AM and PM Peak Hours
- Governor Road/Regents Road, PM Peak Hour
- Governor Drive/Genesee Avenue, AM and PM Peak Hours
- SR 52 EB Ramps/Genesee Avenue, AM Peak Hour
- Appleton Street/Lehrer Drive/Genesee Avenue, AM Peak Hour

Because the DEIR fails to apply the proper threshold, it understates the severity and extent of the Project's traffic impacts. The revised traffic analysis must rely on the City's current traffic thresholds.

b. The DEIR Understates the Project's Traffic Impacts Because it Assumes the Implementation of Questionable Roadway Projects.

CEQA case law holds that existing conditions at the time an agency prepares environmental review, rather than some hypothetical future scenario, establish the "baseline" for determining the significance of impacts. *See* CEQA Guidelines § 15125(a); *see also Save Our Peninsula Cmte. v. Monterey County Board of Supervisors* (2001) 87 Cal.App.4th 99, 125; *Environmental Planning & Information Council v. County of El Dorado* (1982) 131 Cal. App. 3d 350, 354. Here, the DEIR's traffic analysis relies on a hypothetical future scenario in which it assumes that major roadway projects would be implemented by 2010. *See* DEIR at 5.3-19. The DEIR fails, however, to provide the necessary evidentiary support that all of these projects would in fact be operational by 2010. Thus the DEIR relies on uncertain projects in order to conclude that the Project's traffic impacts would not be severe.

The DEIR assumes these projects will be implemented by 2010 because they have been identified in City planning programs, including the Capital Improvement Program ("CIP") and the North University City Public Facilities Financing Plan and Facilities Benefit Assessment ("NUC FBA"). DEIR at 5.3-18 and 19. The DEIR never actually tells us how the mere inclusion of a project in these planning programs translates into actual construction. Indeed, the DEIR states that the City adopted these programs as a mechanism for applicants to determine their fair share of project costs. A fair share fee program does not guarantee a project's construction.

14.20 The EIR and its analysis of transportation/circulation impacts identified certain roadway improvements that would be in place for the purposes of the Traffic Impact Study's Near-Term analysis. The reliance upon these improvements is appropriate under CEQA. Though the comment cites CEQA case law suggesting that the existing conditions constitute the baseline by which a project's environmental impacts are to be measured, the comment excludes the entirety of the case law. Notably, "if a lead agency knows that various environmental conditions will either improve or degrade before a project is constructed, the lead agency may take the changing environment into account in setting the baseline for its impact analysis. A decision to do so must be supported by substantial evidence, however." *Kostka & Zischke, Practice Under the California Environmental Quality Act* (Cont. Ed. Bar 2005) § 13.12, p. 637 (citing *Napa Citizens for Honest Gov't v. Napa County Bd. Of Supervisors*, 91 Cal. App. 4th 342 (2001) (EIR assessed project's traffic impacts in light of expected future traffic conditions)).

Substantial evidence supports the finding that these roadway improvements will be implemented in the Near-Term, as they have been included within the Facilities Benefit Assessment, which also sets forth the development timelines for each. *See Anderson First Coalition v. City of Anderson*, 130 Cal. App. 4th 1173 (2005), and *Endangered Habitats League, Inc. v. County of Orange*, 131 Cal. App. 4th 777, 785 (2005) for a discussion of what constitutes sufficient evidence of future improvements.

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14.20
cont.

The DEIR raises more doubt about these roadway projects when it states that certain of these roadway improvements would be in place "pending land acquisition." DEIR at 5.3-19 and Traffic Appendix at 51, 61. 2010 is just over two years away. Even if dedicated funding is in place, the design, environmental review, city approval process, land acquisition, regulatory requirements, and the actual construction itself would likely take considerably more than two years.

14.21

Perhaps the most compelling example of the DEIR's faulty analysis lies with the assumption that the Regents Road Bridge would be operational by 2010. Due to the litigation by FRC, the City agreed to rescind approval of the bridge and prepare and circulate a project-specific EIR for the bridge project, before "any implementation, *if any*" of the bridge is approved and commenced. City Council Resolution R-302497 (March 27, 2007). The City is, just now, seeking consultants to prepare that EIR and does not expect the EIR to be complete until October 2009. Construction of the Regents Road Bridge would also require state and federal permits and an act of the State Legislature.² According to the University City North/South Transportation Corridor Study ("UCN/STC") Final Environmental Impact Report, construction of the Regents Road Bridge would require approximately 18 months. See UCN/STCS FEIR, attached as Exhibit B. Thus, the DEIR provides *no* evidentiary support for its assumption that the Regents Road Bridge would be operational in 2010.

The inclusion of the Regents Road Bridge in the DEIR's traffic analysis is particularly disturbing inasmuch as Councilmember Scott Peters specifically informed city staff that the EIR for the UTC Project should analyze the UTC Project under "all four scenarios," meaning with and without the Regents Road Bridge and the Genesee Avenue widening project because:

Any evaluation of a significant expansion of the mall must take into account the very real possibility that one or both of the north/south road projects could be eliminated or significantly delayed. Therefore, it is already apparent that if Westfield follows your direction, it will have prepared an incomplete EIR that will not be sufficient to inform the community and the City Council of the impacts of additional traffic trips or to support the developer's application for its improvements.

² The Regents Road Bridge would invade the Habitat Restoration Area in Rose Canyon which was funded by a state grant under the Wildlife Restoration Act of 1990. The Restoration Area is within the Multi-Habitat Plan Area ("MHPA") and contains habitat for endangered gnatcatchers, as well as a variety of plant species. The State Act, as well as the express terms of the City's grant agreement with the State, bar any change in use of this Restoration Area without specific authorization of the State Legislature. Any proposed restitution for destruction of the Restoration Area would not satisfy the strict requirements of the Act or the express terms of the City's agreement with the State.

14.21

On March 27, 2007, the City Council adopted a subsequent resolution that clarified the following. Refer to response to comment 9.60 from the University Community Planning Group regarding the assumption that Regents Road Bridge will be in place. Pursuant to Councilman Peter's request in 2001, the applicant's traffic engineer conducted a limited analysis of the trips generated by all four community plan scenarios with and without Regents Road Bridge. City staff subsequently requested that those analyses be removed from the project traffic study when the City Council took action on the bridge in August 2006. In response to comments received on this topic, however, and in light of the subsequent clarification from City Council, an analysis of the project's traffic on future conditions without the bridge was conducted by LLG. The analysis is appended to the final traffic impact study in Final EIR Appendix B. Based on that analysis, the UTC project does not need the bridge to mitigate any significant impacts and no new significant impacts would occur should the project move forward and bridge become delayed or not be implemented. The use of current conditions as the baseline for the impact comparison is not reasonable given that all the road improvements assumed in the traffic study are fully funded.

With regard to footnote 2 in the comments, please refer to response to comment 9.60 from the University Community Planning Group.

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See e-mail from Councilmember Scott Peters to Michael Uberuaga, August 1, 2002, attached as Exhibit C.

14.21
cont.

In conclusion, if any of the roadway improvements identified in the DEIR's traffic analysis are not constructed or implemented within the next two years, traffic impacts from the UTC Project would be considerably more severe than disclosed in the EIR. Unless and until the DEIR provides evidentiary support that these roadway improvements will be operational by 2010, the DEIR's traffic analysis cannot simply assume they would be implemented. The DEIR must be revised to document the funding, design, environmental review, regulatory permitting and construction status of each roadway project it assumes to be in place by 2010. Alternatively, a simpler approach is to revise the traffic analysis and use current conditions as the baseline for impact analysis.

c. The DEIR Understates the Project's Traffic Impacts Because its Analysis Omits Consideration of Holiday Traffic Levels.

14.22

The DEIR's traffic analysis is further hamstrung because of its failure to analyze traffic from the proposed Project during the holiday season. The DEIR explains that the trip generation estimates for the proposed Project were developed based on the City of San Diego Trip Generation Manual. DEIR at 5.3-17. Although the DEIR is silent on this issue, presumably the trip generation estimates did not include the increase in trips that occur during the holiday season. One would expect the increase in traffic during the holiday season to correlate with the increase in retail sales. The National Retail Federation explains that holiday sales increase an average of 4.8 percent. See "Citing Economic Concerns, NRF Forecasts Holiday Sales Gains of Four Percent, attached as Exhibit D. Because the DEIR did not take holiday traffic into account, it understates the Project's traffic impacts.

14.23

The DEIR further understates the Project's impacts because it relied on traffic counts conducted in March 2002. DEIR at 3-5. Using March traffic counts does not tell the complete story in terms of the severity or intensity of existing traffic conditions on nearby streets and freeways. As discussed above, roadways providing access to any regional shopping mall are more heavily congested during the holiday season than during the non-holiday season. The DEIR suggests that the traffic counts were conducted in March to take into account traffic from UCSD. *Id.* We agree that college traffic on area roadways is an important consideration. However, the DEIR traffic counts should have been conducted between Thanksgiving and the December college break to account for traffic from the college and holiday shopping.³

³ Fall Quarter at UCSD does not end until mid-December. See UCSD Academic and Administrative Calendar 2007-2008, attached as Exhibit E.

14.22 Holiday season occurs for six weeks of the year and is factored into the average trip generation rates developed for regional retail commercial uses. Refer to response to comment 9.51 from the University Community Planning Group regarding holiday traffic.

14.23 Traffic counts are supposed to capture the existing background traffic on an average day, not the traffic conditions for six weeks of the year. Furthermore, it should be noted that the time after Thanksgiving is usually close to finals week at UCSD and any counts taken during that period would not necessarily capture typical campus traffic patterns/levels. Please refer to response to comment 9.51 from the University Community Planning Group regarding holiday traffic.

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14.23
cont.

The revised DEIR's trip generation rates must reflect the increase in holiday related trips. As a reference point, the EIR preparer should conduct driveway traffic counts, taken this holiday season, from the Fashion Valley Mall and include this data in the revised DEIR. Upon buildout, the UTC would be roughly the same size as Fashion Valley Mall. In addition, the City should conduct background traffic counts during mid- December and these counts should include weekend as well as weekday traffic. Alternatively, the DEIR preparers can adjust the existing trip generation and traffic counts to reflect the holiday season. Such an adjustment, however, must be based on sound principles of traffic engineering.

d. The DEIR May Understate the Project's Traffic Impacts Because Construction Trips and Project-related Delivery Truck Trips Are Not Included in Trip Generation.

14.24

Construction of the Project would generate 800 trips per day. DEIR at 5.9-4. Although the DEIR acknowledges that Phase 2 construction would be simultaneous with Phase 1 Master Plan operations (at Table 5.4-16), the DEIR's traffic analysis appears not to include this construction-related traffic. Moreover, we can find no indication that the DEIR included delivery truck traffic in the trip generation estimates for Project operations. Delivery truck trips could be substantial for a retail project of this magnitude. The revised DEIR must include Phase 2 construction and delivery truck traffic in the traffic impact analysis.

e. The DEIR Fails to Adequately Analyze the Project's Impact on Alternative Modes of Transportation.

14.25

The DEIR omits a critical component of the transportation equation when it fails to study how the Project's proposed addition of 7,163 on-site parking spaces would effect the region's ability to increase public transit use. Unfortunately, the DEIR's analysis of parking impacts poses the wrong question. It asks whether the Project would result in effects on existing parking or cause an increased demand for off-site parking. DEIR at 5.3-69. The missing companion question is whether the provision of over 7,000 parking spaces will encourage travelers to drive their cars to the shopping center rather than take transit or walk.

The provision of parking is, by definition, a way to accommodate the automobile, and the presence of parking often depresses transit ridership and other non-automobile uses. Put simply, when parking is available, people drive. Inasmuch as the UTC area has been identified as a key destination of travel and hub for transit services in the area (see Caltrans' August 16, 2002 letter to Martha Blake on the UTC EIR Notice of Preparation), the provision of excessive parking would sabotage efforts to increase transit use. As Caltrans informed the City, the UTC DEIR should document the need for parking. "Rather than relying on standard parking requirements for the proposed land uses, an assessment of local trip capture, pedestrian access, and transit

14.24

Daily construction trips for three major construction activities are listed in Table 5.9-1 of the EIR. Although not listed in the table because they would be much less than the Phase 1 (retail) construction trips, the air quality analysis states on page 5.4-14 of the EIR that 120 truck trips and 80 construction workers would be involved in the Phase 2 (residential) construction. A reference to the Phase 2 construction traffic has been added as a footnote to Table 5.9-1 in the Final EIR. While the EIR assumes that Phases 1 and 2 could be simultaneously constructed, the assumption is a worst-case condition and not likely reasonable given the applicant's need to maintain an adequate parking supply and keep the shopping center open during construction operations. An analysis of existing delivery truck traffic was conducted for the existing center in response to this comment. Delivery trips are accounted for in the existing traffic counts and projected in the future by the trip generation. In addition, many deliveries will and would continue to occur after the morning hour when the stores are open to receive the merchandise. Expansion of the shopping center would increase the deliveries to the site; however, the anticipated heavy truck traffic would not be substantial in relation to the patron and employee cars that would access the site.

14.25

The impact statement in the EIR is from the Notice of Preparation/Scoping Letter written by the City and is reflective of Appendix G of State CEQA Guidelines. The CEQA Guidelines ask if the project "would result in inadequate parking." The quantity of proposed parking spaces is not based on standard parking rates specified in the SDMC, but rather on rates for mixed uses developed by the Urban Land Institute (ULI) (see page 5.3-69 of the EIR). A shared parking arrangement for retail/commercial uses is proposed by the applicant as suggested in this comment. The Shared Parking Analysis prepared by Fehr & Peers, Kaku Associates is based upon the Urban Land Institute's *Shared Parking, Second Edition 2005* which is specifically geared toward mixed use developments. According to the study the parking rates assumed in the ULI methodology are adjusted for transit mode, auto occupancy, and internal capture. Mode split includes assumptions about transit and pedestrian characteristics of the project (Page 23 of the Shared Parking Analysis for the Westfield University Towne Center Renovation, May 2007). It is not this project's responsibility to analyze the effects of parking on transit ridership because the applicant can only provide the facility for transit use and has no control over bus routes or transit use.

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14.25
cont.

ridership should be factored into the need for parking. Shared parking for nearby compatible uses can reduce the need for large parking lots which disrupt the desired walkable urban fabric." *Id.*

The revised DEIR must analyze how the parking component of the proposed Project will impact transit ridership. If the impact is determined to be significant, the DEIR should identify mitigation measures such as reducing the supply of free on-site parking.

f. The DEIR Fails to Adequately Analyze and Mitigate Construction Related Traffic Impacts.

14.26

The DEIR acknowledges that construction of the proposed Project is estimated to take three to five years. DEIR at 5.9-1. The document further notes that Project construction would add about 1,000 trips to area roadways each day. *Id.* at Table 5.9-1. Although the DEIR concludes these construction-related trips would result in a significant impact on traffic congestion in the area (*Id.* at 5.9-4), the DEIR fails to actually analyze the severity and extent of this impact. Instead, it simply states the obvious: "[b]ecause the existing peak hour traffic conditions in the UTC area are heavily congested and would continue to be so in the future, the potential exists that large construction vehicles could worsen traffic conditions in and around the project site." *Id.* While the EIR is undoubtedly correct to conclude that this impact is significant, a conclusion of significance cannot take the place of description and analysis of the impact. See *Stanislaus Natural Heritage Project*, 48 Cal.App.4th at 182 (invalidating EIR that had failed to adequately analyze water supply impacts but found them to be significant and unavoidable).

Nor does the DEIR provide any evidence to support its conclusion that prohibiting heavy equipment and truck export during peak hours would reduce the construction-related traffic impacts to a less than significant level. DEIR at 5.9-6. To conclude as the DEIR does, that an impact is less than significant, substantial evidence must demonstrate that mitigation measures will reduce an impact to a less-than-significant level. Substantial evidence consists of "facts, a reasonable presumption predicated on fact, or expert opinion supported by fact," not "argument, speculation, unsubstantiated opinion or narrative." Pub. Res. Code § 21080(c)(1)-(2). Again, absent an actual analysis of traffic conditions during project construction, the DEIR cannot simply assume that a prohibition on heavy equipment and truck export during peak hours would reduce the impacts to a less than significant level. Because the DEIR conclusion of insignificance is not supported by any evidence or analysis, it falls far short of this threshold.

The revised DEIR must describe specifically how nearby streets and intersections would be impacted by construction of the Project. Such an analysis is especially important under cumulative conditions since the substantial Monte Verde project will be under construction at the same time as the UTC project and both projects' construction could cause considerable traffic congestion on area streets and intersections. DEIR at 7-1. In addition, it is our understanding that the owner of the Costa Verde site, across Genesee Avenue, is in the process of applying for a

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To clarify, the EIR concludes there is the potential for increased traffic congestion if heavy-duty construction delivery and haul vehicles intermingle with commuter traffic. This conclusion is based on the fact that existing traffic conditions around the project site are already congested, as described in Section 5.3 of the EIR. A quantitative analysis is not required to support the conclusion since the baseline conditions clearly show the area is degraded. The amount of construction traffic produced by the project (see Table 5.9-1) would be substantially less than the permanent trips associated with the proposed project, thus the impacts would be substantially less than the analysis presented in Section 5.3 of the EIR. The project applicant is required to prepare a construction traffic control plan prior to the commencement of construction (see page 5.9-5 of the EIR). The City does not require applicants to conduct traffic impact studies on construction phases of projects because construction trips are temporary increases that are addressed through the enforcement of the traffic control plan prepared pursuant to Information Bulletin 177 (October 2006). Mitigation measure 5.9-1 was proposed to ensure that the construction traffic control plan required by the City Engineer addresses peak hour traffic. The adjacent Monte Verde project will also be required to prepare a construction traffic control plan, as discussed on page 5.2-4 of the Final EIR for the Monte Verde project (SCH # 2003091106).

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Community Plan amendment and therefore could also be under construction at the same time. Only after this analysis is undertaken, will the DEIR be able to identify feasible mitigation measures to reduce this impact.

g. The DEIR Fails to Identify Feasible Measures to Mitigate the Project's Impacts on Transportation.

Given the addition of almost 18,000 daily cars to an already congested roadway and freeway network, the DEIR aptly concludes that the UTC would result in numerous significant impacts. Table ES-3 shows just how bad traffic will be: segments of Genesee Avenue, La Jolla Village Drive and numerous sections of the surrounding freeways as well as their ramp meters would operate under gridlock or near gridlock conditions. DEIR at ES-18 and Table 5.3-1. Yet because the DEIR's mitigation measures focus exclusively on increasing roadway and intersection capacity, the document omits an analysis of other feasible mitigation measures that would reduce trip generation.

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As a case in point, the DEIR concludes that numerous street segments along La Jolla Village Drive from I-5 to Lebon Drive would be significantly impacted. DEIR at 5.3-55. The DEIR notes that the applicant has indicated it would *not* implement widening improvements along La Jolla Village Drive purportedly because such improvements would conflict with the Community Plan. *Id.* We agree that widening this roadway is not the right solution. However, the DEIR is remiss in that it considered only one mitigation measure and then rejected it as inappropriate. The DEIR therefore identifies *no* mitigation for this quite significant traffic impact. California courts have made clear that an EIR is inadequate if it fails to suggest feasible mitigation measures, or if its suggested mitigation measures are so undefined that it is impossible to evaluate their effectiveness. See *San Franciscans for Reasonable Growth v. City and County of San Francisco* (1984) 151 Cal.App.3d 61, 79.

The DEIR's assumption that the City's hands are tied with respect to causing gridlock on La Jolla Village Drive is particularly disturbing especially since the UTC Project is touted as being environmentally responsible. Clearly, feasible mitigation is available to reduce this significant impact. For example, the revised DEIR could examine the feasibility of implementing a transportation demand management program that would include such measures as a parking supply cap, parking pricing, jobs-based ridesharing programs; and the implementation of a shopping center shuttle system.

2. The DEIR Fails to Adequately Analyze or Mitigate the Project's Significant Impacts on Visual Resources and Neighborhood Character.

14.28

The DEIR's analysis of visual impacts is fatally flawed because it fails to adequately describe the visual characteristics of the development proposed. The DEIR never

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Refer to response to comment 9.93 from the University Community Planning Group regarding the amount of traffic generated by the CPA and why those trips are a worst-case estimate of project traffic. In addition to expanded roadway segments and reconfigured intersections, most of which will be consistent with the *University Community Plan*, the applicant will be required to implement Transportation Demand Management (TDM) measures outlined in Section 16.0 of the traffic impact study (EIR Appendix B) and as noted on EIR pages 5.3-72 and 5.3-73. The TDM program was inadvertently identified as mitigation in the EIR but has been clarified as a project design feature in the Final EIR (see page 5.3-59 of the Final EIR). Those measures are listed on EIR pages 5.3-72 and 5.3-73. Collectively, the feasible mitigation combined with the TDM measures would reduce trips within the community associated with the proposed project. In addition, SANDAG is currently proposing the Super Loop shuttle system that will link UCSD and UTC with various transit stops in between. The Super Loop will further reduce trips associated with the proposed project.

14.28

The project description outlines the proposed layout of uses and design guidelines contained in the Master PDP. In addition, Section 5.2 of the EIR describes the visual characteristics of the proposed project on pages 5.2-5 through 5.2-11, including several graphics. It is not necessary to provide photo-simulations and architectural drawings, when such descriptive analysis is provided. The EIR devotes three full pages of text to describing and analyzing the bulk and scale changes associated with the proposed project. To augment the text, a bulk and scale graphic (Figure 5.2-6) has been added to the Final EIR to further illustrate the proposed design. The aesthetics/visual quality discussion on page 5.2-7 is based on the City's significance threshold related to bulk and scale. It concludes that "because the proposed structures would exceed the allowable height or bulk regulations of the underlying zone and the height and bulk established by existing development," aesthetics/visual quality impacts to the surrounding community would be considered significant and unmitigable. The neighborhood character discussion on page 5.2-8 is based on the City's significance thresholds related to architectural style and building materials and community landmarks (see bullets on page 5.2-4 of the EIR). Because the UTC area does not follow a single or common architectural theme, there would be no physical loss of a community identification symbol or landmark, and the Master PDP design guidelines would ensure structural transitions, screening and articulation, impacts to neighborhood character were not determined to be significant. Minor clarifications have been provided in the Final EIR to more clearly represent these conclusions. An explanation of why removing the berms would be consistent with the *University Community Plan* is provided in response to comment 9.12 from the University Community Planning Group.

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bothers to undertake the necessary study – through photo-simulations, architectural drawings and descriptive analysis of what the Project would look like upon completion. CEQA requires a project description that is at least adequate to reveal the project's impacts on the environment. *See County of Inyo v. City of Los Angeles* (1977) 71 Cal.App.3d 185; *see also* CEQA Guidelines § 15124. The DEIR's description of the visual characteristics of the Project fails to meet this requirement and, as a result, an assessment of the Project's impacts on visual resources and neighborhood character is simply not possible.

The Project would replace a bi-level shopping center with high-rise development including up to four towers ranging in size from 325 to 390 feet. Currently, the shopping center's tallest structure is 78 feet above grade and the residential uses adjacent to the existing shopping center are one and two-story homes. DEIR at 5.1-1 and 5.1-16. The maximum structure height allowed under current zoning (CR-1-3) is 45 feet. DEIR at 8-5. Rather than seriously study how the Project would affect the scale of the existing neighborhood, the DEIR comes to two contradictory conclusions: a) the bulk and scale of the proposed Project would be incompatible with surrounding development, resulting in a significant and unmitigable impact, and b) the Project would not result in substantial alteration to the existing visual character of the area and therefore any visual impacts would be less than significant. *Id.* at ES 17. Clearly, these conclusions cannot both be true.

Indeed, the DEIR contains so many contradictory and illogical statements as to render its conclusions meaningless. In reference to one of the proposed high-rise structures, the DEIR acknowledges that the 325 foot structure would have the potential to create a visual inconsistency with the existing two-story single-family residential development. DEIR at 5.2-6. However, the DEIR notes that through the use of architectural and building techniques such as "vertical distance," horizontal distance," "angled building envelopes," "decorative and/or ornamental elements" and landscaping, the potential visual impacts to the adjacent single-family residences would be avoided. *Id.* at 5.2-7. The DEIR also states that because structures could exceed the allowable height and bulk established by existing patterns of development by a substantial margin, impacts to neighborhood character would be considered significant. *Id.* A few paragraphs later, the DEIR asserts that the Project is generally consistent with the visual quality and character of the community. *Id.* at 5.2-8.

The DEIR also explains that the Project would "substantially change" the character of the streetscape by removing the landscaped berms along certain roadways because these landscaped berm are considered a to be a "unifying theme" in the community. *Id.* at 5.2-9. The DEIR concludes, however, that this *substantial change* would be consistent with the community character goals in the community plan. *Id.* (emphasis added). Finally, the DEIR asserts that the Project would not contrast with the architectural styles in the community because there is no common theme established in the community (at 5.2-8) but later states that buildings would be

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designed in a style that *would complement* the architectural styles of the community. *Id.* at 5.1-37 (emphasis added).

This confusing hodge-podge of information amounts to no more than speculation as to how this Project would look and how it would fit in with the neighborhood. Such an approach is a far cry from CEQA's clear requirements. Meaningful analysis of impacts effectuates one of CEQA's fundamental purposes: to "inform the public and responsible officials of the environmental consequences of their decisions before they are made." *Laurel Heights Improvement Ass'n.*, 6 Cal.4th at 1123. To accomplish this purpose, an EIR must contain facts and analysis, not just an agency's bare conclusions. *Citizens of Goleta Valley*, 52 Cal.3d at 568.

14.29

An adequate analysis of aesthetic impacts would actually investigate the Project's impacts rather than speculate about them. The first step in such an analysis would be to conduct visual simulations for each land use scenario (i.e., the *entire* development must be superimposed upon the landscape in "before and after" photo simulations). These photo simulations must be undertaken from all representative public vantage points. Such an analysis should also include the use of story poles (if such tall poles could even be erected) so that the public and decision-makers have a sense of how the high rises would look from ground level. Only with the use of photo simulations and story poles will it be possible to visualize the juxtaposition of high rises against a neighborhood of predominantly one and two-story structures. But again, none of this analysis can be undertaken until the Project itself is planned and designed: the DEIR can not effectively consider the visual effects of a project whose appearance is completely unknown.

3. The DEIR's Air Quality Analysis is Deficient Under CEQA.

14.30

As detailed in the report from Autumn Wind Associates, attached as Exhibit F ("Autumn Wind Report"), the DEIR's analysis of air quality impacts is full of gaps. It fails to identify myriad mitigation measures to reduce the Project's clearly significant increase in air emissions, and it provides no analysis at all of diesel particulate emissions from construction and operation of the Project. The following discussion summarizes only the most egregious deficiencies in the DEIR's air quality analysis. This letter incorporates the Autumn Wind Report by reference.

The DEIR understates the Project's potential impact on air quality, in large part, because it ignores the interaction between emissions generated by the Project and emissions from other sources in the San Diego Air Basin. Specifically, the document fails to accurately analyze the effect of the Project's emissions on ozone formation because it only includes data from local monitoring stations and fails to acknowledge the potential for ozone transport. Ozone is formed by a reaction between two pollutants, nitrogen oxides ("NOx") and reactive organic gases ("ROG"). As the Autumn Wind Report states: Ozone is a regional pollutant and ROG and NOx emissions generated by the Project must be evaluated for their potential to contribute to ozone

14.29

The EIR does not need to provide photo- or visual-simulations or story poles for each of the land use scenario to describe the potential aesthetics/visual quality impacts of the Master PDP. Similar to all other issue areas, the aesthetics/visual quality section of the EIR has analyzed the worst-case condition, which is the Maximum Residential scenario, because it would result in the construction of up to four high-rise towers. All other scenarios would result in fewer towers.

14.30

Although impacts are considered unmitigable, the air quality analysis does identify mitigation measures to reduce the proposed project's air emissions impacts. These measures include construction mitigation measures that would reduce fugitive dust impacts and measures to reduce production of ROC. In addition, a new mitigation has been added to the Final EIR to address impacts related to construction equipment NOx emissions (see new MM 5.4-7). It should be noted that the main contributor to long-term operational emissions is vehicular traffic. While not described as mitigation measures because they are project design features, the project includes mixed uses (retail, commercial/office, and residential) and a transit center designed to reduce vehicle trips/miles travelled and, therefore, impacts to the air quality. Reduction of vehicle trips, to the extent possible, is the best means of reducing long-term operational emissions. Vehicle trips are not, however, under the direct control of the project applicant and the project applicant cannot dictate what types of vehicles that residents, workers, and/or shoppers can use.

With regard to toxic air contaminants, the commenter mentions diesel particulate matter. For construction impacts, the analysis states that diesel particulate will be emitted from heavy construction equipment. These emissions would occur during the construction period (from three to five years) and would vary during that time period. The Autumn Wind attachment cites the SCAQMD's Rule 1401 for guidance as to what would be required in a health risk assessment. It should be noted that the SCAQMD itself does not require health risk assessments to be prepared for construction projects. Rule 1401 requires health risk assessments to be prepared for "new permit units, relocations, or modifications to existing permit units which emit toxic air contaminants". Rule 1401 sets forth the requirements for issuance of permits under SCAQMD Rules 201 and 203. These rules regulate stationary sources of emissions that are permanent. SCAQMD Rule 219 clearly exempts mobile sources from permitting requirements; thus SCAQMD Rule 1401 does not apply to construction equipment.

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14.30 cont.

Diesel particulate matter has not been identified by the state of California as an acute toxic air contaminant. Rather, it has been identified as a carcinogen and a chronic toxic air contaminant, and health effects are observed over long-term exposure. Construction projects are short-term and their emissions sources are not permanent; therefore, construction health risk assessments are not generally conducted or required for construction projects of the nature of the UTC project. All construction equipment that will be used during construction will meet applicable standards for emissions and will be maintained in accordance with manufacturer's requirements.

The comment also indicates that no analysis of diesel particulate has been conducted for operations. Two sources of diesel particulate would be associated with project operations: bus emissions from buses using the transit center, and emissions from delivery trucks. It should be noted that the existing UTC development contains a transit center that services buses and can house up to six buses on site at any one time. The project itself would not result in an increase in buses; the project is merely providing a transit center for the use of buses and other transit options. According to NCTD, whose buses stop at the UTC transit center, 117 of their 175 buses (67%) are Compressed Natural Gas buses and 58% are diesel. According to MTS, whose buses also utilize the UTC transit center, of a total fleet of 476 buses, 59% are CNG and 41% are diesel. In 2008, MTS is starting a program to covert the remaining diesel buses to CNG by 2013. Therefore, by 2013 all buses in the MTS fleet will be CNG and the number of CNG buses will increase each year until 2013. Because the trend is to decommission diesel buses, emissions from these buses would decrease over current levels, resulting in a net reduction in diesel particulate emissions associated with the UTC transit center.

With regard to delivery trucks, delivery trucks will meet on-road emission standards for diesel particulate matter. These standards are developed and implemented by the California Air Resources Board and have become increasingly stringent. On-road trucks are already required to use low-sulfur fuels to reduce emissions of diesel particulate matter, and are required to limit idling to five minutes or less in trucks greater than 10,000 pounds. The ARB is continuing to regulate emissions of diesel particulate from on-road vehicles and these emissions will continue to decrease with time. It should also be noted that in the ARB's Air Quality and Land Use Handbook (which identifies potentially incompatible land uses such as residential areas and rail yards, chrome plating facilities, and refineries) the ARB did not identify shopping centers and associated delivery vehicles as a major source of toxic air contaminants that should be located away from residential areas. Finally, in the SCAQMD's "Health Risk Assessment Guidance for Analyzing Cancer Risks from Mobile Source Diesel Idling Emissions for CEQA Air Quality Analysis", in which the SCAQMD identified sources for which they recommend a health risk assessment be conducted, the SCAQMD did not identify shopping centers as one of the types of sources for which they recommend a health risk assessment.

COMMENTS

RESPONSES

14.30 cont.

To augment the information contained in the EIR and this response, SRA conducted a health risk assessment (HRA) to quantitatively evaluate the potential for toxic air contaminant emissions and associated health risks associated with diesel construction equipment and heavy truck traffic assessing the project site. The HRA is appended to the Final EIR (see EIR Appendix K) for reference purposes. The primary objective of the HRA was to estimate the incremental excess cancer risk and non-cancer health hazards from diesel exhaust particulate matter. Based on the SRA analysis of nearby residential receptors, the incremental cancer risk chronic non-cancer hazard index associated with construction equipment would be well below the significance threshold of 1 in a million. For delivery vehicles, the maximum exposure would continue to occur at the existing loading docks on the UTC site where no residential receptors exist or are proposed. Both incremental cancer risk and chronic non-cancer risks for operational emissions would be below significance thresholds. Therefore, no new significant impacts are identified and the EIR conclusions are validated.

The comment also indicates that the air quality analysis fails to analyze the effect of the project's emissions on ozone formation because it only includes data from local monitoring stations and fails to acknowledge the potential for ozone transport. The analysis clearly states the attainment status of the air basin relative to ozone (page 5.4-2 of the EIR). The purpose of the background air quality data is to provide data for the area in which the project is located. Ozone modeling is not conducted for individual projects. There is no requirement to provide ozone background data for every monitoring station within the San Diego Air Basin. The intent in providing air quality data for the nearest monitoring station is to provide a representation of the ambient air quality in the vicinity of the project, which is standard practice in CEQA documents for describing existing conditions. The data from the nearest monitoring station was provided in Table 5.4-2 in the EIR.

The comment indicates that the use of 2020 is not appropriate for the buildout year. 2020 is considered the year in which both the project and the community would achieve full buildout and is appropriate for the analysis.

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violations. "Emissions from the UTC project, under common transport conditions, could cause exceedances of air quality standards at non-local locations, and particularly at inland areas where monitored data already reflect higher measured values." See Exhibit F. These deficiencies, as well as others relating to questionable modeling assumptions and the use of 2020 as the Project's build out year, suggest that the DEIR substantially underestimates the Project's air quality impacts.

14.31

Despite the deficient analysis, the DEIR does recognize that the Project's increase in emissions could affect the ability of the San Diego Air Basin to attain and maintain the ambient air quality standards for ozone. DEIR at 5.4-30. This increase in emissions is extraordinarily significant inasmuch as the California Clean Air Act and San Diego's Regional Air Quality Strategy ("RAQS") require a five percent annual *reduction* in ozone precursor emissions for areas not meeting state air quality standards, or implementation of all feasible control measures in the event that a five percent annual reduction in ozone precursor emissions is not achievable. *Id.* at 5.4-29 (emphasis added).

Given that this Project has the potential to *obstruct* attainment of air quality standards, one would expect the DEIR to identify every feasible mitigation measure to reduce ozone precursor emissions. Indeed, as noted above, the California Clean Air Act and San Diego's RAQS *require* either a reduction in emissions or implementation of all feasible control measures. Unfortunately, the DEIR makes only the most feeble attempt to reduce Project emissions, offering only one measure. Mitigation Measure 5.4-7 calls for the use of low-ROC paints, adhesives and solvents and the installation of low emission water heaters and furnaces where required. *Id.* (emphasis added). As the Autumn Wind Report attests, California already requires the use of low-VOC architectural coatings. Moreover, the measure's requirement for low emission water heaters is vague and entirely unenforceable. Thus, the DEIR provides little in the way of actual mitigation for the Project's substantial increase in ozone precursor emissions.

14.32

The DEIR tries to explain that the Project would be consistent with the transportation-related measures contained in the RAQS because it includes transit improvements. DEIR at 5.4-30. As discussed above, the DEIR never clearly articulates what transit improvements are even proposed. Moreover, even if the Project includes the actual construction of the transit center, a closer look at the expected transit ridership associated with the proposed Project shows that very few individuals are actually expected to ride transit. According to Table 5.3-18, exactly ten individuals are projected to ride transit in the morning, while only seven would ride buses in the afternoon. DEIR at 5.3-18. These bleak transit ridership numbers tell the true story – this Project would do very little to reduce dependence on the automobile. Vehicular traffic is a tremendous source of the Project's air emissions. As such, the revised DEIR must thoroughly examine other opportunities for vehicular trip reduction. To that end, the EIR preparers should consult with the San Diego Air Pollution Control District to ensure that the

14.31

The comment indicates that all feasible mitigation measures for ozone precursors emissions have not been identified. Again, it should be noted that the main contributor to emissions is vehicular traffic. Reduction of vehicle trips to the extent possible is the best means of reducing emissions; project design features will reduce vehicle trips to the extent possible. The proposed project includes mixed uses (retail, commercial/office, and residential) and a transit center designed to reduce vehicle trips for retail customers, workers and residents in the community and, therefore, impacts to the regional air quality. In addition, the Transportation Demand Management plan proposed as part of the project would reduce vehicle emissions by encouraging trip reductions for employees through transit subsidies, bike parking/lockers, on site support facilities, vanpool/carpool spaces and other means to reduce trips. All of these measures are part of the project design rather than specific mitigations and would make major strides in controlling the production of ozone precursors and other pollutant emissions of the project and to certain degree the UTC area. Further measures that are part of the project's design are discussed under Issue 4 in Section 5.4 of the EIR, and include measures designed to reduce energy use. These measures include LEED certification of the expanded facility and a green program that would reduce energy use, water consumption and vehicle use associated with the revitalized shopping center which in turn would reduce emissions. As with the mixed uses and availability of alternative transportation, these measures have been included as part of the project design as opposed to mitigation measures. The design measures are outlined on pages 5.4-38 and 5.4-39 of the EIR. Refer to response to comment 9.39 from the University Community Planning Group for additional discussion on the LEED certification the applicant is pursuing.

With regard to construction emissions of NO_x, the EIR concluded that significant levels of NO_x emissions would be generated if both construction phases were to occur simultaneously (see Table 5.4-14). The EIR concluded the impacts would be significant and unmitigated. However, in response to this comment, the project applicant has accepted a new mitigation measure that would prevent overlapping construction schedules for Phases 1 and 2 or require the use of low NO_x construction equipment. Implementation of this measure would reduce short-term, construction emissions to below significant levels. See Section 5.4 in the Final EIR for additional details. It should be noted that operational emissions of NO_x would not exceed any thresholds (Table 5.4-15), although long-term emissions of ROC would be significant.

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As stated above in response to comment 14.3, the project includes both mixed uses and a transit center. These measures are standard measures designed to reduce vehicle trips. In addition, a Transportation Demand Management (TDM) plan will be implemented by the applicant to reduce the trips its employees and customers produce. Refer to response to comment 9.25 from the University Community Planning Group regarding the range of TDM measures the applicant has incorporated into the project design.

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Project includes all applicable transportation control measures identified in the existing and the pending RAQS revision.

14.33

The problems in the DEIR's air quality analysis extend beyond its failure to adequately analyze and mitigate the Project's impacts on criteria air pollutants. Although the document aptly acknowledges the potential risk to public health from exposure to diesel particulate matter ("DPM") emissions generated by the Project, it never actually studies these potentially serious health impacts. Instead, the document states, absent any analysis or evidence that the potential exposure to DPM would be temporary in nature. DEIR at 5.4-20 and 5.4.26. As the Autumn Wind Report explains, exposure to these pollutants would certainly not be "temporary" since construction of the Project would take up to five years. In addition, air quality regulatory agencies have specifically required analysis of health risk for projects with less emissions, and occurring over a shorter timeframe, than the UTC Project. Finally, exposure to DPM would extend beyond the Project's construction phase. Many of the delivery trucks and buses accessing the on-site transit center would be diesel powered. Clearly, the DEIR has missed the mark on the potential health risk from exposure to the Project's DPM emissions. The revised DEIR must undertake this necessary health risk analysis.

In sum, because this DEIR cannot serve to inform the public and decision-makers of the true air quality consequences of the Project, it must be revised substantially and recirculated.

4. The DEIR Fails to Adequately Analyze and Mitigate Construction Noise Impacts on Nearby Sensitive Receptors.

14.34

In lieu of actually analyzing construction related noise impacts on nearby sensitive receptors, the DEIR simply asserts that such impacts would be potentially significant. DEIR at 5.9-7. The document then identifies four standard "mitigation measures" and boldly proclaims that construction noise impacts would be mitigated to a less than significant level. DEIR at ES-43 and 5.9-7. Here too, the DEIR provides no evidence, let alone analysis, to conclude that the Project's significant construction-related noise impacts would be mitigated to an insignificant level. Quite simply it appears the DEIR was set up to arrive at this preordained result. Therefore the effected public is given no specific information as to the type and severity of the Project's potential noise impacts. Nor does the DEIR provide any assurance that these sensitive receptors would be sufficiently protected during the Project's protracted construction process.

A conclusion regarding the significance of an environmental impact that is not based on an analysis of the relevant facts fails to fulfill CEQA's informational goal. See *Stanislaus Natural Heritage Project*, 48 Cal.App.4th at 182; *Citizens of Goleta Valley*, 52 Cal.3d at 568. The UTC DEIR fails to fulfill this paramount CEQA purpose both because it neglects to present all relevant facts relating to the Project's construction noise impacts upon sensitive

14.33

As stated above, the analysis states that diesel particulate will be emitted from heavy construction equipment. A discussion of construction analyses is provided above under response to comment 14.30. Contrary to the statements in the comment, regulatory agencies do not generally require health risk assessments for construction projects because they recognize the short-term, variable nature of construction and understand that diesel particulate is identified as a long-term toxic air contaminant. Diesel particulate from buses and delivery trucks has also been addressed above.

14.34

Noise from construction equipment can typically generate up to from 72 to 95 dBA at a distance of 50 feet, with peak construction for the loudest equipment reaching 96 dBA at a distance of 50 feet from the equipment. A range of construction activities would occur on the project site; however, demolition and foundation excavation would be the highest noise generating activities during site redevelopment. In particular, demolition of the existing parking structure near the Sears department store and the excavation of a new foundation for the proposed residential structure would have the greatest potential to cause significant construction noise impacts because of its proximity to the property line (where noise control is required) and presence nearby of noise sensitive land uses (i.e., residences and a daycare facility). These construction activities typically include the use of a bulldozer, excavator, and a track-mounted breaker, among other, less noisy pieces of equipment.

Assuming all three pieces of equipment could be individually operated in the southeast corner of the site during project construction phase, noise levels associated with the equipment would range from 85 to 89 dBA L_{EQ} at 50 feet based on construction equipment noise levels and operational planning information provided by the Federal Highway Administration and the British Department of Environmental Food and Rural Affairs. Given that the existing parking structure is approximately 30 feet from the property line, a temporary noise control barrier of 25 feet in height would have to be placed approximately $\frac{1}{2}$ the distance between the equipment and the property line to provide approximately 19 dBA of noise reduction at the property line. The barrier should be in either a half moon shape around the equipment or extend significantly beyond each side of the line of sight of the equipment and have a Sound Transmission Class (STC) rating of 25 or greater. Due to the height requirements for a barrier to reduce the noise from a breaker, such equipment could not be used in the demolition of the parking structure decks or other tall structures, but could be used at ground level or sub-ground level work. With temporary noise barriers, operational assumptions and the amount of noise reduction achieved, the worst-case construction equipment would operate in compliance with the City's noise ordinance and the stated mitigation would be feasible.

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receptors and because its cursory conclusions are based upon no analysis. Without a detailed quantitative analysis of construction related noise, it is not possible to determine the severity of these impacts or whether the proposed mitigation measures would effectively reduce such effects.

5. The DEIR Fails to Adequately Analyze The Potential Noise and Public Safety Impacts Relating to the Project Site's Proximity to United States Marine Corps Miramar.

a. The DEIR Fails to Adequately Analyze Noise Impacts to Project Occupants From Military Aircraft.

14.35

Although the Project site is located near the Marine Corps Air Station ("MCAS") Miramar and residents of the Project's proposed housing development could be impacted by excessive noise and vibration from military aircraft, the DEIR provides only the most cursory treatment of this potentially significant impact. Such an omission is particularly egregious inasmuch as the United States Marine Corps ("Marine Corps") informed the City of the Project site's location in the Miramar Airport Influence Area in its comments on the Notice of Preparation for the UTC DEIR. See Letter from Marine Corps to Lawrence Monserrate, City of San Diego, July 16, 2002. The Marine Corps' letter states that "the Project site is transected by the adopted and projected 60-65 dB Community Noise Equivalent Level (CNEL) noise contours for Miramar operations and that residents of the Project would be *routinely affected* by operations of military fixed and rotary-wing aircraft transiting to and from Miramar." *Id.* (emphasis added). The Marine Corps further states that "due to the location of this project in relation to Miramar Flight Corridors, we recommend attenuation for residential structures to reduce interior noise levels." *Id.*

The DEIR confirms that the eastern portion of the Project site is within the 60 to 65 dB CNEL as depicted in the 2004 Airport Land Use Compatibility Plan ("ALUCP"). DEIR at 5.1-14. Therefore, to be considered compatible with the ALUCP, the outdoor CNEL would need to be attenuated to achieve an indoor noise level of 45 dB for hotel and residential uses and 50 dB for commercial uses. *Id.* The DEIR states that development proposals within the Airport Environs Overlay Zone may be required to prepare an acoustical study to ensure that the development proposal meets the applicable noise standards. *Id.* at 5.1-10 and 5.1-11.

Although the DEIR concludes that the proposed retail and residential uses are compatible land uses with the exterior noise thresholds in the Airport Noise/Land Use Compatibility Matrix, the document provides no evidence or analysis to support this conclusion. If an acoustical study has been prepared, this study does not seem to have been included in the DEIR. Nor does the DEIR provide the necessary analysis to support the conclusion that interior noise levels experienced within the Project structures would be acceptable. See DEIR at 5.1-24.

14.35

As noted on page 5.1-14 of the EIR, the UTC project site is located within the adopted 60-65 dB CNEL noise contour contained in the Airport Land Use Compatibility Plan (ALUCP) for MCAS Miramar and is located outside the proposed 60 dB CNEL noise contour in the draft ALUCP that is based on the future noise contours contained in the Air Installation Compatible Use Zone (AICUZ) study by the U.S. Marine Corps (USMC). The USMC have indicated in their comment letter to the EIR that the proposed noise contours have yet to be adopted by either the San Diego County Airport Land Use Commission or the City. They further indicated in their comment letter that the proposed contours will eventually serve as the future noise contours for the air based once the ALUCP is finalized in the future (see responses to comments 1.5 and 1.10 from the USMC). In any case, the commercial, hotel, office and residential uses proposed by the Master PDP are all compatible with exterior noise levels that are represented by the adopted and proposed noise contours. Figure 5.1-4c has been added to the Final EIR to show the two sets of noise contours developed for the site; minor text clarifications have been provided in the Final EIR to address the two sets of noise contours. If building permits are requested for the proposed residential units in the Towne Center Garden land use district before the proposed noise contours are adopted, the City will require the builder to demonstrate that the interior noise limit established under the State Noise Insulation Standards of Title 24 will be met by proposed construction techniques. Such a study, demonstrating compliance with the State Noise standard, cannot be provided until construction-level architectural drawings have been prepared. Because compliance with the standard is a requirement under the State Building Code and not a discretionary approval, the EIR presumes that the future residential would be constructed to comply with the standard. Therefore, the land use section of the EIR is adequate as written.

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14.35
cont.

It is also important to note that residents have a right to quiet enjoyment of the outdoors, not just the interiors of their houses.

14.36

In addition, notwithstanding the Project's proximity to the 65 CNEL, the DEIR is obligated under CEQA to analyze impacts to residents of single noise events. CNEL measures average noise but does not fully explain impacts that Project occupants might experience from individual aircraft operations. Recent definitive case law requires that an EIR "measure how many high noise events will take place during the noise sensitive nighttime hours [and] describe the effects of noise on normal nighttime activities such as sleep." *Berkeley Keep Jets Over the Bay Committee v. Board of Port Commissioners* (2001) 91 Cal.App.4th 1344, 1382 n. 23. The Court of Appeal in that case stressed the need to provide information *in a form that is useful to help nearby residents* evaluate the impact of future increased air traffic on their daily lives. In particular, the DEIR must enable residents to evaluate the degree to which the "single events" of aircraft takeoffs and landings interfere with their sleep and conversation. *Id.* at 1372-83.

The revised DEIR must include a specific analysis of how Project occupants would be impacted from aircraft operations. Such an analysis must include the effect of single noise events. If impacts are determined to be significant, the revised DEIR must identify feasible mitigation.

b. The DEIR Fails to Adequately Analyze Risk to Public Safety From the Project's Proximity to MCAS Miramar.

14.37

The DEIR appears to contradict information provided by the Department of Transportation, Division of Aeronautics ("DOT") regarding the location of the Project area within the Miramar approach departure surface. The DOT states that the Project area is within the Miramar Approach Departure Surface 50:1 Slope for Runways 6L-24R and 6R-24L. See DOT letter from Sandy Hesnard to Martha Blake, August 13, 2002. The DOT goes on to state that depending on structural heights, the proposal may require a Notice of Proposed Construction or Alteration by the Federal Aviation Administration pursuant to Federal Aviation Regulations, part 77. *Id.* The DEIR, on the other hand, concludes that the top of the residential/hotel structures *would not* penetrate the 100:1 slope. DEIR at 5.1-24 (emphasis added). The revised UTC DEIR should explain this discrepancy and analyze any impacts associated with the Project's proximity to the Miramar approach departure surface. If significant impacts are identified, the DEIR must identify mitigation and/or project redesign to eliminate such impacts, as well as the impacts of such measures or redesign.

14.36

Although the City has no significance thresholds for single event noise level (SEL) impacts, an analysis of the potential effects of MCAS Miramar aircraft activities on future residents was prepared by HELIX for information and disclosure purposes in the Final EIR in response to this comment (see EIR Appendix L). Based on that analysis, it was determined that 46 percent of flights from MCAS Miramar would not cause any sleep disturbance within units facing the MCAS Miramar flight path. For those that may trigger sleep disturbance, 30 percent of measured flights could cause sleep disturbance in approximately 3 percent of the on-site population, 15 percent of flights could cause sleep disturbance to 4 percent of the on-site population and 9 percent of flights could cause sleep disturbance in 7 percent of the on-site population. This information was calculated for residential building in the Towne Center Gardens district, which would be closest to the MCAS Miramar flight operations; noise levels (and potential sleep disturbances) would be less in the other districts. Using the threshold of significance developed for the Los Angeles Master Plan EIS/EIR of 10 percent awakenings, which occur at a SEL of 81 dB with windows open, it was determined that future residents of the UTC site would not be exposed to substantial noise that would cause a significant number of night awakenings. This conclusion is based on the highly conservative assumption that all units would have their windows open at night and the flight operations observed during the day would continue through the night. Refer to EIR Appendix L for additional information.

14.37

The letter referenced in this comment was submitted to the City in response to the NOP (see EIR Appendix A). According to the AICUZ, MCAS Miramar has an approach-departure clearance surface glide area of 50:1. According to both the ALUCP and AICUZ, MCAS Miramar has a 100:1 slope, which extends 20,000 from the nearest point of the closest runway. The EIR refers to the 100:1 slope. Regardless of the slope, the FAA conducted an aeronautical study of the proposed project in relation to the approach and departure surfaces defined for MCAS Miramar and determined on August 23, 2007 that none of the proposed structures would create a hazard to air navigation. As a condition of the FAA determination, red marking lights will be installed on all reviewed structures. A Notice of Construction or Alteration will be submitted to the FAA within five days of the construction reaching its maximum height. Therefore, as stated on page 5.1-24 of the EIR, no significant impacts would arise.

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6. The DEIR Fails to Adequately Analyze Impacts Relating to Employment, Population and Housing.

Although the DEIR acknowledges that the proposed Project would increase employment opportunities, it fails to specifically estimate the number of employees associated with the Project's retail, office, and hotel uses. The DEIR also fails to identify, or in any way estimate, the number of construction workers that would be employed during the Project's two construction phases. The overall increase in employment will increase labor demand, and therefore housing demand, but none of this is accounted for in the DEIR. This omission violates basic CEQA requirements. *See Napa Citizens for Honest Government v. Napa County Board of Supervisors* (2001) 91 Cal.App.4th 342, 367-71.

The DEIR suggests that the Project would have no adverse effect on housing because the majority of new employment demand would be met by the local labor force, employees would reside locally, and therefore would not require new housing in the community. DEIR at 6-1 and 6-5. The DEIR also asserts "the labor pool within the project area is adequate." *Id.* The document fails, however, to substantiate any of these assumptions. In merely assuming that the Project's workers will come from the area, the DEIR avoids considering the qualifications of the local workforce or the requirements of the new jobs. Indeed, the entire purpose of an EIR's evaluation of employment, population, and housing is to determine whether increased housing demand will have significant effects on the environment. *See Napa Citizens*, 91 Cal.App.4th at 367-71. The DEIR shirks that duty by failing to calculate housing demand or analyze whether that demand will lead to environmentally significant activities like home construction.

Amazingly, the DEIR includes no discussion of the current or future need for affordable housing in the immediate area. Instead, it apparently assumes that housing needs would automatically be met because housing is provided as part of the project. DEIR at 3-3 and 6-5. The DEIR never identifies, however, the market for the UTC Project's residential units nor does it provide any commitment as to the number of units that would be set aside as affordable. Currently, the median cost of a single family home in University City is \$794,500, while the median cost of a condominium is \$380,000. *See San Diego Union Tribune Zip Code Chart for Home Sales Recorded in August 2007*, attached as Exhibit G. It is highly unlikely that retail workers, hotel workers and support, operations and maintenance staff for the Project's office buildings would be able to afford to purchase the residences that would be constructed as part of the UTC Project. The DEIR will remain inadequate unless it discloses the current affordable housing supply and jobs-housing balance, determines the estimated increase in housing demand brought by the Project, analyzes the environmental effects associated with this housing and devises mitigation measures that will meet that demand with a minimum of adverse environmental effects. *See CEQA Guidelines*, Appendix G, § XII.

14.38 Please refer to response to comment 9.78 for a discussion of growth inducement and response to comment 9.98 for a discussion of the need for residential uses. Contrary to suggestions made in this comment, the EIR does analyze the physical impacts of construction housing on the project site. In addition, the applicant has committed to constructing its affordable housing on site. The applicant is not obligated to provide affordable housing to serve the future employees of the proposed project, but rather in accordance with the City's Inclusionary Zoning Ordinance requirements set forth in the SDMC. The City's Inclusionary Zoning Ordinance requires a minimum of 10 percent affordable units; depending on how many units are ultimately constructed under the Master PDP, this could result in 25 to 72 affordable units on the UTC project site. Affordability, as defined by City ordinance, is based on regional income averages and not averages within the community, as suggested by this comment.

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14.38
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The revised DEIR should provide an accurate estimate of Project employment, quantify employee household distribution by geographic location and, by extension, determine the local affordable housing need through project buildout. Finally, the revised DEIR must include a plan for the affordable housing units needed to fill the gap in affordable housing for employees based on full disclosure of the number of employees (including construction phase) and on a completed needs assessment.

7. The DEIR's Fails to Adequately Analyze the Project's Growth-Inducing Effects.

14.39

An EIR must discuss the ways a project could directly or indirectly facilitate or remove obstacles to population growth or new development in the surrounding environment. A proposed project is considered either directly or indirectly growth-inducing if it: (1) fosters economic or population growth or additional housing; (2) removes obstacles to growth; (3) taxes community services or facilities to such an extent that new services or facilities would be necessary; or, (4) encourages or facilitates other activities that cause significant environmental effects. CEQA Guidelines § 15126.2(d). An environmental impact report must discuss how a proposed project, if implemented, could induce growth. *Id.* § 15126(d). While the growth-inducing impacts of a project need not be labeled as adverse, the secondary impacts of growth (e.g., loss of open space/habitat/agricultural lands, air quality, transportation, etc.) may be significant and adverse. In such cases, the secondary impacts of growth inducement must be disclosed as significant secondary or indirect impacts of the project.

The appropriate components for an adequate analysis include: (1) estimating the amount, location and time frame of growth that may occur as a result of the project (e.g., additional housing, infrastructure, and mixed use developments); (2) applying impact assessment methodology to determine the significance of secondary or indirect impacts as a result of growth inducement; and (3) identifying mitigation measures or alternatives to address significant secondary or indirect impacts. The UTC DEIR's growth-inducing impacts analysis fails to contain these essential components.

When considering the Project's potential for inducing growth, the UTC DEIR ignores the increased population brought on by employment related to the Project. As discussed above in the context of employment, population and housing, the UTC Project could certainly increase population in the area. This increase in population would place additional demands on nearby school facilities, yet the DEIR fails to disclose and analyze these school-related impacts. Instead, the document simply asserts that "the number of school-age children anticipated to live in the proposed residential units would not be substantial, and school district planning involves conservative projections of student population increases." DEIR at 6-7. As with numerous other impact analyses in the UTC DEIR, the document never bothers to actually analyze these impacts or provide any evidence to support its cavalier conclusions.

14.39 Please refer to response to comment 9.78 from the University Community Planning Group for a discussion of growth inducement. It should be noted that the shortage of housing in the San Diego region is well documented and is already acting to influence residential development throughout the region. Therefore, pressure to increase housing already exists and the UTC project would not hasten this effect.

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Moreover, the Project would likely stimulate further land development. Retail proprietors not affiliated with the proposed Project may decide to develop shops and restaurants to cater to the Project's office and hotel uses. Indeed, the DEIR admits that the proposed amendments to the University Community Plan would encourage infill development. DEIR at ES-5. The DEIR fails entirely to acknowledge that the expansion of the UTC and the development of up to 725 residences will foster population and retail growth beyond the boundaries of the Project site. "The fact that the exact extent and location of such growth cannot now be determined does not excuse the City from" the requirement of analyzing the effects of this growth on the environment. *Stanislaus Audubon Society, Inc. v. County of Stanislaus* (1995) 33 Cal.App.4th 144, 158

Finally, the growth inducing impact analysis is also inadequate because it fails to consider the precedent that approval of an amendment to the University Community Plan could set for interpretation of the Community Plan's policies. Specifically, rather than requiring the Project applicant to comply with the protective provisions of the Community Plan, the City apparently intends to approve an amendment to the Community Plan to allow an increase in the retail square footage (from 1,061,000 to 1,811,400 square feet) and to allow for residential, hotel and office development on site. DEIR at 3-3. Such an amendment would undoubtedly encourage other developers to seek similar approvals. By creating such a precedent, this Project could induce additional development that would not be allowed under a proper reading of the Community Plan. The associated environmental impacts to, for example, traffic, air quality, and public infrastructure and services, must be addressed.

8. The EIR Fails to Adequately Analyze the Project's Cumulative Impacts.

14.40

An EIR must discuss cumulative impacts of a project when the project's incremental effect is cumulatively considerable. CEQA Guidelines § 15130(a). "Cumulative impacts" are defined as "two or more individual effects which, when considered together, are considerable or which compound or increase other environmental impacts." *Id.* § 15355(a). "[I]ndividual effects may be changes resulting from a single project or a number of separate projects." *Id.* A legally adequate cumulative impacts analysis views a particular project over time and in conjunction with other related past, present, and reasonably foreseeable future projects whose impacts might compound or interrelate with those of the project at hand. "Cumulative impacts can result from individually minor but collectively significant projects taking place over a period of time." *Id.* § 15355(b). The cumulative impacts concept recognizes that "[t]he full environmental impact of a proposed . . . action cannot be gauged in a vacuum." *Whitman v. Board of Supervisors* (1979) 88 Cal.App.3d 397, 408.

14.40 Cumulative impacts are addressed in Sections 5.3 and 7.0 of the EIR pursuant to Section 15355 of the State CEQA Guidelines. Since no specific comments are provided on those sections of the EIR, no additional response can be made.

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The cumulative impacts analysis is especially important in the present case because of the amount of development occurring in the Project vicinity. The DEIR identifies twenty land use and transportation projects in the UTC study area. See DEIR Table 7-1. One of these projects, the UCSD Long Range Development Plan, would add almost ten million square feet of development to the University. *Id.* Given the amount of development pending in the Project vicinity, the public and decision-makers deserve an accurate and comprehensive analysis of the cumulative impacts of the proposed Project. Unfortunately, the UTC DEIR fails to disclose how the region will operate or look upon buildout of these land use projects.

a. Cumulative Traffic Impacts.

The DEIR's cumulative traffic analysis suffers from the same flaw as the project-specific traffic analysis discussed above. The DEIR assumes the implementation of several roadway and freeway improvement projects, yet provides no evidence that these will be operational prior to buildout of the region's land use projects. Indeed, the DEIR essentially admits that I-805 and freeway ramp improvements would not be implemented until *after* build out of the Project. DEIR at 7-4 and 7-5 (emphasis added).

14.41

Moreover, the DEIR substantially understates the cumulative impact to the region's freeways and interchanges because the geographical size of the study area is simply too small. The study area extends only as far north as the I-5/I-805 interchange and as far south as SR-52 (i.e., a distance of approximately three miles from the Project site). See DEIR Table 5.3-4. Traffic congestion in urban areas is a regional phenomenon. Cars exiting the shopping center would not suddenly stop once they are outside of University City but would continue -- to points north of the I-5/I-805 interchange and to points south of SR-52. Indeed, the DEIR explains that the expanded UTC shopping center is intended to attract shoppers from the entire region, not just the University City community. DEIR at 5.1-22. Moreover, traffic from the cumulative projects listed in the UTC DEIR-- including especially traffic from the UCSD Long Range Development Plan's ten million square feet of development -- would certainly travel north of the I-5/I-805 interchange and south of SR-52.

The California Supreme Court has emphasized that "an EIR may not ignore the regional impacts of a project approval, including those impacts that occur outside of its borders; on the contrary, a regional perspective is required." *Citizens of Goleta Valley*, 52 Cal.3d at 575. An EIR must analyze environmental impacts over the entire area where one might reasonably expect these impacts to occur. See *Kings County Farm Bureau*, 221 Cal.App.3d at 721-23. This principle stems directly from the requirement that an EIR analyze all significant or potentially significant environmental impacts. See Pub. Res. Code §§ 21061, 21068. An EIR cannot analyze all such environmental impacts if its study area does not include the geographical area over which these impacts will occur.

14.41 Please refer to response to comment 9.60 from the University Community Planning Group for a discussion of Regents Road Bridge. In cases where the road improvements are not assured by funding and programming, such as the I-805 freeway, the EIR correctly concluded that the impacts would be significant and unmitigable. The geographic limits of the traffic study were developed based on the amount of traffic the project would produce and criteria contained in the City's Traffic Impact Study manual, as discussed in response to comment 9.31 from the University Community Planning Group. The City is aware of its obligations to consider a regional perspective. The EIR does not omit any analysis needed to understand the cumulative traffic implications of the proposed project. To the contrary, the report properly discloses the project's cumulative impacts on 55 roadway segments, 55 intersections 10 freeway segments and 10 freeway ramps located in the project area, and concludes that cumulatively significant would arise (see page 7-4 of the EIR).

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Traffic from the UTC Project, together with traffic from the cumulative development anticipated in the region would inundate area freeways. Yet once again, this DEIR leaves the public and decision-makers in the dark as to the Project's actual traffic impacts because it arbitrarily omits critical freeway segments north and south of the UTC Project. The revised DEIR must identify each freeway segment, ramp and interchange that would be significantly impacted by the UTC Project, together with other planned development, analyze the impacts, and identify feasible mitigation.

b. Cumulative Visual and Community Character Impacts.

A dozen major land use projects are proposed in the vicinity of the UTC Project. DEIR Table 7-1 and Figure 7-1. Each of these projects would undoubtedly change the underlying character of the community yet the DEIR, once again, fails to even attempt to describe how the area will look once all these projects are constructed. The DEIR recognizes that a few other projects in the vicinity – La Jolla Commons and Monte Verde – would effect the area's visual character. DEIR at 7-3. But as with the project-specific visual impact analysis discussed above, the document stops short of actually describing how the University City area would look upon buildout of the UTC Project together with these other projects.

14.42

Nor does the cumulative impact analysis recognize the dramatic effect that construction of another proposed project – the Regents Road Bridge – would have on the character of University City. As discussed above, the DEIR clearly assumes this bridge would be constructed. As such, the DEIR is obligated to analyze the cumulative environmental impacts of the UTC Project together with the bridge. The DEIR repeatedly acknowledges the adverse relationship between community character and street widenings. *See e.g.*, DEIR at 5.1-7 and 5.3-55. Indeed, the UCN/STC EIR agrees with this assessment inasmuch as it concluded that the bridge would result in significant and unmitigated impacts to neighborhood character and aesthetics. FRC's letters on the UCN/STC EIR also provided elaborate documentation of the significant change in character to the University City area that would result from building a bridge through Rose Canyon and the traffic that the Regents Road Bridge would carry. *See* Letter to Courtney Coyle, dated April 15, 2005, attached as Exhibit H and Letter to Mayor Jerry Sanders and the Honorable City Council, dated July 24, 2006, attached as Exhibit I. How can the City simultaneously recognize that construction of the bridge would adversely impact community character and ignore this significant impact in the context of the UTC DEIR? Unless and until the UTC DEIR actually analyzes the cumulative effect of these projects on the community's character and proposes appropriate mitigation, this document will remain thoroughly inadequate. The revised UTC DEIR must provide this analysis.

14.42 Please refer to response to comment 9.94 from the University Community Planning Group regarding the cumulative aesthetics/visual quality discussion in the EIR. Although the University City North/South Corridor Study EIR concluded that impacts to visual quality/aesthetics of the Rose Canyon open space from Regents Road Bridge would be significant and unmitigable, the changes to the environment caused by the bridge would not visually combine with the urban development proposed in the urban core over one half mile away from the bridge area. Therefore, no cumulatively significant impacts would arise. Because cumulatively significant impacts were not identified in the EIR, no discussion of mitigation is warranted. No revisions to the Draft EIR are needed.

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c. Cumulative Land Use Impacts.

The DEIR concedes that the UTC Project would not be consistent with the Community Plan's development intensity planned for the site. DEIR at 7-6. Absent any evidence or analysis though, the DEIR boldly concludes that the cumulative land use impacts would be less than significant. *Id.* at 7-7. As it does throughout, the DEIR authors seem to expect readers to accept their judgments on faith, rather than provide the data so that decision-makers and the public can make up their own minds. See *Citizens of Goleta Valley*, 52 Cal.3d at 568 ("[T]he EIR must contain facts and analysis, not the agency's bare conclusions . . .") (internal quotation marks omitted).

One must ask, if the level and intensity of the UTC Project is inconsistent with the Community Plan, how can the DEIR claim that the intensity of these other projects would be consistent? These conclusions cannot both be true. Such a cavalier approach makes a mockery of the protective provisions of the Community Plan. The revised DEIR must actually evaluate the consistency of each of the projects listed in the cumulative impacts chapter with the Community Plan.

d. Cumulative Noise Impacts.

Given the woefully inadequate treatment of the Project's construction-related noise impacts, it comes as no surprise that the DEIR's analysis of cumulative noise impacts is equally defective. Indeed, the DEIR's purported analysis of cumulative noise impacts merely states that "[t]he noise-sensitive receptors potentially affected by the UTC Revitalization Project would not also be affected by other projects proposed in the area due to distance from those sites." DEIR at 7-8. The DEIR never even acknowledges the Monte Verde Project. This Project, approved by the City on September 17, 2007, will construct four residential towers and subterranean parking structures directly across Genesee Avenue from the UTC Project. The construction of Monte Verde would occur simultaneously with the UTC Project. Noise from the construction of these projects could overwhelm nearby sensitive receptors, especially since construction would span several years. The UTC DEIR's failure to analyze this clearly significant impact is an egregious error which must be corrected in the revised DEIR.

In sum, the DEIR's analysis of the Project's cumulative environmental impacts is extraordinarily deficient, leaving decision-makers in the dark as to the magnitude of the Project's cumulative effects. The DEIR must be revised to include a legally adequate analysis.

14.43 Please refer to response to comment 9.95 from the University Community Planning Group regarding the cumulative land use discussion.

14.44 Please refer to response to comment 9.96 from the University Community Planning Group regarding the cumulative noise discussion.

14.45 Comment noted. No revisions to the Draft EIR have been made in response to the above comments on cumulative impacts section.

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C. The DEIR Fails to Adequately Describe or Analyze a Reasonable Range of Alternatives.

An EIR must describe a range of alternatives to the proposed project, and to its location, that would feasibly attain the project's basic objectives while avoiding or substantially lessening the project's significant impacts. Pub. Res. Code § 21100(b)(4); CEQA Guidelines § 15126.6(a). A proper analysis of alternatives is essential for the City to comply with CEQA's mandate that significant environmental damage be avoided or substantially lessened where feasible. Pub. Res. Code § 21002; CEQA Guidelines §§ 15002(a)(3), 15021(a)(2), 15126.6(a); *Citizens for Quality Growth v. City of Mount Shasta* (1988) 198 Cal.App.3d 433, 443-45. As stated in *Laurel Heights Improvement Association v. Regents of University of California* (1988) 47 Cal.3d 376, 404, "Without meaningful analysis of alternatives in the EIR, neither the courts nor the public can fulfill their proper roles in the CEQA process. . . . [Courts will not] countenance a result that would require blind trust by the public, especially in light of CEQA's fundamental goal that the public be fully informed as to the consequences of action by their public officials."

The discussion of alternatives must focus on alternatives capable of avoiding or substantially lessening the adverse environmental effects of the project, or reducing them to a level of insignificance, "even if these alternatives would impede to some degree the attainment of the project objectives, or would be more costly." CEQA Guidelines § 15126(d)(1). The alternatives to be discussed need not be identical or even substantially similar to the project as originally described by the applicant. Rather, a feasible alternative is one which can be accomplished in a successful manner within a reasonable period of time, taking into account economic, legal, social and technological factors. *Citizens of Goleta Valley*, 52 Cal.3d at 574.

I. The DEIR Fails to Provide a Reasonable Range of Alternatives.

The DEIR for the UTC Project is deficient in its failure to adequately analyze a reasonable range of alternatives that would feasibly attain most of the basic project objectives while avoiding or substantially lessening the project's significant impacts. See Pub. Res. Code § 21100(b)(4); CEQA Guidelines § 15126.6(a). Sound planning principles, as well as CEQA, dictate that the City consider, and the DEIR include, a reasonable range of alternatives. Because the DEIR suggests that UTC is intended to serve as the community's town center, the Project should be well planned, well designed and certainly should not overwhelm the community with environmental impacts.

As currently proposed, the UTC Project would include up to four towers ranging in height from 325 to 390 feet. The Community Plan calls for limiting the height of development in this location to a maximum of 15 feet. DEIR at 5.1-62 (emphasis added). These towers would stand out as eyesores, not only because they would be dramatically taller than any other structure

14.46 Please refer to response to comment 14.8 for a discussion of why the range of alternatives is reasonable.

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in the area but also because they would be located next to single family residences. Traffic from the UTC Project would inundate the region's freeways, streets and intersections and emissions from the Project would cause a substantial increase in air pollution. As such, CEQA requires that this DEIR study alternatives capable of avoiding or substantially reducing these serious environmental impacts. Yet rather than take this task seriously, the DEIR admits that the alternatives merely "reduce one or more significant environmental impacts" anticipated as a result of the proposed Project. DEIR at 8-22. Our review of the DEIR's alternatives analysis confirms this fact – not one alternative (with the exception of the legally mandated No Project Alternative) offers substantive environmental benefits over the proposed Project. Specific deficiencies in the DEIR's alternatives analysis are discussed further below.

a. No Residential Alternative.

14.47

The DEIR fails to provide an adequate description of the No Residential Alternative in large part because it fails to contain any detail about the high rises that would be developed under this alternative. The document states that this alternative would eliminate *some* of the proposed structures that would exceed the height limit established by the site's commercial zone but that several other tall retail structures, and hotel and office towers could still be constructed. DEIR at 8-8 (emphasis added). Such a vague description is useless as it provides no meaningful information relating to those structures that would be constructed under the alternative. How many would there be? Where would they be? How tall would they be? Absent this information, the DEIR cannot conclude, as it currently does, that the alternative would be compatible with existing community character. *Id.*

Nor does the No Residential Alternative provide any substantive improvement in environmental impacts in comparison to the proposed Project. The DEIR admits that this alternative would still produce more traffic than anticipated in the Community Plan and that it would not eliminate significant unmitigable project and cumulative impacts to street segments, freeway ramps and freeways in the project area. *Id.* at 8-8 and 8-9. Nor, as the DEIR states, would this alternative substantially reduce or eliminate the Project impacts to air quality and thus would, like the Project itself, significantly affect the air basin's ability to attain ambient air quality standards for ozone. As for visual effects, this alternative would allow several tall retail structures, and hotel and office towers to be constructed thereby resulting in significant impacts on community character. *Id.* at 8-8. Finally, this alternative would be expected to have significant effects on landfill capacity and would have construction impacts commensurate with the proposed Project. In sum, it is unclear as to why the DEIR preparers included this alternative since it provides very little, if any, environmental benefit compared to the proposed Project.

14.47

The No Residential Alternative, by definition, means that no residential units would be built on site. In fact, the first sentence of the description clearly states that "the 250 to 725 residential units would be eliminated from the Master PDP." Elimination of the residential units does mean that hotel and office towers could still be built as proposed under the Master PDP. Pages 3-7 through 3-11 of the EIR provide a district-by-district description of all proposed uses and their associated maximum structure heights. From that information, the commenter can determine that hotels could be developed in the Palm Passage, University Central and Nobel Heights districts, while office towers could be developed in the University Central and La Jolla Terrace districts. Note that no tall structures would occur in the Towne Center Gardens district that is adjacent to single-family residences. Similar to the proposed project, the maximum building heights in the Master PDP would be driven by the FAA restrictions. There is no need to repeat the information in the description of the alternative because no changes to hotel or office uses are proposed; they would be developed similar to the proposed project. Clarifications in the alternative description have been added to the Final EIR on this matter.

As noted above in response to comment 9.8, the alternatives analysis must be limited to alternatives capable of avoiding or substantially lessening any of the significant effects of the project. The No Residential Alternative accomplishes this by reducing significant and unmitigable traffic impacts, aesthetic impacts related to the bulk and scale of the residential structures, and lessening other significant impacts of the proposed project by reducing development intensity. The City is in agreement that project impacts to air quality and solid waste would remain significant and unmitigable under this alternative, as discussed in Section 8.3.1 of the EIR.

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b. No Retail Alternative.

14.48

The No Retail Alternative does not provide a measurable reduction in the Project's significant impacts. As the DEIR admits, this alternative would have significant and unmitigable neighborhood character impacts because the residential towers could exceed the structure heights in the community. DEIR at 8-12. This alternative, like the Project itself and the No Residential Alternative, would still produce more traffic than anticipated in the Community Plan. *Id.* The DEIR does not quantify the operational air emissions under this alternative so it is impossible to determine whether it would exceed significance criteria. The DEIR does concede, however, that the air emissions under this alternative could contribute to the air basin's inability to attain the ambient air quality standard for ozone. *Id.* This alternative would also have significant effects on landfill capacity and would have potentially significant construction effects. *Id.* at 8-13 and 8-14. In sum, it is unclear as to why the DEIR preparers included this alternative since it provides very little, if any, environmental benefit compared to the proposed Project.

c. Reduced Project Alternative.

14.49

Although the Reduced Project Alternative was purportedly developed with the purpose of avoiding significant and unmitigable traffic impacts to the freeway mainline of I-805 and to reduce project trips on I-5 and SR-52, the DEIR reports that it would still have many of the same significant impacts to local streets and intersections in the community. DEIR at 8-15. Moreover, a Community Plan amendment would still be required to increase the retail development intensity allocated to the UTC property. *Id.* This alternative would also require a rezoning to allow for increased building heights for the retail structures because the retail expansion would exceed height limits. *Id.* at 8-16. Finally, the DEIR admits that this alternative would not substantially reduce or eliminate project impacts to air quality and would still significantly affect the air basin's ability to attain ambient air quality standards for ozone. *Id.* This alternative would also have significant effects on land fill capacity and would result in similar construction effects as the proposed Project. *Id.* at 8-17 and 8-18. In sum, it is unclear as to why the DEIR preparers included this alternative since it provides very little, if any, environmental benefit compared to the proposed Project.

d. Reduced Building Height Alternative

14.50

Like the description of the No Residential Alternative, the DEIR provides so little information on land uses in the Reduced Building Height Alternative as to render informed decision-making meaningless. Although this alternative would limit building heights to the maximum height of nearby structures, the DEIR provides no information as to the amount of retail, residential hotel, and office use that would actually be constructed. The DEIR simply suggests that no other changes to the proposed project or its planned land uses would occur under this alternative. DEIR at 8-19. The DEIR never explains how it would be possible to reduce

14.48

The summary provided by the commenter is consistent with the information presented in Section 8.3.2 in the EIR. However, the commenter fails to point out that the No Retail Alternative would produce 16,524 less daily trips than the proposed project resulting in a substantial reduction of the significant and unmitigable traffic impacts of the proposed project. For this reason, the No Retail Alternative was provided in the EIR.

14.49

The summary provided by the commenter is consistent with the information presented in Section 8.3.3 in the EIR. Please refer to response to comment 9.129 for discussion on the Reduced Project Alternative. It should be noted that the No Residential, No Retail and Reduced Building Heights alternatives all reduce the size and/or development intensity of the proposed project.

14.50

The description for the Reduced Building Heights Alternative clearly states that, besides reducing structure heights, "no other changes to the proposed project or its planned land uses would occur" and "the amount of building area would not change." By definition, the amount of retail, residential, hotel and office uses would remain as proposed. It is possible to reduce building heights and not reduce intensity because the applicant could broaden the massing of the structures, making them less visually distinctive from the retail, shorter in stature than proposed and wider in footprint to achieve the same intensity. Although the structures would require a deviation from the proposed zone, the question asked by the City's significance threshold is whether the project (or its alternative) would exceed the height and bulk of existing patterns of development in the vicinity of the project by a substantial margin. In this case, the Reduced Building Heights Alternative would conform to established patterns of development in the UTC area, which is the environmental advantage it offers. The summary of impacts noted in this comment is consistent with the information presented in Section 8.3.4 in the EIR.

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14.50
cont.

building heights yet develop equivalent amounts of residential, retail, hotel and office uses. Moreover, although this alternative was purportedly developed to reduce impacts relating to building height, it, like the proposed Project and every other alternative, would require a zoning "deviation" since structures in this zone cannot exceed 60 feet. *Id.* This alternative would therefore still result in structures that are three times higher than allowed in the current zone. Nor does the Reduced Building Height Alternative offer any environmental advantage over the proposed Project. The DEIR states that this alternative would have the same traffic impacts, air quality impacts land fill capacity impacts and construction impacts as the proposed Project. DEIR at 8-20 8-21.

2. The DEIR Must Identify and Analyze a Project Which Reduces the Project's Significant Environmental Impacts.

14.51

The DEIR's failure to consider feasible alternatives that reduce the Project's environmental impacts renders the document inadequate under CEQA. *See, e.g., San Joaquin Raptor/Wildlife Rescue Ctr. v. County of Stanislaus* (1994) 27 Cal.App.4th 713, 735-38. Given the truly enormous impacts that this Project would have on the community's character, traffic and air quality, the consideration of alternatives will not be complete until decision-makers and the public are presented with a rigorous, honest assessment of how much development the site can sustain. Without this opportunity, the public is merely asked to take on "blind trust" that the proposed Project is the best alternative. Asking for this sort of faith is not only unfair to the people of San Diego, it is unlawful "in light of CEQA's fundamental goal that the public be fully informed as to the consequences of action by their public officials." *Laurel Heights Improvement Association, Inc.*, 47 Cal.3d at 494.

Had the DEIR authors considered an alternative that is consistent with the University Community Plan and the site's zoning, they would have determined that such an alternative would substantially reduce the Project's impacts on traffic, air quality and community character. Specifically, the Community Plan's Development Intensity Element establishes guidelines for the intensity of development based upon traffic projections and the capacity of the Community Plan Circulation Element roadways. *See* DEIR at 5.1-8. The Project site is located in the Community Plan Implementation Overlay Zone "A." As the DEIR states, the purpose of this overlay zone is to limit uses and development intensity to the levels specified in the Land Use and Development Intensity Table ("Intensity Table") of the Community Plan. *Id.* The Intensity Table allows the Project site to have 1,061,000 square feet of regional commercial use. *Id.* The Development Intensity Element and the Intensity Table are based on a series of goals, one of which is to "[p]rovide a workable circulation system that accommodates anticipated traffic without reducing LOS below 'D'." *Id.*

Indeed, the DEIR confirms that the land uses contemplated by the Project applicant are almost double that which is allowed by the Community Plan; the Project's structures are

14.51 All of the alternatives presented in the EIR reduce at least one of the impacts of the proposed project, as noted above in responses to comments 14.47 through 14.50. Even the No Project Alternative cannot avoid cumulative impacts to traffic. The commenter contends that the alternatives analyzed by the EIR are insufficient in that the alternatives do not adequately reduce the environmental impacts of the project. An EIR must focus on alternatives that avoid or substantially lessen a project's significant impacts. Cal. Pub. Res. Code § 21002; CEQA Guidelines section 15126.6. However, alternatives need only be environmentally superior to the project in some respects. *Kostka & Zischke, Practice Under the California Environmental Quality Act* (Cont. Ed. Bar 2006) § 15.7, p. 735 (citing *Mira Mar Mobile Community v. City of Oceanside*, 119 Cal. App. 4th 477 (2004)). The No Residential Alternative, No Project Alternative, No Retail Expansion Alternative, Reduced Project Alternative, and Reduced Building Height Alternative would reduce or avoid at least one environmental impact of the project and satisfy the mandate of CEQA Guidelines section 15126.6 to consider alternatives that reduce or avoid "any" significant impacts of the project.

The commenter does not offer a specific alternative in lieu of those studied by the EIR except to state that the EIR should consider an alternative that conforms to the *University Community Plan*, that caps traffic at the amount currently allocated to the UTC site, and limits building heights to levels consistent with the existing Community Plan. Such an alternative does not satisfy most basic project objectives; however, as such an alternative would not permit any significant revitalization of the existing shopping center nor provide the flexibility to develop a mixture of retail, residential, hotel and/or office uses. Such an alternative would also not be economically feasible, as even a more intense use alternative is similarly infeasible.

COMMENTS

RESPONSES

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14.51
cont.

dramatically out of scale with surrounding uses; and traffic from the Project would cause streets, intersections and freeways to violate the standards established in the Community Plan. DEIR at 5.1-36, 5.1-45, 5.1-55, 5.1-62, and 5.1-71. Although the DEIR would have us believe that amending the Community Plan to delete these protective provisions would magically erase the Project's clear inconsistency with the Community Plan, sound land use planning principles and CEQA suggest that the DEIR consider an alternative that is actually consistent with the Community Plan. Such an alternative would include, for example, an amount of development intensity currently permitted by the Community Plan, a traffic cap at the amount currently allocated to the UTC site, and building heights that are consistent with the Community Plan and existing zoning. If such an alternative is feasible, the EIR will remain inadequate if such a feasible alternative is not carefully considered. See *San Bernardino Valley Audubon Society, Inc. v. County of San Bernardino* (1984) 155 Cal.App.3d 738, 751.

14.52

Finally, it must be noted that the San Diego Municipal Code actually requires that the UTC Project be redesigned to protect neighborhood character. Specifically, the Code requires several criteria be incorporated into the design of all projects applying for a Planned Development Permit. DEIR at 5.1-12. As described above, the UTC Project has, in no way, incorporated the following criteria into its design:

- The scale of the project should be consistent with the neighborhood scale as represented by the dominant development pattern in the surrounding area or as otherwise specified in the applicable land use plan.
- Buildings should avoid an overwhelming or dominating appearance as compared to adjacent structures and development patterns. Abrupt differences in scale between large commercial buildings and adjacent residential areas should be avoided. Instead, gradual transitions in building scale should be incorporated.

DEIR at 5.1-12.

The DEIR's revised alternatives analysis must include an alternative which is consistent with the University Community Plan, zoning and the PDP design criteria.

D. The EIR Should Be Redrafted and Recirculated.

14.53

CEQA requires recirculation of a draft EIR "[w]hen significant new information is added to an environmental impact report" after public review and comment on the earlier draft EIR. Pub. Res. Code § 21092.1. The opportunity for meaningful public review of significant new information is essential "to test, assess, and evaluate the data and make an informed judgment as to the validity of the conclusions to be drawn therefrom." *Sutter Sensible Planning, Inc. v. Sutter County Board of Supervisors* (1981) 122 Cal.App.3d 813, 822; *City of San Jose v. Great Oaks Water Co.* (1987) 192 Cal.App.3d 1005, 1017. An agency cannot simply release a

14.52

The Master PDP regulations provide flexibility in the application of development regulations for projects where strict application of the base zone development regulations would restrict design options and result in a less than desirable project. Contrary to the comment that the PDP process requires the UTC project be redesigned to protect community character, the intent of a Planned Development Permit is to encourage imaginative and innovative planning and assure that a proposed development achieves the goals of the Progress Guide and General Plan.

The UTC site lies within the boundaries of the urban node of the Central Subarea of the *University Community Plan*, which is the most urbanized portion of the University Community containing a diverse mix of uses including two regional commercial centers, high-rise offices, hotels and residential towers. Evidence of this urban character is shown in the fact that the heights of the high-rise buildings immediately surrounding the UTC site range from the Embassy Suites hotel at approximately 135 feet (or 530 feet above mean sea level [amsl]) to the Wells Fargo building at 300 feet (or 648 feet amsl). The proposed project will implement many of the goals and policies of the City's Progress Guide and General Plan (General Plan) and *University Community Plan* (Community Plan), the draft General Plan update (General Plan Update), which is expected to be adopted by the City in 2008, and the Land Development Code. The proposed project will further the Commercial Goals of the Community Plan, page 17, by improving the range of goods and services for the residents of University City and accommodating communities activities, retail services, recreational and entertainment within UTC.

In addition, the proposed project is consistent with the General Plan Update and Strategic Framework Element policies to create smart growth, mixed use developments as discussed in response to comment 9.78 from the University Community Planning Group. To that end, the proposed project will increase the supply of housing, including on-site affordable housing, connected to local and regional transit systems. Furthermore, the proposed project will accomplish the Community Plan objective to improve the urban node pedestrian network by providing non-contiguous sidewalks around the perimeter of the site and enhancing the walkability within the site and through connections to surrounding land uses as discussed in response to comment 9.12 from the University Community Planning Group.

As discussed in Section 5.1 of the EIR, the project will have no substantial impacts regarding land use plans and policies. The project will have no substantial adverse effect regarding the governing general plan, community plan, or applicable land use plans, policies or regulations, and no mitigation is required. Though a Community Plan Amendment (CPA) is required to make the project consistent with the Development Intensity and Urban Design Elements of the *University Community Plan*, mitigation is proposed that will reduce most community traffic impacts to less than significant levels. Additionally, the CPA is not considered a significant land use impact due to the fact that the proposed development would be compatible with other land uses surrounding most of the shopping center, would enforce the urban node concept contained in other policies of the *University Community Plan* and would not cause a substantial decrease of Level of Service (LOS) in the community.

COMMENTS

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14.52 cont.

The project site is currently zoned for Commercial, CC-1-3. As described in Section 5.1.2 of the EIR, the applicant proposes a zone change from CC-1-3 (community-serving commercial) to CR-1-1 (regional-serving commercial) to more accurately reflect the regional nature of the UTC shopping center. The proposed uses would be permissible in both the CC-1-3 and CR-1-1 zones. The zone change would have no impact upon the use or land use designation of the project site.

The tallest retail buildings and architectural appurtenances (such as towers and identity signs) would be a maximum of 100 feet above grade (i.e., lower than most nearby office structures). Residential/hotel structures would be no more than 390 feet in height above grade, as outlined in the UTC Residential and Hotel Design Guidelines in the Master PDP. Because these buildings and architectural features would be taller than the 60-foot limit established in the CR-1-1 zone, the project applicant requests a deviation from the height limit of the zone. All structures would be set back at least 10 feet from the site boundary. The structures closest to the existing single-family residential uses to the south of the project site would be set back a minimum of 15 feet and up to 30 feet from the property line, and would be stepped back in accordance with the Master PDP Design Guidelines and the development regulations in the CR-1-1 zone. Thus, the project would comply with all applicable setback and density requirements of the base zone. The proposed project would comply with all requirements of the base zone for the provision of pedestrian pathways.

The proposed project would revitalize an existing regional shopping center, balancing the functional needs of the existing center in a way that better serves the surrounding University City service area, which has expanded substantially through population growth and urban development over the last 15 to 20 years. The proposed project would provide for improved and expanded community facilities at the shopping center. The proposed project would offer a broader range of goods and services to the community by providing updated and expanded retail, dining and entertainment options within the University City community that promote extended stays at the center and serve as a means to reduce peak hour commute trips in the project area.

The project design concept described in the Master PDP design guidelines addresses the current inadequacies of the existing department stores, specialty retail shops, dining and entertainment options onsite, as well as the isolated nature of the center from the surrounding community. The proposed project includes renovation of the existing regional shopping center through demolition of about half of the existing center and construction of new and expanded department stores and retail shops and the addition of a mix of uses including residential, and possible hotel and/or office uses onsite.

Refer to response to comment 14.51 regarding the infeasibility of proposing an alternative that conforms to the Community Plan and zoning regulations.

14.53 Comment noted. Please refer to response to comments 14.47 through 14.51 as to the reasons why additional alternatives are not required.

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14.53
cont.

draft report "that hedges on important environmental issues while deferring a more detailed analysis to the final [EIR] that is insulated from public review." *Mountain Lion Coalition v. California Fish and Game Comm'n* (1989) 214 Cal.App.3d 1043, 1053.

In order to cure the panoply of DEIR defects identified in this letter, the City must undertake substantial new analysis to adequately assess the proposed Project's environmental impacts, and to identify effective mitigation measures and alternatives capable of alleviating the project's significant impacts. CEQA requires that the public have a meaningful opportunity to review and comment upon this significant new information in the form of a recirculated draft EIR.

II. CONCLUSION

14.54

For the reasons set forth above, we respectfully request that the City prepare a revised DEIR that fully complies with CEQA and recirculate the new DEIR to the public for comment. Additionally, we request that no further consideration be given to the Project as proposed until an EIR is prepared that fully complies with CEQA.

Very truly yours,

SHUTE, MIHALY & WEINBERGER LLP

Laurel L. Impett
Laurel L. Impett, AICP, Urban Planner
Deborah Keeth

14.55

Exhibits:

- Exhibit A: UTC Center to Expand With Environment In Mind, August 22, 2007.
- Exhibit B: UCN/STC FEIR (page 4.2-19).
- Exhibit C: E-mail from Councilmember Scott Peters to Michael Uberuaga, August 1, 2002.
- Exhibit D: Citing Economic Concerns, NRF Forecasts Holiday Sales Gains of Four Percent.
- Exhibit E: UCSD Academic and Administrative Calendar 2007-2008.
- Exhibit F: Autumn Wind Associates.
- Exhibit G: San Diego Union Tribune Zip Code Chart for Home Sales Recorded in August 2007.
- Exhibit H: Letter to Courtney Coyle, dated April 15, 2005.
- Exhibit I: Letter to Mayor Jerry Sanders and the Honorable City Council, dated July 24, 2006.

cc: Mayor Jerry Sanders
Council President Scott Peters
Karen Heumann, Assistant City Attorney
Shirley Edwards, Deputy City Attorney
Deborah Knight, Friends of Rose Canyon

[P:\FRC\PROJECTS (UTC\DEIR)\JL1803 v 6.wpd]

14.54

Comment noted. The City considered the comments contained in this letter and determined that recirculation was not warranted because it did not produce significant new information after public review that would have deprived the public of a meaningful opportunity to comment. Per State CEQA Guidelines Section 15088, "recirculation is not required where the new information added to the EIR merely clarifies or amplifies or makes insignificant modifications in an adequate EIR."

14.55

Comments to these attachments are provided in responses to comments 14.3, 14.21, 14.22, 14.23, 14.30, 14.31, 14.32, 14.33, 14.38 and 14.42.

UTC center to expand with environment in mind

Aug 22, 2007

By Dave Schwab - La Jolla Light

Westfield has a new vision for its UTC shopping center - and it's sharing it with everyone.

Westfield has unveiled its plan for the first major revitalization of the UTC shopping center in more than two decades. The proposed restructuring features the addition of approximately 750,000 square feet of retail space for new and remodeled anchor stores, state-of-the-art cinema, more than 150 new specialty shops and boutiques, new public outdoor plazas, upgraded parking, a variety of housing opportunities and a regional transit center with a future link to the trolley.

As proposed, Westfield's vision could represent an investment in excess of \$900 million. Upon completion of the review and approval process, Westfield hopes to start work in 2008.

UTC's "refit" will be accomplished with the needs of the environment in mind. Westfield's plans for the "new UTC" call for fully utilizing sustainable environmental practices, designs and materials in construction.

Among other things, the reconfigured UTC will have a state-of-the-art theater complex that will be something extraordinary, said Jonathan Bradhurst, senior vice president, U.S. development for Westfield. "It will have 12 to 14 screens," Bradhurst said. "It will be perfect for the communities of La Jolla and University City. It will have reserve seating, no advertising. It will have numerous food opportunities. It will be the sort of place to see blockbuster films, as well as art house films."

Westfield's UTC redevelopment proposal features seven dynamic districts built around open-air courtyards, green spaces and water elements with enhanced parking and public transit. New housing on-site will be within easy walking distance of shops, restaurants and entertainment destinations, including its popular ice skating rink.

"This vision enables us to produce the comprehensive renewal of UTC that our community deserves," said Bradhurst. "Our customers have asked for a leading-edge experience that preserves the casual outdoor atmosphere, yet delivers more - with the latest concepts and prototypes for today and beyond." Bradhurst discussed the timelines on the long-term, phased renovation of UTC shopping center.

"We've been undergoing the entitlement process at the city for over a year now, which includes a formal, public process with a draft EIR (Environmental Impact

Memorial Day Observance	Monday, May 26
Instruction Ends	Friday, June 6
Final Exams	Monday - Friday, June 9-13
Spring Quarter Ends	Friday, June 13
Commencement	Link to dates and details
- 49 Days of Instruction -	
- 57 Days in Quarter -	

Independence Day Friday, July 4, 2008

Labor Day Monday, September 1, 2008

If you use Outlook, you can download the 2007 - 2008 calendar .vcs file and add these holidays to your calendar.

Instructions:

1. Click the calendar .vcs link.
2. Save the .vcs file on your computer.
3. Go to Outlook and select **Import and Export** from the **File** menu.
4. Select **Import an iCalendar or vCalendar file (.vcs)** and click Next.
5. Browse to the file you just saved. (Make sure the file type drop-down menu is set to vCalendar format (*.vcs).
6. Click OK.



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Report)," he said. "We'd like to start construction the first half of next year (2008) with two major phases, the first opening for the holidays in 2010, and the complete total project finished by Christmas 2012."

Why renovate such a successful shopping center? Bradhurst likened it to upgrades on an aging home. "If you had a 30-year-old house," he noted, "you'd want to do it up and make it presentable. We're trying to improve our house for the community, for our customers. We just recently opened up a studio and gallery, the UTC Experience, for the public to see what we're doing, what we're offering."

Westfield's plans for the new UTC have it emerging as the quintessential example of how regional shopping centers can be rejuvenated environmentally and sustainably. Westfield is working with the U.S. Green Building Council on a pilot project that would make Westfield UTC the largest LEED-certified regional shopping center in California. LEED stands for Leadership in Energy and Environmental Design. Westfield's new UTC proposal has been accepted into the LEED for Neighborhood Development pilot program, which recognizes projects that successfully protect and enhance the overall health, environment and quality of life in a community.

"The new UTC can be a model for green development in the shopping center industry," said Bradhurst. "It will merge environmentally advanced designs, world-class architecture and lush native landscaping to create a fresh new shopping, dining and living experience."

Among the "green" planning elements envisioned for the New UTC are:

- Solar arrays on rooftops helping to power the shopping center
- Increased use of recycled water, instead of potable water, for irrigation
- Energy-efficient lighting programs in partnership with SDG&E
- Sustainable, recycled, and locally sourced building materials
- Enhanced bicycle and pedestrian access to the center.

The new UTC shopping center proposal is also forward-thinking in the way it will tie in with transportation and residential components serving the entire region. Said Bradhurst: "There will be up to 250 residential housing units, including up to 10 percent for affordable housing on-site. We're going to upgrade and revitalize the existing ice rink, which is much beloved by the community. We'll also be adding a \$25 million public transit center, which will

be under cover and be state-of-the-art. It will connect to the trolley when it comes through."

"Westfield is fully committed to revitalizing the 30-year-old UTC so it will re-emerge as a world-class shopping, dining and entertainment destination," said Westfield President Kenneth Wong. "We welcome the opportunity to reinvest in UTC and bring our global best practices - from Los Angeles, San Francisco, Sydney and London to San Diego."

Bradhurst concluded the new UTC will be a perfect blend of cutting-edge design and practical use of space. "For the new project, we've asked the architects to design outdoor spaces around a series of villages or town squares," he said. "The buildings will become the fabric making those outdoor spaces rich, engaging and delightful."

Westfield continues to ask shoppers and the community to share their thoughts on The New UTC by visiting "The UTC Experience" near the former Robinsons-May building. The Experience is an interactive design studio and gallery displaying design concepts, video fly-throughs and architectural renderings.

Westfield filed the Master Planned Development Permit application with the City of San Diego in November 2006. The vision for the new shopping center reflects community input received to date, and sets the stage for the publication of a draft EIR and subsequent environmental review process, anticipated in the next few weeks.

"We hope our neighbors, shoppers and the whole community will visit 'The UTC Experience' for a closer look at our ideas and give us feedback," Bradhurst said. "We look forward to continuing our conversation with the community as we move through the approval process."

To learn more about UTC shopping center's expansion and to share comments, visit www.thenewutc.com.

Dave Schwab

Dave Schwab is the Managing Editor and a reporter for La Jolla Light. Contact Dave Schwab at (858) 875-5951 or daves@lajollalight.com.

DRAFT
FINAL

ENVIRONMENTAL IMPACT REPORT
for the
UNIVERSITY CITY NORTH/SOUTH
TRANSPORTATION CORRIDOR STUDY

Project No. 27445
SCH No. 2004031011

Prepared for:

CITY OF SAN DIEGO
Engineering and Capital Projects
1010 2nd Avenue
San Diego, CA 92101

Prepared by:

Project Design Consultants
701 B Street, Suite 800
San Diego, CA 92101

October 2004 June 2006

University City North/South Transportation Corridor Study EIR

Traffic and Circulation

Intersections

As indicated in Table 4.2-6, a total of nine intersections would operate at an unacceptable LOS. These intersections are as follows:

- La Jolla Village Drive/Regents Road (LOS E am);
- Genesee Avenue/Appleton Street (LOS F, am, LOS E, pm);
- Genesee Avenue/SR-52 eastbound onramp (LOS E, pm, LOS F, pm);
- Genesee Avenue/Governor Drive (LOS E, am, LOS F, pm);
- Genesee Avenue/High School Access (LOS E, am);
- Genesee Avenue/Decoro Street (LOS F, am/ pm);
- Genesee Avenue/Nobel Drive (LOS E, pm);
- Miramar Road/Eastgate Mall (LOS F, pm); and
- I-805 northbound on-off ramp/Governor Drive (LOS F, am/pm).

Temporary Construction Traffic

Construction of the bridge would require approximately 18 months. During this period, a total of 3,084 trips would be generated. On a peak construction day, a total of 252 ADT would be generated including 220 truck trips and 64 employee trips. Assuming that the LRC construction is occurring simultaneously, the maximum construction trips on a day could be as high as 556 ADT distributed over these three construction areas. Of this number, 96 would be employee trips while 460 would be related to delivery of materials. Given the low number of trips on the maximum construction activity day and the fact that truck traffic would normally not occur during the morning or evening peak commute periods, no significant traffic impacts would be expected during construction.

Grade Separation Alternative

Segments

As indicated in Table 4.2-5, a total of 11 road segments would operate at an unacceptable LOS. These road segments are as follows:

- Genesee Avenue from Nobel Drive to Decoro Street (LOS F);
- Genesee Avenue from Decoro Street to University High School Access (LOS F);
- Genesee Avenue, north of Governor Drive (LOS F);
- Genesee Avenue south of Governor Drive (LOS F);
- Genesee Avenue between SR-52 ramps (LOS F);
- Genesee Avenue, south of SR-52 (LOS F);
- La Jolla Village Drive from I-5 to Lebon Drive (LOS E);
- La Jolla Village Drive, east of Genesee Avenue (LOS F);
- Miramar Road from I-805 to Nobel Drive (LOS F);
- Miramar Road from Nobel Drive to Eastgate Mall (LOS F); and
- Nobel Drive from I-805 to Miramar Road (LOS E).

October 2004 June 2006

4.2-19

City of San Diego
COUNCILMEMBER SCOTT PETERS
DISTRICT ONE
M E M O R A N D U M

DATE: August 1, 2002

TO: City Manager Michael Uberuaga

FROM: Councilmember Scott Peters

SUBJECT: Draft EIR for Westfield UTC Expansion Proposal

I received a copy of the scoping letter for the Environmental Impact Report being prepared to inform consideration of an expansion of Westfield's University Towne Centre mall in North University City.

The adopted community plan currently contains two potential future projects affecting the analysis of any additional traffic loads in the community: the widening of Genesee Avenue and the construction of a bridge over Rose Canyon to join Regents Road. At its meeting on June 11, the University City Planning Group voted to recommend that the City initiate an environmental analysis to support any of four options: construction of the Regents Bridge and the widening of Genesee to six lanes per the community plan, the construction of one of those projects and not the other, and the long-term delay or permanent elimination of both projects. I will recommend that the City Council initiate this study.

On page 4 of your letter to Westfield, however, you indicate that the EIR analysis for the shopping center should assume the eventual construction of both road projects. In light of the June action by the UCPG, I believe that this constraint does a disservice to both the community and the developer. Any evaluation of a significant expansion of the mall must take into account the very real possibility that one or both of the north/south road projects could be eliminated or significantly delayed. Therefore, it is already apparent that if Westfield follows your direction, it will have prepared an incomplete EIR that will not be sufficient to inform the community and the City Council of the impacts of additional traffic trips or to support the developer's application for its improvements.

Additionally, I have made it clear to Westfield and the community that roads are not the sole solution to the traffic congestion problem anywhere, but especially in University City. When the Planning Commission first initiated the community plan amendment process in January, I specifically asked that transit be a focus of planning for mobility. In particular, I support the efforts of the Metropolitan Transit Development Board to design and implement Transit First.

The EIR for any expansion must provide for adequate transit. With respect to roads, I ask that you allow Westfield to analyze all four scenarios with respect to Genesee and Regents. Alternatively, the analysis of traffic impacts associated with the proposed Westfield application could be combined with the Regents and Genesee analyses soon to be conducted by the City.

cc: Alice Tana, Chair, University City Planning Group

David Hokanson, Westfield Corporation
Lawrence Monserrate, Environmental Review Manager



News » Holiday & Consumer Trends » Christmas Winter Holidays » NRF Holiday Forecast » Sept. 20, 2007

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CITING ECONOMIC CONCERNS, NRF FORECASTS HOLIDAY SALES GAINS OF FOUR PERCENT

Contact: Kathy Grannis or Scott Krugman (202) 783-7971
E-mail: grannisk@nrf.com or krugmans@nrf.com
Holiday Headquarters: www.nrf.com/holidayhq

Citing Economic Concerns, NRF Forecasts Holiday Sales Gains of Four Percent

Washington, September 20, 2007 -- The National Retail Federation today released its forecast for the upcoming 2007 holiday season, predicting that sales will rise 4.0 percent this year to \$47 billion*.

"Retailers are in for a somewhat challenging holiday season as consumers are faced with numerous economic obstacles," said NRF Chief Economist Rosalind Wells. "With the weak job market and current credit crunch, consumers will be forced to be more prudent with their holiday spending."

The 2007 holiday sales increase is expected to fall below the ten-year average of 4.8 percent which would represent the slowest holiday sales growth since 2002, when sales rose 1.3 percent.

Luxury retailers once again appear to be a bright spot as their customers have demonstrated ability to maintain high levels of spending. Clearly the retailers most affected by the economy are those catering to the low to middle income consumer. This could spell trouble for discount and some department stores whose shoppers may be looking to trade down.

NRF will release its first in a series of holiday surveys on October 16, polling consumers on what they will shop and how much they plan to spend.

The National Retail Federation is the world's largest retail trade association, with membership comprises all retail formats and channels of distribution including department, specialty, discount, catalog, Internet, independent stores, chain restaurants, drug stores and grocery stores as well as the industry's key trading partners of retail goods and services. NRF represents an industry with more than 1.6 million U.S. retail establishments, more than 24 million employees - about one in five American workers - and 2006 sales of \$4.7 trillion. As the industry umbrella group, NRF also represents more than 100 state, national and international retail associations. www.nrf.com.

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* NRF defines "holiday retail sales" as retail industry sales which occur in the months of November and December. Retail industry sales include most traditional retail categories including discounters, department stores, grocery stores, and specialty stores, and exclude sales at automotive dealers, gas stations, and restaurants.

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Academic and Administrative Calendar 2007-2008

Summary: See the UCSD-approved academic calendar for 2007-2008.

To view other calendar years (past and future), see the menu.

Note: Link to a printer-friendly version (PDF) of this calendar.

Fall 2007	
Fall Quarter Begins	Monday, September 24
Instruction Begins	Thursday, September 27
Veterans Day Holiday	Monday, November 12
Thanksgiving Holiday	Thursday – Friday, November 22–23
Instruction Ends	Friday, December 7
Final Exams	Monday – Saturday, December 10–15
Fall Quarter Ends	Saturday, December 15
Christmas Holiday	Monday – Tuesday, December 24–25
New Year Holiday	Monday – Tuesday, December 31 – January 1
- 49 Days of Instruction -	
- 60 Days in Quarter -	
Winter 2008	
Winter Quarter Begins	Friday, January 4
Instruction Begins	Monday, January 7
Martin Luther King, Jr. Holiday	Monday, January 21
President's Day Holiday	Monday, February 18
Instruction Ends	Friday, March 14
Final Exams	Monday – Saturday, March 17–22
Winter Quarter Ends	Saturday, March 22
- 48 Days of Instruction -	
- 56 Days in Quarter -	
Spring 2008	
Spring Quarter Begins	Thursday, March 27
Cesar Chavez Holiday	Friday, March 28
Instruction Begins	Monday, March 31

Autumn Wind Associates, Inc.
Newcastle, CA

Comments Regarding Air Quality Impact Analysis Contained Within the
University Towne Center Draft Environmental Impact Report
San Diego, CA

Prepared for Shute, Mihaly & Weinberger LLP, on behalf of
Friends of Rose Canyon

September 22, 2007

*Autumn Wind Associates, Inc.
Air Quality Comments – Dyer Mountain
July 24, 2007*

At the request of Shutc, Mihaly & Weinberger LLP, Autumn Wind Associates, Inc. has reviewed sections of the University Towne Center (UTC) Revitalization Project Draft Environmental Impact Report (DEIR), SCH 2002071071, pertinent to the analysis, evaluation, and mitigation of project-related air quality impacts. Primary areas of concern have been identified in the sections below.

1. DEIR Fails To Provide Adequate Review of Basin-Wide Air Quality Conditions

The DEIR under-represents the impact that the increase in UTC emissions would have on air quality in the San Diego Air Basin (SDAB) because critical regulatory and existing ambient monitoring data have not been adequately described. At pg 5.4-4, the DEIR states that ambient air quality monitoring data and exceedances of air quality standards are discussed under "Background Air Quality" only within the context of the local geographical area within a number of miles of the UTC site. The DEIR states:

"The purpose of the monitoring stations is to determine whether the ambient air quality meets the CAAQS and NAAQS."

While technically correct, the DEIR must include ambient air quality data from the numerous other monitoring stations throughout the air basin. Ozone is a regional pollutant, and ROG and NOx pre-cursors emitted at the project site must be evaluated for their ozone-forming regional impacts. Emissions from the UTC project, under common transport conditions, could cause exceedances of air quality standards at non-local locations, and particularly at inland areas where monitored data already reflect higher measured values that violate federal and state air quality standards. Because the DEIR does not include comprehensive, specific air quality data (i.e., number of ozone exceedances per year, per monitoring location), or acknowledge the potential for ozone transport and related regional attainment impact implications, it fails to disclose whether the Project would cause or contribute to all relevant ozone exceedances.

In addition, the DEIR does not identify the number of exceedances over the last several years for ozone, PM10, or PM2.5, locally or regionally, or for other criteria pollutants under the National Ambient Air Quality Standards (NAAQS) or the more restrictive California Ambient Air Quality

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Standards (CAAQS). This is a major breach since, without this critical information, it is not possible to determine whether the increase in emissions associated with the UTC would contribute to exceedances of state or federal air quality standards. The closest the DEIR comes to this is at Table 5.4-2: Ambient Concentrations, reflecting just three years of monitoring data from three stations proximate to the UTC project area. These raw data, however, are not compared to ambient standards and so the reader is given no means to evaluate their significance. Nor is the data reflective of monitoring data from more distant sites that would be affected under transport conditions by the UTC project; SDAPCD monitoring sites at Camp Pendleton, Escondido, Alpine, and El Cajon reflect ozone exceedances of state and/or federal ozone standards and could, under transport conditions routinely affecting the region, be potentially impacted with incremental increases in ozone from UTC.

As the following text shows, the DEIR (at 5.4-5) reports on ozone exceedances at two local monitoring stations but fails to report exceedances for the air basin:

The 1-hour federal O3 standard was only exceeded once at the Del Mar-Mira Costa College monitoring station during the time period from 2004 through 2006. The 8-hour federal O3 standard was exceeded three times in 2004. The data from the monitoring stations indicate that air quality is in attainment of all other federal standards. The Kearny Mesa monitoring station measured exceedances of the annual California PM10 standard during the period from 2004 to 2006.

The DEIR provides no information regarding the number of CAAQS or NAAQS exceedances for the air basin. Nor does the DEIR identify the attainment/non-attainment designations made under California Air Resources Board (CARB) or the Environmental Protection (EPA) criteria. This is a major CEQA shortfall, since the DEIR must identify and evaluate the Project's estimated emissions against existing air quality attainment/nonattainment designations. Further, the DEIR fails to consider unacceptably high ambient air pollution values, particularly for ozone and PM10, recorded at other (and especially inland) SDAB monitoring stations to be incrementally impacted by transport of UTC emissions. According to the San Diego Air Pollution Control District (SDAPCD), the SDAB has recorded eight exceedances for 2007 (through mid-September) of the current (higher) eight-hour NAAQS standard for ozone. The ability of the air basin to attain the proposed lower ozone standard is, based on those exceedances, in significant jeopardy.

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The DEIR similarly fails to reflect important ozone emissions-standard information published by EPA in the Federal Register. Specifically, the DEIR does not mention the federal requirement for new 2007 ozone State Implementation Plan (SIP). Additionally, pursuant to a court order, EPA has proposed a new 8-hour ozone standard applicable to the SDAB. This lower ozone standard -- a "level within the range of .070 and .075 parts per million (ppm) -- is intended to provide increased protection for children and other at-risk populations...." Final rulemaking is estimated to occur prior to March 12, 2008, a date well within the planning review horizon for the UTC project. (See Federal Register, July 11, 2007; Part II, Environmental Protection Agency; 40 CFR Part 50; National Ambient Air Quality Standards for Ozone; Proposed Rule; pg. 37818, 37822.) The UTC DEIR should have acknowledged this reduced standard since the proposed rulemaking preceded the release of the UTC DEIR, and UTC's emission impacts are, based particularly on the number of measured O₃ exceedances to date during the 2007 monitoring season, virtually certain to cause increased impacts on basin-wide attainment challenges.

Had the DEIR included up-to-date regulatory information relating to EPA's proposed rulemaking **and** included information about the entire air basin's compliance with air quality standards, it would have recognized that the increase in ozone precursor emissions associated with the UTC Project could contribute to exceedances of air quality standards. The air quality analysis should be revised to accurately characterize the existing regulatory setting (including a description of how EPA's adoption of a more stringent ozone standard would affect the UTC project) and must include comprehensive data on the region's air quality.

II. Construction Activities and Emissions Estimates Are Incomplete

It is not possible to verify the accuracy and completeness of the DEIR's construction-related emissions because details relating to construction tasks and their related emissions are not sufficiently documented. The DEIR fails to explain many of the assumptions and inputs used to develop construction emissions estimates. For example, in regard to the project's two major construction phases, the DEIR lacks specificity by construction task and location. At pg. 5.4-13, the Air Quality element states:

"Phase 2 involves the construction of up to 725 residential units on site. It is anticipated that Phase 2 would require little or no demolition work; although it is possible that Phase 2 may involve demolition of the existing Sears parking structure, but demolition would not be at the level required under Phase 1.

It is our understanding that the existing Sears parking structure contains an estimated 650 parking spaces across two stories. Demolition of this structure would produce substantial fugitive dust and PM_{2.5}

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emissions from diesel-powered demolition-related vehicles, yet the quote noted above reflects no certainty on the part of the EIR preparers for whether demolition will even occur or whether related emissions were ever included in the air quality impact analysis. In fact, the DEIR's use of "may involve" and "it is possible that" and "but demolition would not be required at the level required under Phase I" so confuses the reviewer that verification of Phase II demolition emissions is simply not possible. This lack of clarity coupled with the project's eight various potential land use scenarios spanning two construction phases, introduces unacceptable complexity and confusion, making it extremely difficult, if not impossible, to verify the accuracy of the estimate of project emissions.

In addition, the DEIR does not explain how emissions were estimated for construction of the parking structure that is projected to range up to 325' in height (DEIR pg. 5.1-16). URBEMIS2002 does not estimate construction emissions for construction of multi-story buildings. Manipulation of the model by the EIR preparers to arrive at an estimate must be explained, including the use of modeling inputs and assumptions. If URBEMIS was not used to estimate all construction emissions, what alternate methods were? Furthermore, architectural coating emissions are identified in the air quality analysis, yet information in the URBEMIS modeling outputs for the project indicate that the architectural coatings calculator was "turned off". How exactly did the EIR preparers calculate emissions from architectural coatings?

III. URBEMIS Modeling Adjustments Are Unexplained and Under-Represent Project Emissions

At DEIR pg. 2-1, the UTC project is described as "outside the coastal zone..." URBEMIS model defaults for temperature and humidity were adjusted by the EIR preparers, perhaps to reflect conditions more consistent with coastal conditions. The DEIR never explains or justifies, however, the temperature and humidity assumptions or how they were employed within the URBEMIS model. Nor does the DEIR indicate whether these assumptions were approved by the SDAPCD. Temperature and humidity conditions have a direct effect on the production of mobile source emissions. Increasing the average winter and reducing the average summer temperature in URBEMIS modeling for the UTC project would cause seasonal emissions to be under-represented. Without plausible, reasonable explanation for the altered modeling defaults, the DEIR's estimated emissions must be presumed as artificially low. The revised DEIR should

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remodel emissions using standard defaults or provide detailed rationale for why those defaults have been manipulated.

IV. Vehicle Trip Rates Reflected in DEIR Are Internally Inconsistent and Conflict With URBEMIS Model Defaults

Vehicular trip rates for the several land use types (regional shopping center, condo/townhouse high rise, hotel, general office) proposed for the UTC expansion project vary substantially from default trip rates tailored to the SDAB within the URBEMIS model (i.e., the model used by the EIR preparers to calculate the UTC's mobile source and area source emissions). For example, the URBEMIS default trip rate from the Institute of Transportation Engineers for a regional shopping center such as UTC is 42.94 trips per 1000 square feet, yet the EIR preparers appear to have used an adjusted trip rate of 30.6 trips/1000 square feet (DEIR Table 5.3-7 (pg. 5.3-18). Based on vague formula-based information provided in a footnote in the table (see quote below), it appears that the EIR preparers may have reduced the current trip rate for the existing UTC to a considerably lower value by adding in the proposed 750,000 square feet of new retail facilities. Again, it is not possible to verify these assumptions since there is no explanation of scientific formula components noted in this footnote attached to the above-referenced table:

"Based on Regional Retail Trip Generation ($\ln(T) = 0.756 \ln(X) + 5.25$, where T is the number of trips and X is the square footage in 1,000's) at post expansion square footage ($1,061,400 + 750,000 = 1,811,400$ SF)"

How specifically would the addition of 750,000 square feet of new structures result in a roughly 25% reduction in the regional retail facility trip rate? Further, the various land use scenarios modeled for the UTC Project reflect a varying number of similarly unexplained regional shopping center trip rates, and most disturbingly, none of those appear to match the traffic section's 30.6/1000 value. Across the eight URBEMIS modeled scenarios, the regional shopping center trip rate varied between roughly 20 and 24 trips/1000 square feet, rates which are roughly half the URBEMIS default ITE rate of 42.94/1000 square feet. We note, also, that no modeling was conducted for construction or operational emission impacts for the park and recreational facilities improvements discussed at various locations in the DEIR. These project components would generate emissions and, therefore, must be calculated and included in UTC's environmental review. Based on the confusion between trip rates and the lack of modeling for all portions of the project, emissions estimates for the project appear to be underestimated substantially.

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Further, internally inconsistent individual trip rates vary significantly between the eight modeled land use scenarios, with manipulation -- unexplained in the DEIR -- presumably undertaken to achieve a total number of trips per day for the project identified in the project's traffic study. Manipulation of trip rates within and between land use types strictly to achieve a total project number of trips per day ignores the potential for altered emission rates due to important differences in travel conditions and trip characteristics between land use types. Further, the URBEMIS model flags changes made by the modeler to its defaults, listing them in modeled output sheets. Review of URBEMIS outputs in the UTC DEIR indicate that certain manually-reduced trip rates, as with the regional shopping center land use type, are not listed in the "changes to defaults" output section. The revised air quality analysis must disclose whether these flags were removed by the modeler. If so, they must be reinstated inasmuch as an EIR is required to disclose this critical information. Further, effective explanation must be provided by the DEIR preparers regarding the particular rationale used to adjust trip rates within and across the various land use types and the eight various scenarios.

Because the DEIR provides incomplete modeling-related data and explanatory information, it is not possible to verify the accuracy of modeled results. Without effective access to comprehensive modeling-related information used to estimate UTC's impacts, the DEIR's conclusions are significantly jeopardized. To correct this, modeling assumptions and methods must be provided and thoroughly explained, particularly since the EIR analysis varies from routine air quality modeling and engineering practices.

V. 2020 Modeling Year Fails to Provide Conservative Emissions Estimates

At DEIR pg. 5.4-21 the DEIR states:

"Emissions were estimated based on 2020 emission factors for full build out."

Use of the year 2020 substantially and inappropriately under-represents project-related construction and operational emission impacts. Both offroad and onroad mobile source emissions will decrease substantially over time as significantly tighter Tier IV offroad emission standards and heavy-duty diesel onroad emission standards take effect and fleet-averaged emission levels evolve over the next several years. Project build-out will occur well prior to 2020, and thus increased emission impacts will occur well ahead of that modeling year. Had the DEIR assessed impacts in the year 2010, for example, the project's air quality impacts would be far more severe. By choosing 2020 as the modeling horizon, the analysis incorrectly

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defers impacts to a much later date, incorrectly benefitting in the current UTC environmental review process from reduced project-related emissions in comparison to those that can be expected to occur during actual project construction and start-up operational phases. To correct this, the DEIR's modeling and impact analysis must reflect nearer-term impact-analysis years.

VI. Park-Recreational Facilities Improvements Were Not Reviewed For Emission Impacts

The Project includes recreational improvements, some of which would require regrading of portions of Torrey Trail (DEIR, pg. 4-2). However, the DEIR does not appear to include the emissions associated with this project component in its air quality analysis. Expansion of this open space area, particularly with the addition of "facilities" accessible to the general public, can be expected to increase trip generation and, therefore, air emissions. Without an adequate description or accounting for related emission impacts, the DEIR's construction and operational emission impact analysis is incomplete.

VII. ROC And Fugitive Dust Analysis and Mitigations Are Inaccurate, Unenforceable

Mitigation Measure 5.4-7 (DEIR pg. 5.4-30) states that the project applicant "shall incorporate into the contractor specifications the following control measures pursuant to the Regional Air Quality Strategy (RAQS) for reactive organic compounds (ROC):

- Use of low-ROC paints, adhesives and solvents
- Installation of low emission water heaters and furnaces where required

At page 5.4-21, the DEIR states:

"Default assumptions in the URBEMIS model, including emissions due to energy use and area sources, were used to estimate operational emissions, except that it was assumed that architectural coatings would meet low-VOC standards and that silt loading on paved roadways would be 0.03 grams per square meter per USEPA defaults."

The quoted materials raise several questions and issues:

- Without a standard for "low-ROC" (low-VOC) architectural coatings, contractors will be unable to comply with this subjective measure. Many coatings companies now produce and sell zero-VOC

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and ultra-low (<100 g/l.) products; these must be identified for UTC and a standard of performance established in VOC content by g/L for this portion of the measure.

- As discussed above, the URBEMIS output sheets indicate that the architectural coatings calculator was "turned off". Therefore it is not clear how architectural coatings emissions were estimated for the project.
- The DEIR states that default assumptions were used in URBEMIS "except that it was assumed architectural coatings would meet low-VOC standards..." URBEMIS automatically applies the correct VOC standards for architectural coatings. In addition, the model is routinely updated to account for changes in technologies and regulatory emission requirements. Therefore, the EIR preparer's assumption suggests that undefined, lower VOC emission factors were used to estimate UTC's construction and area-source architectural coatings emissions. If this is the case, architectural coatings estimates in the DEIR would appear to reflect manipulated, artificially low emission quantities.
- California already requires low-VOC architectural coatings in comparison to the rest of the country. Therefore, it appears that the DEIR preparer's may be taking mitigation credit when low-VOC coatings are already required by regulation.

The DEIR's use of subjective and non-quantitative language pertaining to architectural coatings makes it almost impossible to verify the accuracy of architectural coatings' emissions estimates. Nor is it possible to quantify the emission reduction benefits of the mitigation measure since no benchmark standards are employed. As currently written, the DEIR fails to adequately quantify the emission reduction benefits of the mitigation measure, provides no mechanism to gauge performance, and ignores the need for enforcement during construction and operational phases. Therefore, the DEIR cannot assume any emission reduction from "low-ROC architectural coatings" for the UTC project.

In addition, MM 5.4-7's mention of "Installation of low emission water heaters and furnaces where required" is similarly subjective, vague, and unenforceable. Because the measure is so non-specific, it is not possible to determine whether the measure relies on low-NOx standards that have applied to water heaters sold in California for several years. Further, recent attempts by California air agencies to promulgate technology-forcing regulation to further reduce existing Low-NOx water heater emissions have been blocked by manufacturers' claims of overwhelming technical difficulties. As written, MM5.4-7's water heater language contains no performance standard, appears incorrectly to rely on promulgation of uncertain future water heater-related air agency regulation for any emission benefits, and adds a confusing

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qualifier at the end of the mitigation (with use of “where required”) that implies that there may be portions of the UTC project where lower-emitting water heaters would not be required.

At pg. 5.4-21 (see quote above) the DEIR states that an EPA silt loading factor was used to estimate related operational PM10 emissions, and URBEMIS outputs in the DEIR reflect that the standard default factor used in URBEMIS for the San Diego air basin has been reduced by about 66%. The DEIR lacks any specific reference to EPA documentation and provides no explanation as to why the URBEMIS defaults were adjusted. URBEMIS’ defaults, including those for calculation of fugitive dust from roadway silt loading, are based on EPA emission factors. Thus the reduction of the silt loading factor for UTC must be tied to additional, specific analysis of detailed silt loading samples taken from the San Diego air basin. Discussions with the SDAPCD regarding this matter confirm that the air district is unaware of any information that would justify the silt loading reduction claim by the DEIR.¹ Finally, the .03 g/square meter factor noted at pg. 5.4-21 appears to match a factor developed by the San Joaquin Valley Air Pollution Control District (JVUAPCD) following detailed analysis of localized (San Joaquin Valley) soil samples for silt loading factors undertaken a number of years ago. The DEIR must disclose and explain the scientific basis and rationale for the sizable reduction in silt loading selected for the UTC project. Factors developed on the basis of highly refined analysis for some other jurisdiction cannot be transferred to the San Diego basin without adequate scientific justification.

As written, MM 5.4-7 reflects serious deficiencies for its three components—silt loading, architectural coatings, and water heaters. Claimed or modeled emission benefits cannot be substantiated based without sound documentation. Further, the DEIR cannot rely on what appear to be artificially low emission calculations (particularly related to silt loading and architectural coatings). To correct these deficiencies, the revised DEIR must provide robust, accurate, and comprehensive analysis of the emissions targeted by MM 5.4-7, along with referenced documentation to support its emission calculations. Finally, the measure must be written with effective metrics to quantify emission reduction benefits, along with enforcement and compliance components that will ensure real, surplus, quantifiable emission reductions.

VIII. DEIR Fails to Adequately Analyze PM10 and PM2.5 Emissions

DEIR Tables 5.4-5 and 5.4-7 lists the construction equipment that would be used for Phases 1 and II, including loaders, backhoes, and excavators. In addition, Phase 1 would require 150 total truck trips per

¹ Personal communications with Rob Reider, Planning and Rules Supervisor, SDAPCD; September 2007

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day, and Phase 2 would require 120 truck trips per day. Most heavy-duty equipment and trucks operate with diesel engines.

Phases 1 and II of project construction would result in about 100 lb/day of PM 2.5 emissions. (DEIR Tables 5.4-6 and 5.4-8). The DEIR finds that, after mitigation, project construction would result in 65.28 lbs/day of construction-related PM2.5 emissions (DEIR Table 5.4-11). The DEIR never, however, identifies which emission reduction strategies would be used to reduce PM2.5 emissions. Diesel particulate matter (DPM) emissions can be controlled with use of diesel oxidation catalysts, diesel particulate filters, use of newer and more efficient engines, and other means, but none of these technologies are even mentioned in the DEIR. Without explanation, the DEIR appears to have incorrectly attributed an equivalent percentage reduction from control of PM10 fugitive dust emissions to PM2.5. DPM PM2.5 would not be reduced by the control measures applicable to fugitive dust. The revised air quality analysis should correct this serious deficiency.

IX. UTC Environmental Analysis Must Provide Health Risk Screening For TAC Emissions

The California Air Resources Board (CARB) has identified DPM as a toxic air contaminant (TAC). TACs are a major public health issue in California, and the potential health impacts prompted CARB to develop the Risk Reduction Plan to Reduce Particulate Matter Emissions from Diesel-Fueled Engines and Vehicles (RRP) in October 2000. The RRP found that near-source exposures to DPM can result in elevated exposures to sensitive receptors, resulting in the potential for up to 1,500 cancer cases per million.² The Office of Environmental Health Hazards and Assessment (OEHA) Air Toxics Hot Spots Program Risk Assessment, Guidelines – Air Toxics Program Guidance Manual for Preparation of Health Risk Assessments states at pg. 8-4 that TACs such as DPM are capable of inducing short-term exposure risk.

Diesel exhaust is composed mainly of particulate matter (PM), which has been implicated with a variety of health effects including premature mortality, aggravation of respiratory (e.g., cough, shortness of breath, wheezing, bronchitis, asthma attacks) and cardiovascular disease, declines in lung function, changes to lung tissues and structure, altered respiratory defense mechanisms, and lung cancer. (U.S. EPA 4/96;³ 61 FR

² California Air Resources Board, Risk Reduction Plan to Reduce Particulate Matter Emissions from Diesel-Fueled Engines and Vehicles, October 2000, p. 1.

³ U.S. Environmental Protection Agency, Air Quality Criteria for Particulate Matter, Report EPA/600/P-95-001aF through 001cF, April 1996.

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65638.⁴) Particulate matter is a non-threshold pollutant, which means that there is some possibility of an adverse health impact at any concentration. (See *American Trucking v. U.S. EPA*: Unjustified Revival of the Nondelegation Doctrine, 23-SPG Environs Envtl. I. & Pol'y J. 17, 26.) DPM is responsible for the majority share of toxics mortality risk, particularly in urbanized air basins. DPM represents 70% of the toxics mortality risk in South Coast.⁵ Further, CARB guidance⁶ lists residents as “sensitive receptors” for toxic air contaminant (TAC) exposures.

Although diesel-fueled equipment used during the UTC's extended construction process would expose nearby sensitive receptors to DPM, the DEIR fails to examine health risks to these receptors. The UTC DEIR explains that existing development surrounding the project site consists of high-density residential development (at DEIR pg. ES-2). “Immediately south of the site” are “two-story single-family residences...separated from the shopping center by an approximately 15- to 20-foot tall slope, wooden fence and mature trees”(at DEIR pg. 5.1-1). Similarly, residents, children, the elderly, and athletes will use the UTC's ~7 acre open space area during construction. Prevailing winds are out of the west and northwest (at pg. 5.4-1). Therefore, significant concentrations of project-related TAC emissions would be delivered to these sensitive receptors, thereby increasing health risk, during the Project's three to five year construction period.

The DEIR does not conduct any TAC-related health risk screening or concentration modeling (undertaken in a Health Risk Assessment (HRA)) of project-related DPM for these sensitive receptors, or for workers at the existing UTC facilities who will be immediately adjacent to demolition and construction activities. This represents a serious deficiency in the UTC's CEQA review. The DEIR states at pg. 5.4-20 that the majority of construction activity would occur in the northern half of the project site “a good distance away from nearby sensitive receptors” without explaining what a “good distance” is, and then ignores any further consideration or analysis for DPM or TAC health risks to result from the extensive three-year construction process. In addition, the DEIR implies that TAC DPM emissions from UTC construction are automatically insignificant because they would be temporary in nature and not a long-term source of air pollution. (DEIR pg. 5.4-18).

⁴ National Ambient Air Quality Standards for Particulate Matter: Proposed Decision, Federal Register, v. 61, no. 241, December 13, 1996, pp. 65638-65675.

⁵ SCAQMD, Multiple Air Toxics Exposure Study in the South Coast Air Basin, MATES-II, March 2000.

⁶ California Air Resources Board: *Air Quality and Land Use Handbook: A Community Perspective*, April, 2005

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Such dismissal is not acceptable. Health risk assessments intentionally employ long durations, with figures adjusted to account for, on average, seventy years of exposure. However, reducing the exposure duration would violate Office of Environmental Health Hazard Assessment (OEHHA)⁷ methodology if the risk value for a short duration (say, several years) was erroneously spread (and thereby greatly diluted) over seventy years. Using the UTC DEIR's logic (that the UTC Project's health risk would not be severe because of the short duration of construction), exposure to high levels of asbestos, a known carcinogen, would be acceptable for the three to five year UTC construction period so long as the concentration was below risk factors identified for a 70-year exposure period -- or, even more simplistically, the duration period was less than 70 years. Clearly, this makes no sense. Moreover, asbestos exposures reflect latency periods that confound simple dose-rate relationships, providing more rationale for avoiding overly-simplistic duration assumptions by the DEIR's preparers. Shorter-term exposures are also relevant since averaging over longer periods does not account for differences in sensitive sub-populations (e.g. those who are medically-compromised or children), fails to account for dose-rate effects, ignores the potential that higher-dose rates over a shorter term may be more hazardous than lower dose rates over a longer period, and fails to account for synergistic effects of combined TAC exposures.

Unlike most non-rural California air districts, SDAPCD has failed to issue CEQA thresholds of significance or guidance. Therefore guidance from other air agencies regarding the relevance of short-term health risks is used here to evaluate the UTC project's potential for TAC health risks. Bay Area Air Quality Management District (BAAQMD) guidance reflects the importance of evaluating a project's short-term cancer risk when it states: “The project is acceptable if the annual emissions associated with the project would result in an incremental cancer risk equal to or less than 1.0x10⁻⁶ (one in one million), *were the exposure to continue for 70 years*” (emphasis added).⁸ South Coast Air Quality Management District's (SCAQMD) Rule 1401 requires a lifetime exposure duration for cancer risk assessment but stipulates that, “The risk per year shall not exceed 1/70 of the maximum allowable risk specified in (d)(1)(A) or (d)(1)(B) at any receptor location in residential areas.”⁹ In other words, short-term exposure analysis is a critical analysis component, with exposure duration divided into one-year increments in order to evaluate risks from shorter-term TAC (such as DPM from construction project) exposures. Day care children, residents, and workers at UTC are captive sensitive receptors for construction DPM exposures. These sensitive

⁷ Office of Environmental Health Hazard Assessment, Air Toxics Hotspots Program Risk Assessment Guidelines, August 2003

⁸ Bay Area Air Quality Management District (BAAQMD), Bay Area AQMD Risk Management Policy for Diesel-Fueled Engines, Revised January 11, 2002

⁹ South Coast Air Quality Management District (SCAQMD), Rule 1401, § 1401(d) (4).)

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receptors will be co-located with demolition, excavation, and building equipment that will emit DPM for three to five years. In addition, construction emissions would combine with UTC's existing retail-related operational DPM (primarily from routine daily diesel-powered vendor and delivery truck operations) during this same period. Again, the DEIR does not mention or analyze the health risk of these combined pollutant sources.

The UTC DEIR should have evaluated health risks using an appropriate, recognized screening method or, more appropriately, with use of dispersion modeling in a comprehensive health risk assessment. The UTC Project's NOx and PM10 emissions will exceed CEQA thresholds routinely applied by SCAQMD, Sacramento Metropolitan Air Quality Management District (SMAQMD) and other air agencies. Other projects located in the San Diego area, smaller in size and duration and with lower estimates of DPM-related emissions have conducted focused construction-related health risk analysis during the CEQA review process (see Providence Holy Cross Medical Center Expansion project; ENV-2005-0042-MND). The UTC DEIR must be revised to include a health risk assessment using accepted methods and dispersion modeling. The results should be issued in a recirculated DEIR.

X. All Feasible Construction Mitigations Were Not Considered

CEQA requires that if feasible mitigation exists to reduce or avoid a project's significant environmental impacts the project may not be approved unless the mitigation is adopted (PRC §21002) and should the Lead Agency decide to not adopt proposed mitigation, it must provide substantial evidence that the mitigation is infeasible (Guidelines §15091(a) (3)). At UTC DEIR pg. 5.4-15, routine construction-related fugitive dust control mitigations are noted, yet at pg. 5.4-17, the DEIR concludes that overlapping Phase I and Phase II mitigated emissions would still exceed the 100 lb. PM10 threshold and therefore the impact is significant and unavoidable. This is incorrect. Technologies to reduce PM10 and PM2.5 are available for construction applications and mitigation measures requiring their use are routinely applied in other air districts in California.

Largely as a result of the California Legislature's passage of Senate Bill 656, California air districts have developed a comprehensive list of measures designed to reduce particulate matter emissions from construction operations. The San Joaquin Valley Air Pollution District (SJVAPCD 2002, pp. 55-82),¹⁰ the

¹⁰ San Joaquin Valley Air Pollution Control District ("SJVAPCD"), *Project Guide for Assessing and Mitigating Air Quality Impacts*, August 1998, Revised January 2002.

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Ventura County Air Pollution Control District (VCAPCD 1989, pp. 7-2 to 7-4),¹¹ the San Luis Obispo Air Pollution Control District (SLOAPCD 2003, Sec. 6.3.1), and the Sacramento Metropolitan Air Quality Management District (SMAQMD 1994, pp. 10, 20) have found the following particulate matter measures to be reasonable and feasible: (See CEQA Guidelines §§ 15126.4, 15091.)

- For backfilling during earthmoving operations, water backfill material or apply dust palliative to maintain material moisture or to form crust when not actively handling; cover or enclose backfill material when not actively handling; mix backfill soil with water prior to moving; dedicate water truck or large hose to backfilling equipment and apply water as needed; water to form crust on soil immediately following backfilling; and empty loader bucket slowly; minimize drop height from loader bucket.
- During clearing and grubbing, pre-wet surface soils where equipment will be operated; for areas without continuing construction, maintain live perennial vegetation and desert pavement; stabilize surface soil with dust palliative unless immediate construction is to continue; and use water or dust palliative to form crust on soil immediately following clearing/grubbing.
- While clearing forms, use single stage pours where allowed; use water spray to clear forms; use sweeping and water spray to clear forms; use industrial shop vacuum to clear forms; and avoid use of high pressure air to blow soil and debris from the form.
- During cut and fill activities, pre-water with sprinklers or wobblers to allow time for penetration; pre-water with water trucks or water pulls to allow time for penetration; dig a test hole to depth of cut to determine if soils are moist at depth and continue to pre-water if not moist to depth of cut; use water truck/pull to water soils to depth of cut prior to subsequent cuts; and apply water or dust palliative to form crust on soil following fill and compaction.
- For large tracts of disturbed land, prevent access by fencing, ditches, vegetation, berms, or other barriers; install perimeter wind barriers 3 to 5 feet high with low porosity; plant perimeter vegetation early; and for long-term stabilization, stabilize disturbed soil with dust palliative or vegetation or pave or apply surface rock.
- In staging areas, limit size of area; apply water to surface soils where support equipment and vehicles are operated; limit vehicle speeds to 15 mph; and limit ingress and egress points. For stockpiles, maintain at optimum moisture content; remove material from downwind side; avoid steep sides or faces; and stabilize material following stockpile-related activity.
- To prevent trackout, pave construction roadways as early as possible; install gravel pads; install wheel shakers or wheel washers, and limit site access.
- Where feasible, use bedliners in bottom-dumping haul vehicles.
- Grade each phase separately, timed to coincide with construction phase or grade entire project, but apply chemical stabilizers or ground cover to graded areas where construction phase begins more than 60 days after grading phase ends.

¹¹ Ventura County Air Pollution Control District ("VCAPCD"), *Guidelines for the Preparation of Air Quality Impact Analyses*, October 24, 1989.

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- Following the addition of materials to, or the removal of materials from, the surface of outdoor storage piles, said piles shall be effectively stabilized of fugitive dust emissions utilizing sufficient water or chemical stabilizer/suppressant.
- During initial grading, earth moving, or site preparation, projects 5 acres or greater may be required to construct a paved (or dust palliative treated) apron, at least 100 ft in length, onto the project site from the adjacent site if applicable.
- Post a publicly visible sign with the telephone number and person to contact regarding dust complaints. This person shall respond and take corrective action within 24 hrs.
- Prior to final occupancy, the applicant demonstrates that all ground surfaces are covered or treated sufficiently to minimize fugitive dust emissions.
- Gravel pads must be installed at all access points to prevent tracking of mud on to public roads.
- Prior to land use clearance, the applicant shall include, as a note on a separate informational sheet to be recorded with map, these dust control requirements. All requirements shall be shown on grading and building plans.
- All roadways, driveways, sidewalks, etc., to be paved should be completed as soon as possible. In addition, building pads should be laid as soon as possible after grading unless seeding or soil binders are used.
- Barriers with 50 percent or less porosity located adjacent to roadways to reduce windblown material leaving a site.
- Prohibit all grading activities during periods of high wind (over 15 mph).
- Pave all roads on construction sites.
- Replant vegetation in disturbed areas as quickly as possible.
- Permanent dust control measures in an approved project revegetation and landscape plan should be implemented as soon as possible following completion of any soil disturbing activities.
- Exposed ground areas that are planned to be reworked at dates greater than 1 month after initial grading should be sown with a fast-germinating native grass seed and watered until vegetation is established.
- Require a dust control plan for earthmoving operations.

While the measures noted above are designed to control project-related entrainment or re-entrainment of fugitive dust (PM10), PM2.5 construction-related emission impacts are largely generated from the combustion of diesel fuel in diesel-powered construction equipment that will operate at the project for at least three years. Air agencies (e.g., SMAQMD, PCAPCD, SJVUAPCD) routinely require specified construction fleet-averaged percentage reductions as mitigation applied to offroad equipment. These technologies typically achieve a 25% - 33% NOx reduction and up to 50% PM10 (combustion) reduction. CEQA guidance regarding these and other effective mitigations is readily available online.

The DEIR further errs when it concludes (at pg. 5.4-28) that:

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"There are no feasible mitigation measures to reduce NOx during Phase 1 construction to a level that is less than significant, but this impact would be temporary."

Feasible offroad NOx- and/or PM-reducing technologies exist that would reduce the significant criteria and TAC emissions generated by construction of the UTC project. (See, e.g., Huss Umwelttechnik (www.hussumwelt.com), Cleaire (www.cleaire.com) and CARB's list of verified diesel emission control systems at <http://www.arb.ca.gov/diesel/verdev/vt/cvt.htm>). In addition, SMAQMD, PCAPCD, SJVUAPCD permit the payment of in-lieu funds for co-located offsite mitigation programs (typically administered by the air agency) if project-related fleet equipment reduction targets cannot be met with use of newer equipment, diesel particulate filters or oxidation catalysts, etc. In such cases, the local air agency will provide fungible reductions for the project by working with the project's construction fleet, or with other diesel vehicle operators in the project vicinity. The revised UTC DEIR must examine feasible mitigation measures capable of reducing the project's substantial construction emissions. Rejection of feasible, recommended measures must be thoroughly explained, as required by CEQA Guidelines §15091(a)(3).

XI. Inadequate Review of Feasible Operational Mitigation Measures

The DEIR incorrectly asserts that there is no feasible mitigation for the Project's operational mobile source emissions (at pg 5.4-26). Contrary to this statement, mitigation measures are available to reduce these emissions. In addition, CO and ROG emissions can be reduced with the use of newer, lower-emitting equipment and retrofit technologies. Further, had the DEIR identified the increased mobile source-generated NOx and PM10 emissions as significant (as would have been the case if the DEIR relied on mobile source thresholds of significance rather than stationary source thresholds (see discussion below)), the UTC DEIR would have been obligated to identify feasible mitigation for these emissions. Placer County Air Pollution Control District (PCAPCD) requires a project's significant operational NOx emissions be reduced by 25% and PM10 by 45% using a variety of methods, including use of new equipment, retrofits, or repowers. The PCAPCD's offsite mitigation option provides for the collection of fees from the project for operational emissions that will exceed the PCAPCD's CEQA thresholds of significance. These fees are then converted into low-emission mobile source projects which are administered through the PCAPCD's Clean Air Grant program, with the resulting cost-effective emission reductions applied as offsets to the CEQA project. Project proponents may provide their own mobile source emission reductions to achieve the aforementioned percentage reductions, using a variety of low-emission vehicle strategies including replacements with new vehicles, lower-emitting alternatively-fueled

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vehicles, repowers or retrofits of existing heavy-duty vehicles, or via payment of offsite mitigation fees that act as offsets. Numerous technologies are available for retrofitting existing onroad diesel vehicles for NOx and PM reductions. Similarly, SMAQMD's longstanding list of air- and energy-beneficial land use measures¹² for land use projects permits the developer to choose from point-based technological and behavior-modifying items to achieve at least 15% operational emissions mitigation benefit. Further, numerous diesel retrofit technologies have been CARB-verified to greatly (>85%) reduce particulate impacts and NOx impacts of construction and operational diesel vehicles that would build and then serve the UTC project over its long-term, operating lifetime. CEQA requires that all reasonable and feasible mitigations be applied to eliminate or reduce a project's emission impacts, yet UTC's environmental review has failed to evaluate measures routinely used in other areas to reduce operational emission impacts. These measures should have been considered for use at UTC since they have been established as reasonable and feasible for CEQA applications for over a decade.

XII. SDAPCD Stationary Source Thresholds Must Not Be Applied to Indirect Sources

At pg. 5.4-8, the DEIR identifies the CEQA thresholds used to evaluate the project's potential air quality impacts.

"The City has established both general thresholds (consistent with CEQA guidance for significant impacts) and specific emission thresholds that are derived from the San Diego Air Pollution Control District's regulations."

At Table 5.4-4, the DEIR relies on SDAPCD pollutant thresholds for stationary sources to evaluate the daily and annual emissions of the UTC project. The DEIR errs when it relies on these thresholds to review land use development-related emissions since these SDAPCD thresholds are intended to apply *only* to permitted stationary sources of air pollution. SDAPCD Rule 20.2 "...applies to any new or modified emission unit, any replacement emission unit, any relocated emission unit or any portable emission unit for which an Authority to Construct or Permit to Operate is required pursuant to Rule 10, or for which a Determination of Compliance is required pursuant to Rule 20.5¹³." The thresholds of Rule 20.2 should not have been applied to the UTC's largely mobile-source emissions since they are an indirect source of air pollution and not a stationary source. Emission thresholds in Rule 20.2 apply only to regulated, permitted

¹² Sacramento Metropolitan Air Quality Management District: "Recommended Guidance for Land Use Emissions Reductions 2007 Update"; v1.1; Jan. 9, 2007

¹³ SDAPCD, "New Source Review; Non-Major Stationary Sources; Rule 20.2"; <http://www.sdapcd.org/rules/rules/Rcg2word/R20-2.doc>; March 2007

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stationary sources located throughout the San Diego air basin to ensure attainment or maintenance of national ambient air quality standards (NAAQS) under the federal Clean Air Act.

Stationary source thresholds are based on the limited inventory of permitted stationary sources and the attainment designation and related attainment strategies of the entire air basin. An air basin extends far beyond the footprint of an individual land use project that could cause locally-significant impacts and potential exceedances of state and federal air quality standards. An air basin's stationary source emissions inventory is a relatively small percentage of the total emissions inventory. Mobile sources represent the overwhelming majority of the area's ozone precursor emitters, and use of stationary source-based thresholds will automatically under-represent the potential significance of UTC's mobile, operational emission impacts. In addition, stationary thresholds are too broadly regional (by air district design) to be used for local project environmental review. SDAPCD and other air districts have recognized that stationary source limits provide inadequate standards for review of project-specific, local or even regional environmental impacts, since the great majority of these impacts are caused not by stationary sources but, rather, the mobile sources that will build and then utilize UTC over its lifetime. These districts recognize that stationary source limits will not provide balanced protection against ozone and particulate matter nonattainment (under state or federal Clean Air Acts) largely caused by the supermajority proportion of mobile source project-related emissions in comparison to those emitted by stationary sources.

It is important to note that the SDAPCD has advised local jurisdictions that using stationary source thresholds for CEQA land use reviews is not appropriate.¹⁴ The UTC DEIR should not, therefore, rely on these thresholds for determining the significance of the UTC project's air quality impacts

Use of stationary source thresholds necessarily miss potentially significant local emission effects that must be considered under CEQA, including mobile and area sources, and including the consideration of those impacts against air quality standards established under the California Clean Air Act. Specifically, regionally-applicable stationary source thresholds will not adequately evaluate UTC-related emissions for localized exceedances, particularly in context to more stringent California Clean Air Act ambient air quality standards, nor can they be used to evaluate declared toxic air contaminants, particularly diesel particulate matter from offroad and onroad vehicles. Notwithstanding the fact that SDAPCD cannot issue UTC a permit to operate required under application of Rule 20.2, thereby invalidating its applicability to UTC's CEQA review, limiting the review of the project's construction emission impacts to a regional

¹⁴ Personal communications with Rob Reider, Planning Supervisor, SDAPCD; March 15, 2007

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perspective contradicts CEQA's interest in identification and mitigation of project-specific local and site-specific impacts. Emissions from construction equipment operation during demolition, grading, and soil transport may cause localized exceedances of criteria pollutant standards governed under state and federal Clean Air Acts, yet the DEIR contains no information that addresses the potential for immediately localized impacts. Based on the inapplicability of stationary source thresholds to estimating impacts of indirect sources (such as UTC), the DEIR fails to adequately address the potential for the project to conflict with or obstruct attainment of the ambient air quality standards.

The DEIR provides limited discussion of SDAPCD ambient air monitoring data. Stations used to produce that data are located at too great a distance to provide meaningful protection to breathers on or adjacent to the project from UTC-localized exceedances. Some air agencies (e.g. SCAQMD, SMAQMD) have established thresholds specifically for construction to deal with this issue. SMAQMD, for example, considers construction emissions significant if the project is estimated to cause more than a 5% localized ambient increase in CAAQS air quality standards¹⁵. Without adequate modeling, analysis, and evaluation of these potential UTC impacts however, it is not possible to determine whether the project will avoid causing localized air quality standards exceedances. This is particularly true regarding the extensive emissions of DPM (diesel particulate matter), a toxic air contaminant, that will be emitted across the three- to five - year construction process. Moreover, no substantive PM2.5 mitigations have been proposed for the project, despite claimed reductions noted in the Air Quality element at Table 5.4-8.

XIII. DEIR Fails to Use Appropriate CEQA Thresholds; Substantial Evidence and Public Adoption Requirement

CEQA guidance at Section 15064.7 allows wide latitude to a Lead Agency in choosing CEQA significance thresholds, providing that "A threshold of significance is an identifiable quantitative, qualitative or performance level of a particular environmental effect..." Under 15064.7(b), "Thresholds of significance to be adopted for general use as part of the lead agency's environmental review process must be adopted by ordinance, resolution, rule, or regulation, and developed through a public review process and be supported by substantial evidence." In this case, the identifiable quantitative threshold values (from Rule 20.2) cannot be linked reasonably to the "particular environmental effect" since the UTC project is not a

¹⁵ Sacramento Metropolitan Air Quality Management District; "Guide to Air Quality Assessment in Sacramento County", July 2004

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stationary source whose emissions are subject to air district permit, and the emission impacts of UTC will be almost entirely mobile source-generated over the project life. Application of the District's stationary source thresholds to CEQA review of a project's mobile source impacts must be based on substantial evidence of threshold effectiveness in characterizing or preventing unacceptable project-related air quality impacts, and the portion of Section 15064.7 requiring public adoption of the Lead Agency's own CEQA thresholds acts as a safety valve to further ensure the Lead Agency's use of "substantial evidence" in its project review process. Did the Lead Agency adopt the CEQA significance thresholds as reflected in information supporting DEIR Table 5.4-8? If adopted, were those thresholds supported with substantial evidence that would successfully overcome the SDAPCD's warnings to lead agencies that its stationary source thresholds not be applied to CEQA reviews? It is likely that the Lead Agency has in this case applied unsubstantiated significance thresholds to incorrectly gauge and under-represent the significance of UTC construction and operational emission impacts. If this is the case, their use must invalidate the accuracy of the Lead Agency's significance determinations and the rationale for what few air quality mitigations have been selected for the project.

XVII. DEIR Climate Change Discussion Is Inadequate

The DEIR's conclusion that the UTC project's impact upon climate change would be less than significant (DEIR, 5.4-39) is based on faulty assumptions, incomplete identification of greenhouse gas sources, and unsubstantiated calculations. The Project's contribution to greenhouse gas emissions and climate change should have been identified as a significant impact; the failure to do so represents a substantial shortfall with the project's environmental review.

The DEIR repeatedly fails to identify the source of key information used to determine CO2 emissions. The first example is the claimed water consumption from the existing retail development of 109,307 gallons per day (DEIR, 5.4-7). The identification of the source of this water usage data in the DEIR is simply "[b]ased on information for current water demands." The DEIR does not disclose the actual data source, such as actual historical usage records averaged over a period of years, or estimates provided by water agencies, or estimates provided by other agencies such as the City of San Diego. Further, it does not disclose how the portion of water usage attributable to irrigation was determined. The DEIR claims that 54,000 gallons is used for irrigation, but does not disclose if that estimate is based on actual metered irrigation data, or some other source. Since most water consumed in Southern California is transported over long distances from the water's source, the energy consumed to deliver the water is an important part of the overall estimate of

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greenhouse gas emissions. Any errors in water consumption estimates can significantly impact the greenhouse gas emissions estimate. Without accurate and fully documented water usage data, it is impossible to independently verify the accuracy of the greenhouse gas emissions estimates.

Electrical energy use is another critical component of greenhouse gas emissions estimation. Accurate quantification of energy consumption associated with the existing shopping center should have been provided, including actual historical usage data averaged over a period of years. Unfortunately, the DEIR relies only on outdated estimates provided by an air quality district located outside of the project area. The energy consumption rate of 13.55 kWh per square foot is based on 1993 estimates from the South Coast Air Quality Management District (SCAQMD) (DEIR, 5.4-5). This proposed project is located in the San Diego Air Pollution Control District, not the South Coast. It appears that no effort was made to identify actual energy consumption data, which should be available for the existing shopping center. Inaccurate energy consumption data will significantly impact the validity of UTC's greenhouse gas emissions estimates.

The DEIR estimate of greenhouse gas emissions from vehicle use is also suspect. Whenever possible, the use of traffic data from an accurate project-specific traffic study is preferred over simplified modeling defaults. In fact, the DEIR cites the project specific traffic study as the source of the average daily traffic volume (DEIR, 5.4-7). Unfortunately, the estimate of vehicle trip length is based on a different source—the default data in the URBEMIS2002 model. It is improper to use different data sources for components of the same emissions source. The traffic study should have been used for both the traffic volume and trip length estimates. The use of two separate data sources for the same vehicle use impact is virtually certain to result in inaccurate estimates of greenhouse gas emissions.

Several other important components of the greenhouse gas analysis are unsubstantiated in the DEIR:

- Which specific CCA¹ emission factors were used for electricity consumption? (DEIR, 5.4-34)
- Which specific usage rates were used for residential and non-residential natural gas combustion? (DEIR, 5.4-34)
- Which specific emission factors were used for natural gas combustion? (DEIR, 5.4-34)
- On page 5.4-35, the DEIR claims that vehicle emissions of CH₄ were obtained from the EMFAC2007 model released by the California Air Resources Board. In the next sentence, it claims that CH₄ emissions were based on EPA emission factors. Which statement is correct?

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Without complete documentation revealing the actual calculations used, independent verification of the DEIR conclusions cannot be made.

The DEIR also fails to include greenhouse gas emissions associated with solid waste disposal. Solid waste will be generated by both the retail and residential components of the proposed project and should have been disclosed in Table 5.4-19 and 5.4-20 of the DEIR. According to the Environmental Protection Agency, each pound of waste generated by a project will emit approximately 0.94 pounds of carbon dioxide equivalent in the form of methane.¹⁶ Existing and future waste generation estimates should be provided for the proposed project.

The analysis and disclosure of construction-related greenhouse gas impacts is limited to three sentences (DEIR, 5.4-34), and is inadequate for an accurate representation of UTC's related GHG emissions. No attempt is made in the DEIR to determine the significance of construction impacts, despite the claim that construction would result in 5,706 tons of carbon dioxide. It is not clear if the analysis included CH₄ and N₂O emissions, nor is there discussion of the modeling assumptions used in the analysis such as the number and type of construction equipment and the duration of use, or whether or not construction worker commute trips were included. No modeling outputs are provided within the DEIR, and therefore there it is not possible to independently verify the accuracy of the modeling assumptions, emission factors, and other critical modeling components.

According to the DEIR, the significance of greenhouse gas emissions was determined by measuring project compliance with AB32, the California Global Warming Solutions Act of 2006. However, since individual development projects are not regulated by AB32, this method of determining significance is fundamentally flawed. The requirements of AB32 are administered by the California Air Resources Board (CARB), not local governments such as the City of San Diego or SDAPCD. CARB establishes statewide regulations such as vehicle emissions standards, not local land use regulations that would affect the proposed project. Currently, no specific regulations established by AB 32 would affect the manner in which the proposed project would be constructed or operated. Therefore, the DEIR should have established a specific greenhouse gas threshold and evaluated project impacts relative to that threshold.

¹⁶ USEPA, http://www.epa.gov/climatechange/emissions/ind_home.html, accessed Sept. 30, 2007.

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Similar to the confusion caused by the DEIR's reliance on SDAPCD stationary source thresholds that will not effectively represent the project's indirect source emissions issues, the DEIR preparers have short-circuited the evaluation of UTC's GHG's with inappropriate reliance on another agency's involvement with control of GHG's. The DEIR makes a blanket statement that the project "would be consistent with the goals of California's AB 32..." (DEIR, 5.4-39), without any evaluation of whether the project is actually consistent with the actual regulatory requirements of AB32. In fact, as the DEIR points out, the goals of AB 32 are to reduce greenhouse gas emissions by the following amounts:

- 2000 levels by 2010
- 1990 levels by 2020
- 80 percent below 1990 levels by 2050

Not only does the proposed project not help to reduce greenhouse gas emissions as specified by AB 32, it actually would *increase* emissions. As shown in Table 5.4-20 of the DEIR, existing emissions of greenhouse gases at the project are 51,638 tons per year. With the proposed new development, greenhouse gas emissions would be 85,213 tons per year. This is a net *increase* of 33,575 tons per year. Therefore, emissions actually increase by 65 percent, which may interfere with California's ability to achieve the greenhouse gas reduction goals of AB 32. Therefore, greenhouse gas impacts should have been identified as a significant impact and all feasible mitigation should have been identified. Instead, the impact was claimed to be less than significant and no mitigation was identified.

The DEIR includes several "measures" that may reduce emissions to some unknown extent (DEIR, 5.4-38). Many of the measures, if fully implemented, are commendable. But the DEIR does not identify any of the measures as actual mitigation measures, and the language describing the measures is vague and unenforceable.

Specifically, the DEIR includes statements such as:

- "Energy efficiency targets..."
- "...potential for real-time transit information..."
- "Investigation of the feasibility of establishing a Resource Recovery Center..."
- "Establishment of targets for reuse and recycling..."
- "...minimize construction waste by up to 50 percent."
- "Potential generation of electricity on site..."

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- "Potential on-site renewable energy..."

The examples above (all from DEIR 5.4-38 and 5.4-39) are emphasized to show that many of the measures are nothing more than examples of what might be possible. These vague statements do not substitute for an enforceable commitment to implement real mitigation. Mitigation must be enforceable, and mere objectives qualified by undefined measures of feasibility cannot be monitored and are not enforceable by the City, and thus cannot be counted on to produce any real, quantifiable, surplus emission benefits with approval of the UTC project. The DEIR should provide a complete analysis of potential greenhouse gas mitigation and identify which measures have been or will be incorporated in the project, and state the specific rationale for concluding that other mitigation is not feasible for the project. At a minimum, the DEIR must be revised to include an analysis of all global warming mitigation measures suggested by the Attorney General in the attached Coyote Valley CEQA comment letter.

Finally, the DEIR states that it is not possible to quantify reductions from the measures listed on pages 5.4-38 and 5.4-39. However, many measures are clearly quantifiable and should have been analyzed in the DEIR. For example, measures that would minimize waste can be quantified by multiplying the total pounds of waste reduced and multiplying by the emission factor identified earlier in this comment letter. On-site renewable energy from photovoltaics can be quantified by subtracting the energy produced on site from the total energy demand of the project. These and other measures should be quantified and included as feasible mitigation.

EDMUND G. BROWN JR.
Attorney General

State of California
DEPARTMENT OF JUSTICE



1515 CLAY STREET, 20TH FLOOR
P.O. BOX 70550
OAKLAND, CA 94612-0550
Public: 510-622-2100
Telephone: 510-622-2130
Facsimile: 510-622-2270
E-Mail: janill.richards@doj.ca.gov

June 19, 2007

Via Electronic Mail and Facsimile

Jared Hart
Darryl Boyd
City of San José
200 East Santa Clara Street
San José, California 95113
Fax: (408) 292-6055
E-mail: jared.hart@sanjoseca.gov
darryl.boyd@sanjoseca.gov

RE: Comments on Draft Environmental Impact Report for Coyote Valley Specific Plan
SCH# 2005062017

Dear Messrs. Hart and Boyd:

The Attorney General submits these comments on the Draft Environmental Impact Report (DEIR) for the Coyote Valley Specific Plan (CVSP or Project) pursuant to the California Environmental Quality Act (CEQA).¹ The Project proposes the development of a new community of up to 80,000 people in an existing rural area south of the City of San José (City). By the City's own calculation, once built, the Project will emit over 500,000 metric tons of greenhouse gases each year.

We commend the City for creating an accessible environmental document that discusses the problem of global warming in a clear, succinct manner and for making an effort to quantify at least some of the Project's substantial greenhouse gas (GHG) emissions. As discussed below, we are, however, concerned that the City has not undertaken a more thorough accounting of the emissions during all phases of the Project. More importantly, we note that the City has avoided its fundamental responsibility under CEQA to determine whether this Project's contribution to

¹The Attorney General provides these comments pursuant to his independent power and duty to protect the natural resources of the State from pollution, impairment, or destruction in furtherance of the public interest. (See Cal. Const., art. V, § 13; Cal. Gov. Code, §§ 12511, 12600-12; *D'Amico v. Board of Medical Examiners*, 11 Cal.3d 1, 14-15 (1974)). These comments are made on behalf of the Attorney General and not on behalf of any other California agency or office.

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the quintessentially cumulative problem of global warming is significant and, if so, to require changes or mitigation that will avoid or reduce these impacts.

Given the City's responsibilities as a lead agency under CEQA, the fact that we are reaching a climate change "tipping point" caused by incremental contributions of GHGs, and that prompt and dramatic emissions reductions are required to avoid the most catastrophic environmental outcomes, it is inappropriate for the City to find, as it did in the DEIR, that it is excused from making a significance determination under CEQA.

Emissions Reductions: Avoiding the Tipping Point

Emissions of GHG on the Earth's surface accumulate in the atmosphere: the increased atmospheric concentration of these same gases in turn adversely affects the climate.² The atmospheric concentration of carbon dioxide (CO₂), the leading GHG, is now 379 parts per million (ppm), higher than any time in the preceding 650,000 years.³ According to some experts, an atmospheric concentration of CO₂ "exceeding 450 ppm is almost surely dangerous" because of the climate changes it will effect, "and the ceiling may be even lower."⁴

Currently, atmospheric GHG concentrations are far from stable. "The recent rate of change is dramatic and unprecedented[.]"⁵ Over just the last 17 years, atmospheric concentrations of CO₂ have risen 30 ppm, a rate of change that, in pre-industrial times, would have taken 1,000 years.⁶ Experts are clear that if we continue our "business as usual" emissions trend, atmospheric concentrations of CO₂ will likely exceed 650 ppm by the end of the century.⁷

In short, our past and current GHG emissions have pushed us to a climatic "tipping point." If we

¹(Intergovernmental Panel on Climate Change, Fourth Assessment Report (IPCC 4th) (2007), Working Group (WG) I, Frequently Asked Question 2.1, *How do Human Activities Contribute to Climate Change and How do They Compare with Natural Influences?* http://ipcc-wg1.ucar.edu/wg1/Report/AR4WG1_Pub_FAQs.pdf)

²(IPCC 4th, WG I, Frequently Asked Question 7.1, *Are the Increases in Atmospheric Carbon Dioxide and Other Greenhouse Gases During the Industrial Era Caused by Human Activities?* http://ipcc-wg1.ucar.edu/wg1/Report/AR4WG1_Pub_FAQs.pdf)

³(http://www.nasa.gov/centers/goddard/news/topstory/2007/danger_point.html.)

⁴(IPCC 4th, WG I, Frequently Asked Question 7.1, *Are the Increases in Atmospheric Carbon Dioxide and Other Greenhouse Gases During the Industrial Era Caused by Human Activities?* http://ipcc-wg1.ucar.edu/wg1/Report/AR4WG1_Pub_FAQs.pdf)

⁵(*Id.*)

⁷(<http://www.epa.gov/climatechange/science/futureac.html>.)

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continue our business-as-usual emissions trajectory, dangerous climate change will become unavoidable. According to NASA's James Hansen, proceeding at the emissions rate of the past decade will result in "disastrous effects, including increasingly rapid sea level rise, increased frequency of droughts and floods, and increased stress on wildlife and plants due to rapidly shifting climate zones."⁸ And, the experts tell us, we have less than a decade to take decisive action.⁹

The need to make substantial cuts in emissions drives the global targets embodied in the Kyoto Protocol and the State's targets established by Governor Schwarzenegger's Executive Order S-3-05, and AB 32, California's Global Warming Solution Act of 2006. In California, by these authorities, we are committed to reducing emissions to 1990 levels by 2020, and 80% below 1990 levels by 2050. To achieve the 2020 target, California must reduce its current emissions by 25%.¹⁰

Summary of the CVSP Project and DEIR

The CVSP will govern development of a new community in southern San José, approximately 12 miles from the City's downtown. The community may house up to 70,000 to 80,000 people and create up to 50,000 new jobs on 3,700 acres. The City proposes to build the Project over a 25- to 50-year period, depending on economic and market conditions.

The new community will include residential, retail, commercial, and mixed-use development. It will require new transportation infrastructure, including new roadways, and will include an internal Bus Rapid Transit system with a connection to a proposed Caltrain station. The Project also includes includes schools, a library, a community center, parks and a greenbelt, trails, recreational areas, and all necessary services and utilities.

Lead agency City of San José states that the Project is a reflection of the "City's desire to create a model community based on innovative planning and design" (DEIR, Sec. 2 at p. 14). According to the City, "the CVSP is based on a new approach, which involves a shift from a land planning driven process to one that evolves from the existing natural environment or Environmental Footprint." (*Id.*)

⁸(<http://www.giss.nasa.gov/research/news/20070530/>; see also Hansen et al., *Dangerous Human-Made Interference with Climate* (2007) 7 Atmos. Chem. Phys. 2287-2312 (http://pubs.giss.nasa.gov/docs/2007/2007_Hansen_et_al_1.pdf)).

⁹(*Id.*) For further discussion of dangerous climate change, see IPCC 4th, WG III, Ch. 1 at pp. 6-7 (http://www.mnp.nl/ipcc/pages_media/FAR4docs/chapters/CHI_Introduction.pdf).

¹⁰(Office of the Governor, *Gov. Schwarzenegger Signs Landmark Legislation to Reduce Greenhouse Gas Emissions*, Press Release (Sept. 27, 2006) (<http://gov.ca.gov/index.php?press-release/4111/>)).

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The City describes the Project, alternatives to the Project, and potential impacts of and mitigation for the Project, in a three-volume DEIR. The City clearly has made every effort to make the environmental document easy to use and accessible to the public, providing all parts of the document at its website, including numerous maps and all technical appendices.

In recognition of the serious nature of global warming, the City has also taken the wholly appropriate and responsible step of creating a special section focused on this potentially catastrophic environmental impact. (DEIR, Sec. 4.15.) In a nutshell, the DEIR succinctly defines climate change, notes the scientific consensus that global climate change is real, underway and very likely caused by humans. The DEIR also summarizes some of the impacts that California should expect, including a diminishing Sierra snowpack, coastal erosion, saltwater intrusion into the Delta, and rising temperatures, and summarizes the existing legal and regulatory framework, including AB 32.

The DEIR states that "the primary sources of CVSP greenhouse gas emissions are anticipated to be combustion of fossil fuels from grid-delivered electricity use and from vehicles." (DEIR at p. 417.) According to the DEIR, the approximate total CO₂-equivalent emissions (including methane and nitrous oxide) from electricity use is 183,292 metric tons per year, and from vehicle use, approximately 324,690 metric tons per year. (*Id.*) The combined total for these two sources is approximately 507,982 metric tons per year, which the DEIR states is "roughly 0.001% of California's total 2004 emissions" (*Id.*)¹¹ The DEIR also states that "[a]dditional unknown quantities of greenhouse gases would be emitted as part of the CVSP construction process from the manufacture and transport of building materials and the operation of construction equipment." (*Id.* at p. 418.)

After the preceding discussion, the climate change section of the DEIR states that the CVSP will not have an individually discernable effect on global climate change, reasoning that "it is more appropriate to conclude the substantial CVSP greenhouse gas emissions will combine with emissions across California, the U.S., and the globe to cumulatively contribute to global climate change." (*Id.* at p. 420.) The section then summarily ends, the City concluding that because there is no existing numerical, regulatory threshold against which to gauge the cumulative significance of global warming impacts, making a determination of significance for the CVSP project "would be speculative." (*Id.*)

¹¹The City summarily states elsewhere in the Global Climate Change section that "the greenhouse gases generated [by CVSP] are related to growth that will occur elsewhere in the region, if not in the Coyote Valley." (DEIR at p. 418.) It is not clear how this statement, addressing hypothetical, alternative development, fits into the DEIR's emissions discussion or whether the City believes it is relevant under CEQA. In any event, such conclusory statements, unsupported by facts or analysis, are insufficient under CEQA. (See *Laurel Heights Improvement Assn. v. Regents of Univ. of Cal.* (1988) 47 Cal.3d 376, 403-405.)

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The City as Lead Agency is Required to Determine Significance

CEQA assigns to a lead agency the responsibility to determine whether an impact is significant. This is a fundamental and essential task: the finding triggers the lead agency's obligation to analyze and require feasible mitigation.¹²

"For each significant effect identified in the EIR, the agency must make one or more of the following findings: (1) that changes or alterations have been required in, or incorporated into, the project that avoid or substantially lessen the effect; (2) that the lead agency lacks jurisdiction to make the change, but that another agency does have such authority; and/or (3) that specific economic, social, or other considerations make infeasible the mitigation measures or project alternatives identified in the final EIR."¹³ The agency must ensure that measures to mitigate or avoid significant effects on the environment are fully enforceable and must adopt a monitoring program to ensure that the mitigation measures are implemented.¹⁴

The City notes in the DEIR that AB 32's implementing regulations are forthcoming, but not yet promulgated. (DEIR at p. 415.) The City then uses this fact to excuse itself from the obligation to determine significance under CEQA, stating:

To determine whether the proposed CVSP project would have a significant impact associated with global climate change, in light of the fact that there exists no numerical threshold for such an impact, would be speculative. For this reason, a determination of significance cannot be made.

(DEIR at p. 420.)

While the City is correct that there are currently no regulatory thresholds for significance relating to global warming impacts, this does not relieve a lead agency of its statutory obligation under CEQA to determine whether or not a project's impacts are significant. As the CEQA Guidelines note, "[a]n ironclad definition of significant effect is not always possible"¹⁵ In the future, there may well be "an approved plan or mitigation program which provides specific requirements that will avoid or substantially lessen the cumulative problem" of GHG emissions and global

¹²(Pub. Res. Code, § 21002.1, subd. (b).)

¹³(*Sacramento Old City Assn. v. City Council* (1991) 229 Cal.App.3d 1011, 1034 [citing Pub. Res. Code, § 21081]; see also *County of San Diego v. Grossmont-Cuyamaca Community College Dist.* (2006) 141 Cal.App.4th 86, 100.)

¹⁴(*Federation of Hillside and Canyon Assns. v. City of Los Angeles* (2000) 83 Cal.App.4th 1252, 1261 [citing Pub. Res. Code, § 21081.6].)

¹⁵(Cal. Code Regs., tit. 14, § 15064, subd. (b).)

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warming impacts,¹⁶ but until that time, lead agencies must rely only on their own "careful judgment ... based to the extent possible on scientific and factual data"¹⁷ in determining whether a project's global warming-related impacts are significant.

To comply with CEQA, the City must revise the DEIR to make a determination of whether CVSP's contribution to the problem of global warming is cumulatively considerable.

California's Requirements for Reduction of GHG Emissions set a Reasonable Benchmark for Determining the Cumulative Significance Global Warming Impacts

CEQA and its implementing regulations require that an EIR address the cumulative impacts of a project when its incremental effect is cumulatively considerable. "[C]umulatively considerable" means that the incremental effects of an individual project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects."¹⁸

Courts have rejected the argument that a project has no cumulatively considerable impacts simply because it is contributing only a relatively small percentage to a larger environmental problem.¹⁹ To take an example, in the seminal case of *Kings County Farm Bureau v. City of Hanford*, the Fifth Appellate District Court of Appeal court rejected the conclusion in a DEIR that a project's contributions to ozone levels in the area would be insignificant because they would be "relatively minor ... compared to the total volume of [ozone] precursors emitted in Kings County."²⁰ The court noted that the DEIR impermissibly used "the magnitude of the current ozone problem in the air basin in order to trivialize the project's impact."²¹ In the court's words:

The point is not that, in terms of ozone levels, the proposed Hanford project will result in

¹⁶(See Cal. Code Regs., tit. 14, § 15064, subd. (h)(3).) Even with such a program in place, a lead agency must determine whether a project's effects may still be cumulatively considerable. (*Id.*)

¹⁷(Cal. Code Regs., tit. 14, § 15064, subd. (b).)

¹⁸(Cal. Code Regs., tit. 14, § 15130, subd. (a).)

¹⁹(*Communities for a Better Environment v. Cal. Resources Agency* (2002) 103 Cal.App.4th 98, 119-120.) This does not mean, however that contributing "one molecule" to an existing environmental problem necessarily creates a significant cumulative impact. (*Id.*)

²⁰(*Kings County Farm Bureau v. City of Hanford* (1990) 221 Cal.App.3d 692, 718.)

²¹(*Id.*)

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the ultimate collapse of the environment into which it is placed. The significance of an activity depends on the setting.... The relevant question to be addressed in the EIR is not the relative amount of precursors emitted by the project when compared to preexisting emissions, but whether any additional amount of precursor emissions should be considered significant in light of the serious nature of the ozone problems ²²

Global warming is a quintessentially cumulative impact, caused by the added effects of countless individual projects at the local, regional, state, national and international level.²³ As discussed, we must expect potentially catastrophic consequences unless decision makers take specific action to change our current "business as usual" emissions trajectory. The relevant question is whether any additional contribution to the problem should be considered significant in light of these serious consequences.

Executive Order S-3-05 and the passage of AB 32, the Global Warming Solutions Act of 2006, which set State targets to reduce emissions to 1990 levels by 2020, and to 80% below 1990 levels by 2050, provide a relevant benchmark for determining significance. Where a project's direct and indirect GHG-related effects, considered in the context of the existing and projected cumulative effects, may interfere with California's ability to achieve its GHG reduction requirements, the project's global warming-related impacts must be considered cumulatively significant.

The City should in its revised document evaluate whether the global warming impacts of the CVSP will be significant. We acknowledge that the determination is for the City, as lead agency, to make in the first instance. We note, however, that by any objective standard, 500,000 metric tons per year would appear to be a considerable contribution. By comparison, many of the "early action measures" for reducing greenhouse gases identified by the California Air Resources Board are in the range of, or substantially less than, 500,000 metric tons.²⁴ Moreover, the City's estimate may understate the Project's emissions, as it excludes other potentially important

²²(*Id.* [citation omitted].)

²³The City asserts that "the ultimate solution is a national policy addressing greenhouse gas emissions and global climate change, rather than piecemeal state-by-state or city-by-city approaches. (DEIR at p. 419.) While a national GHG emissions policy is certainly overdue, the fact that there is inaction at the federal level does not excuse a lead agency from its obligation under State law to address cumulative impacts related to global warming. And, as the U.S. Supreme Court has noted, "massive problems" generally are not resolved in "one fell regulatory swoop." (*Mass. v. EPA* (2007) __ U.S. __, 127 S.Ct. 1438, 1457.)

²⁴(See http://www.climatechange.ca.gov/climate_action_team/reports/2007-04-20_ARB_early_action_report.pdf.)

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sources of emissions, e.g., emissions during the construction phase related to equipment operation and building and road materials. In determining whether the incremental effects of the Project are cumulatively considerable, the City should not limit its consideration only to vehicle emissions and electricity at build-out.²⁵ We attach to this letter a chart setting forth publicly available modeling tools that may be useful in estimating a project's emissions.

If the Global Warming-Related Impacts of the CVSP Project are Cumulatively Significant, the City Must Impose Feasible Mitigation Measures

If the City of San José determines that the global warming-related impacts of the CVSP are cumulatively significant, it must discuss those impacts in the DEIR and "examine reasonable, feasible options for mitigating or avoiding the project's contribution" to the problem.²⁶ A lead agency must "mitigate or avoid the significant effects on the environment of projects that it carries out or approves *whenever it is feasible to do so*."²⁷ The agency must ensure that "measures to mitigate or avoid significant effects on the environment are fully enforceable through permit conditions, agreements, and other measures."²⁸

Assuming that the global warming-related impacts of the Project are significant, the DEIR, as written, does not satisfy CEQA. While the DEIR contains a one-page section entitled "Strategies to Reduce Greenhouse Gas Emissions" (DEIR at p. 419), it states in very general terms only what *could* be done – "the City could prepare a Global Warming Mitigation Program for the CVSP project describing required efforts to reduce energy consumption" – rather than what *will* be done. The DEIR notes a few non-enforceable conservation measures, stating, for example, that the Project "encourages" solar energy and other non-fossil fuel energy sources. It also states summarily that the Project has been designed to promote non-auto modes of transportation, but does not discuss in any detail whether and how the new community will help California move away from a "business as usual" emissions trajectory and toward the State's 25% emissions reduction requirement by 2020.

Clearly, there are a number of practical and feasible mitigation measures that could reduce this Project's contribution to the problem of global warming. As the City suggests (see DEIR at p.

²⁵(Cal. Code Regs., tit. 14, § 15126 ["All phases of a project must be considered when evaluating its impact on the environment: planning, acquisition, development, and operation."])

²⁶(Cal. Code Regs., tit. 14, § 15130, subd. (b)(5).)

²⁷(*City of Marina Board of Trustees* (2006) 39 Cal.4th 341, 360 [emphasis added]; see also Pub. Res. Code § 21002.1, subd. (b).)

²⁸(Pub. Res. Code, § 21081.6; *Federation of Hillside and Canyon Associations*, *supra*, 83 Cal.App.4th at p. 1261.)

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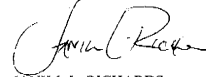
419), it may be that some of the mitigation measures imposed for other impacts, for example, those discussed for transportation and traffic, could also serve to mitigate in part the Project's global warming-related impacts. If that is the case, the City should identify those measures and specifically discuss how and to what extent they mitigate greenhouse gas emissions. We attach to this letter a non-exhaustive list of measures that local agencies may take or require to reduce GHG emission, and of some of the many publically available resources that may assist local agencies in the fight against global warming.

Conclusion

The City has noted that "this is truly a situation where San José can 'think globally, and act locally' and lead by example in adopting policies and programs to limit the production of greenhouse gases associated with the CVSP." (DEIR at p. 419.) We agree and believe that the CVSP, through design and mitigation, could be a bellwether community, setting an example for California and the nation.

We appreciate the opportunity to comment on the document and would be happy to meet with City staff to discuss these comments.

Sincerely,



JANILL L. RICHARDS
Deputy Attorney General

For EDMUND G. BROWN JR.
Attorney General

Attachments:

Modeling Tools to Estimate Climate Change Emissions Impacts of Projects/Plans
Mitigation Measures and Global Warming Resources

Modeling Tools to Estimate Climate Change Emissions Impacts of Projects/Plans

Tool	Availability	Scope Local/Regional	Scope Transp/Buildings	Data Input Requirements	Data Output
URBEMIS	- Download - Public domain (free)	Local project level	- Transportation - Some building (area source) outputs - Construction	- Land use information - Construction, area source, and transportation assumptions	- VMT per day (related to CO₂ and methane) - Mitigation impacts
Clean Air and Climate Protection (CACP) Software	- Download - Available to public agencies (free)	Local project level	- Buildings - Communities - Governments	- Energy usage - Waste generation and disposal - Transportation usage	eCO₂ (tons per year)
Sustainable Communities Model (SCM)	Custom model	Regional, scalable	- Transportation - Master planned communities	- Location and site specific information - Transportation assumptions - On-site energy usage	eCO₂ (tons per year)
I-PLACE's	- Web-based - Small access fee - Full model now available in eight CA counties	Regional, scalable to site level	- Transportation - Buildings - Infrastructure (wastewater, street lights, etc.)	- Parcel level land use data (can work with less data) - Project-level data for alternative comparisons	- CO₂ (any quantity over any time) - Provides for immediate comparison of alternatives
EMFAC	- Download - Public domain (free)	- Statewide - Regional (air basin level)	Transportation emission factors	Used with travel demand and other models to calculate CO₂ impacts of projects.	CO₂ and methane (grams per mile) emission factors
Climate Action Registry Reporting On-Line Tool (CARROT)	- Web-based - Available to Registry members	Regional, scalable to entity and facility level	- General - Specific protocols for some sectors	Uses inputs such as fuel and electricity use, VMT to estimate emissions of each GHG	Each GHG and eCO₂ (tons per year)

VMT = Vehicle miles traveled
Criteria pollutant = Nitrogen oxides (NO_x), reactive organic gases (ROG), carbon dioxide (CO), sulfur dioxide (SO₂), particulate matter (PM)
eCO₂ = Carbon dioxide equivalent emissions
Note: This is not meant to be a definitive list of modeling tools to estimate climate change emissions impacts. Other tools may be available.

(May 2007)

Descriptions of Modeling Tools

URBEMIS The Urban Emissions Model (URBEMIS) is currently being used extensively during the CEQA process by local air districts and consultants to determine criteria pollutant impacts of local projects. URBEMIS uses the ITE Trip Generation Rate Manual and the Air Resources Board's (ARB) motor vehicle emissions model (EMFAC) for transportation calculations. Area source outputs include natural gas use, landscaping equipment, and fireplaces. It also estimates construction impacts and impacts of mitigation options. An updated version with CO2 outputs may be available soon. In the interim, CO2 factors (pounds per mile) provided by ARB could be used to convert VMT per day into CO2 per day. Web site: <http://www.urbemis.com>

Clean Air and Climate Protection (CACPP) Software. This tool is available to state and local governments and members ofICLEI, NACAA, NASEO and NARUC to determine greenhouse gas and criteria pollutant emissions from government operations and communities as a whole. The user must input aggregate information about energy usage, waste (quantity and type generated, disposal method), and methane recovery at a regional level (MT) for each community. The tool calculates greenhouse gas emissions from energy use, waste, and methane recovery. It also calculates criteria pollutant emissions from EPA, DOE, and DOT to translate the energy, waste and transportation inputs into greenhouse gas (in carbon dioxide equivalents) and criteria air pollutant emissions. If associated energy, waste and transportation reduction are provided, the model can also calculate emission reductions and money saved from policy alternatives. Web site: <http://cacppsoftware.org>

Sustainable Communities Model (SCM). This model quantifies total eCO2 emissions allowing communities the ability to optimize planning decisions that result in the greatest environmental benefit for the least cost. SCM has been used by a number of master planned communities, but it could also be used for neighborhoods and smaller developments. Total eCO2 emissions are based on emissions from energy usage, water consumption and transportation. SCM uses published data sets for data input such as ARB's EMFAC for transportation calculations. The model provides a comparison of various scenarios to provide environmental performance, economic performance, and cost benefit analysis. Web site: <http://www.sdg-net.com/energy/SCM/News/SCM.html>

I-PLACE'S is an internet-accessed land use and transportation model designed specifically for regional and local governments to help understand how their growth and development decisions can contribute to improved sustainability. I-PLACE'S calculates CO2, energy pollutants (energy use, greenhouse gas, and criteria pollutants) for existing, long-term, and future land use patterns and transportation patterns. I-PLACE'S is currently being used in San Diego, San Luis Obispo, and the six-county San Joaquin Hills region. It includes a public participation process and technical analyses efforts for regional planning. The data input requirements are extensive and require a fiscal commitment from local government. The benefits include a tool that can provide immediate outputs to compare various alternatives during public meetings, as well as provide access for local development project CEQA analyses. Possible future modifications could include a stand-alone tool that would allow project-level analyses of land uses (buildings) without extensive regional data input requirements. Web site: <http://www.energy.ca.gov/places/>; <http://places.energy.ca.gov/places>

EMFAC. The Air Resources Board's EMission FActors (EMFAC) model is used to calculate emission rates from all motor vehicles (passenger cars to heavy-duty trucks) in California. The model includes emission factors for CO2, methane, and criteria pollutants. The emission factors are combined with data on vehicle activity (miles traveled and average speeds) to assess emission impacts. California local governments use EMFAC in concert with their travel demand models to assess impacts of transportation plans. The URBEMIS model described above uses EMFAC to calculate the transportation emission impacts of local projects. Web site: <http://www.arb.ca.gov/mse/online/online.html>

Climate Action Registry Reporting On-Line Tool (CARROT). The California Climate Action Registry uses the Climate Action Registry Reporting On-Line Tool (CARROT) for registry members to report their greenhouse gas emissions and calculate GHG emissions from energy, fuel use, and travel estimates made by the user. While use of the tool is optional, the Registry makes its protocols available to the public. The general reporting protocol is available at <http://www.climateactionregistry.org/protocols/2012/2012-1.pdf>. Specific reporting protocols are also available for reporting by the cement, forestry, and power/fuel sectors and are being developed for additional sectors. Website: <http://www.climateactionregistry.org/CARROT/>

(May 2007)

Mitigation Measures and Global Warming Resources

(1) Global Warming Mitigation Measures

The following are some examples of the types mitigation that local agencies may consider under the California Environmental Quality Act (CEQA) to offset or reduce global warming impacts. The list, which is by no means exhaustive or obligatory, includes measures and policies that could be undertaken directly by the local agency, incorporated into the agency's own "Climate Action Plan," or funded by "fair share" mitigation fees; measures that could be incorporated as a condition of approval of an individual project; and measures that may be outside the jurisdiction of the local agency to impose or require but still appropriate for consideration in an agency's environmental document.

While the lead agency must determine which particular mitigation measures, or suite of measures, is appropriate and feasible for a particular project, proponents of individual private projects are encouraged to take an active role in developing and presenting to lead agencies new and innovative ways to address the impacts of global warming.

Transportation

- Coordinate controlled intersections so that traffic passes more efficiently through congested areas. Where signals are installed, require the use of Light Emitting Diode (LED) traffic lights.¹
- Set specific limits on idling time for commercial vehicles, including delivery and construction vehicles.
- Require construction vehicles to use retrofit emission control devices, such as diesel oxidation catalysts and diesel particulate filters verified by the California Air Resources Board (CARB).²
- Promote ride sharing programs e.g., by designating a certain percentage of parking spaces for high-occupancy vehicles, providing larger parking spaces to accommodate vans used for ride-sharing, and designating adequate passenger loading and unloading and waiting areas.
- Create car-sharing programs. Accommodations for such programs include providing parking spaces for the car-share vehicles at convenient locations accessible by public transportation.³
- Require clean alternative fuels and electric vehicles.
- Develop the necessary infrastructure to encourage the use of alternative fuel vehicles (e.g., electric vehicle charging facilities and conveniently located alternative fueling stations).⁴
- Increase the cost of driving and parking private vehicles by imposing tolls, parking fees, and residential parking permit limits.

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- Develop transportation policies that give funding preference to public transit.⁵
- Design a regional transportation center where public transportation of various modes intersects.
- Encourage the use of public transit systems by enhancing safety and cleanliness on vehicles and in and around stations.
- Assess transportation impact fees on new development in order to facilitate and increase public transit service.⁶
- Provide shuttle service to public transit.
- Offer public transit incentives.
- Incorporate bicycle lanes into street systems in regional transportation plans, new subdivisions, and large developments.
- Create bicycle lanes and walking paths directed to the location of schools and other logical points of destination and provide adequate bicycle parking.⁷
- Require commercial projects to include facilities on-site to encourage employees to bicycle or walk to work.
- Provide public education and publicity about public transportation services.⁸

Energy Efficiency and Renewable Energy

- Require energy efficient design for buildings.⁹ This may include strengthening local building codes for new construction and renovation to require a higher level of energy efficiency.
- Adopt a "Green Building Program" to promote green building standards.¹⁰
- Fund and schedule energy efficiency "tune-ups" of existing buildings by checking, repairing, and readjusting heating, ventilation, air conditioning, lighting, hot water equipment, insulation and weatherization. (Facilitating or funding the improvement of energy efficiency in existing buildings could offset in part the global warming impacts of new development.)
- Provide individualized energy management services for large energy users.
- Require the use of energy efficient appliances and office equipment.¹¹
- Fund incentives and technical assistance for lighting efficiency.¹²
- Require that projects use efficient lighting. (Fluorescent lighting uses approximately 75% less energy than incandescent lighting to deliver the same amount of light.)
- Require measures that reduce the amount of water sent to the sewer system. (Reduction in water volume sent to the sewer system means less water has to be treated and pumped to the end user, thereby saving energy.)¹³
- Incorporate on-site renewable energy production (through, e.g., participation in the California Energy Commission's New Solar Homes Partnership). Require project proponents to install solar panels, water reuse systems, and/or other systems to capture energy sources that would otherwise be wasted.¹⁴

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- Streamline permitting and provide public information to facilitate accelerated construction of solar and wind power.
- Fund incentives to encourage the use of energy efficient equipment and vehicles.¹⁵
- Provide public education and publicity about energy efficiency programs and incentives.

Land Use Measures

- Encourage mixed-use and high-density development to reduce vehicle trips, promote alternatives to vehicle travel and promote efficient delivery of services and goods. (A city or county could promote "smart" development by reducing developer fees or granting property tax credits for qualifying projects.¹⁶)
- Discourage "leapfrog" development. Enact ordinances and programs to limit sprawl.¹⁷
- Incorporate public transit into project design.¹⁸
- Require measures that take advantage of shade, prevailing winds, landscaping and sun screens to reduce energy use.
- Preserve and create open space and parks. Preserve existing trees and require the planting of replacement trees for those removed in construction.
- Impose measures to address the "urban heat island" effect by, e.g., requiring light-colored and reflective roofing materials and paint; light-colored roads and parking lots; shade trees in parking lots; and shade trees on the south and west sides of new or renovated buildings.¹⁹
- Facilitate "brownfield" development. (Brownfields are more likely to be located near existing public transportation and jobs.)
- Require pedestrian-only streets and plazas within developments, and destinations that may be reached conveniently by public transportation, walking, or bicycling.²⁰

Solid Waste Measures

- Require projects to reuse and recycle construction and demolition waste.
- Implement or expand city or county-wide recycling and composting programs for residents and businesses.
- Increase areas served by recycling programs
- Extend the types of recycling services offered (e.g., to include food and green waste recycling).
- Establish methane recovery in local landfills and wastewater treatment plants to generate electricity.²¹
- Provide public education and publicity about recycling services.

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(2) General Resources

The following web sites and organizations provide general information about mitigating global warming impacts at the local level. These sites represent only a small fraction of the available resources. Local agencies are encouraged to conduct their own research in order to obtain the most current and relevant materials.

- The U.S. Conference of Mayors' Climate Action Handbook contains valuable information for the many local agencies that are joining the fight against global warming. The Handbook is available at the City of Seattle's Climate Action Plan website: <http://www.cityofseattle.net/climate/docs/ClimateActionHandbook.pdf>.
- Local Governments for Sustainability, a program of International Cities for Local Environmental Initiatives (ICLEI), has initiated a campaign called Cities for Climate Protection (CCP). The membership program is designed to empower local governments worldwide to take action on climate change. Many California cities have joined ICLEI. More information is available at the organization's website: <http://www.iclei.org/>.

(3) Notes

1. For a discussion of the use of LED traffic lights, see the City of Berkeley's Resource Conservation and Global Warming Abatement Plan at <http://www.baaqmd.gov/pln/GlobalWarming/BerkeleyClimateActionPlan.pdf>.
2. See www.arb.ca.gov/diesel/verdev/verdev.htm and www.epa.gov/ispd/pdf/emission_0307.pdf.
3. There are a number of car sharing programs operating in California, including City CarShare <http://www.citycarshare.org/>, Zip Car <http://www.zipcar.com/> and Flexcar <http://www.flexcar.com/>.
4. See the City of Santa Monica's Green Building Program at <http://www.greenbuildings.santa-monica.org/transportation/parkingcharging.html>.
5. San Francisco's "Transit First" Policy is listed in its Climate Action Plan, available at <http://www.sfenvironment.com/aboutus/cenergy/cap.htm>.
6. San Francisco assesses a Downtown Transportation Impact Fee on new office construction and commercial office space renovation within a designated district. The fee is discussed in the City's Climate Action plan. See Note 5.
7. See Marin County's Safe Routes to Schools program at <http://www.saferoutestoschools.org/>.

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8. The U.S. Conference of Mayors' Climate Action Handbook, cited above, lists education and outreach as key components to taking action against global warming.
9. Leadership in Energy and Environmental Design (LEED) administers a Green Building Ratings program that provides benchmarks for the design, construction, and operation of high-performance green buildings. More information about the LEED ratings system is available at <http://www.usgbc.org/DisplayPage.aspx?CategoryID=19>.
10. The City of Santa Monica has instituted a Green Building Program. See <http://www.greenbuildings.santa-monica.org/>.
11. Energy Star is a joint program of the U.S. Environmental Protection Agency and the U.S. Department of Energy that certifies energy efficient products and provides guidelines for energy efficient practices for homes and businesses. More information about Energy Star certified products is available at <http://www.energystar.gov/>.
12. As described in its Climate Action Plan, the City of San Francisco uses a combination of incentives and technical assistance to reduce lighting energy use in small businesses such as grocery stores, small retail outlets, and restaurants. The program offers free energy audits and coordinated lighting retrofit installation. In addition, the City offers residents the opportunity to turn in their incandescent lamps for coupons to buy fluorescent units. See Note 5.
13. The City of Berkeley's Resource Conservation and Global Warming Abatement Plan includes information about strategies for promoting the use of low flush toilets and shower heads. See Note 1.
14. At the direction of Governor Schwarzenegger, the California Public Utilities Commission (CPUC) approved the California Solar Initiative on January 12, 2006. The initiative creates a \$3.3 billion, ten-year program to install solar panels on one million roofs in the State. See <http://www.gosolarcalifornia.ca.gov/nshp/index.html>.
15. In March 2007, the League of California Cities (LOCC) Climate Change Working Group drafted proposed Climate Change Policies and Guiding Principles for the League. The draft principles (March 30, 2007) can be found on the LOCC website at http://www.cacities.org/resource_files/25656.FIQ%20high3-07%20REVISED.pdf.
16. The City of Berkeley has endorsed this strategy in its Resource Conservation and Global Warming Abatement Plan. See Note 1.
17. Samples of local legislation to reduce sprawl are set forth in the U.S. Conference of Mayors' Climate Action Handbook, cited above.

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18. The U.S. Conference of Mayors cites Sacramento's Transit Village Redevelopment as a model of transit-oriented development. More information about this project is available at <http://www.cityofsacramento.org/planning/projects/65th-street-village/>.
19. See Lawrence Berkeley National Laboratory's "Cool Roofing Materials Database" prepared by the Laboratory's Heat Island Project at <http://cctd.lbl.gov/coolroof/> and U.S. EPA's Heat Island site at www.epa.gov/heatisland/.
20. Palo Alto's Green Ribbon Task Force Report on Climate Protection recommends pedestrian streets under its proposed actions. See <http://www.city.palo-alto.ca.us/greenribbon/index.html>.
21. San Diego's Metropolitan Wastewater Department installed eight "digesters" at one of its wastewater treatment plants. Digesters use heat and bacteria to break down the organic solids removed from the wastewater to create methane. See <http://www.sandiego.gov/mwwd/facilities/ploma.shtml>.



U.S. GREEN BUILDING COUNCIL

September 10, 2007

Martha Blake
Senior Planner
City of San Diego, Development Services Department
1222 First Avenue, MS501
San Diego, CA 92101

RE: Westfield UTC – Project Number 2214

Dear Ms. Blake:

The San Diego Chapter of the U.S. Green Building Council appreciates the opportunity to provide input on what we believe can be a model project for the San Diego region and for shopping center development throughout the country.

Westfield has committed themselves to seeking LEED certification on the development and construction of the shopping center. LEED certification is the nationally accepted benchmark for the design, construction, and operation of high performance green buildings. LEED gives building owners and operators the tools they need to have an immediate and measurable impact on their buildings' performance. LEED promotes a whole-building approach to sustainability by recognizing performance in five key areas of human and environmental health: sustainable site development, water savings, energy efficiency, materials selection, and indoor environmental quality.

Westfield has been accepted as a pilot project for the newly developed LEED for Neighborhood Development (ND) program. The LEED[®] for Neighborhood Development Rating System integrates the principles of smart growth, new urbanism, and green building into the first national standard for neighborhood design. LEED certification provides independent, third-party verification that a development's location and design meet accepted high standards for environmentally responsible, sustainable, development. We believe that the LEED-ND program will be a model for the development of sustainable neighborhoods. Westfield UTC's location in an urban node of the City, with concentrated business and residential development all served by an on-site transit center, make it a natural for the LEED-ND program.

Westfield Corporation has committed itself to a high standard in environmental design and we support their effort to move toward more sustainable development by using the LEED for Neighborhood Development (ND) program. We understand that the City of San Diego has also set goals to reduce greenhouse gas emissions and make San Diego a stand-out in the sustainable development field. The Westfield UTC project will be an excellent beginning to fulfill the City's goals for this type of smart growth.

The U.S. Green Building Council – San Diego Chapter supports the project and looks forward to welcoming Westfield-UTC into the ranks of LEED certified projects.

Sincerely,

Stephen L. Kapp, CEM, CD&M, LEED-AP
President
U.S. Green Building Council – San Diego Chapter

15.1 Comment noted. No issues regarding the adequacy of the EIR are identified.

15.1

COMMENTS

RESPONSES

August 13, 2007

Martha Blake
Senior Planner
City of San Diego Development Services
1222 First Ave., MS 501
San Diego, CA 92101

Dear Ms. Blake:

The Vista La Jolla Homeowners Association would like to take this opportunity to register our strong opposition to the proposed Westfield UTC expansion program.

The impact of increased traffic congestion, air quality, noise, variance from height restrictions and impact on city services is noted with concern.

Additionally, the proposed expansion will have a direct impact on the quality of life of the Vista La Jolla homeowners as our development of single family homes directly adjoins the southern boundary of the existing center.

Your continued attention to the serious impact of this proposed expansion is requested.

Sincerely,



W.C. Rogers
Vice President, VLJ HOA

16.1 The commenter's opposition to the proposed project is noted. Potential impacts related to transportation/circulation, air quality, noise, aesthetics/visual quality, and public utilities are discussed in Sections 5.2, 5.3, 5.4, 5.7 and 6.3.7 of the EIR.

COMMENTS

RESPONSES

17.1

From: Matt Ashby [ashbym@taxon.com]
Sent: Wednesday, October 10, 2007 9:46 AM
To: DSDEAS@sandiego.gov
Subject: Project Number 2214
Greetings,

I recently heard about plans to expand the Westfield mall and I would like to convey my strong opposition to such a project. As if the area is not congested enough as it is, you are considering a plan to add more development and decrease the already embarrassingly small amount of open space that remains. This plan makes no sense whatsoever and should be thrown in the trash where it belongs.

Sincerely,

Matt Ashby

17.1. Comment noted. As no issue regarding the adequacy of the EIR is identified, no further response can be made.

COMMENTS

RESPONSES

18.1

From: Luciana Astiz [lastiz@ucsd.edu]
Sent: Wednesday, October 10, 2007 10:23 AM
To: DSDEAS@sanidiego.gov
Cc: info@rosecanyon.org
Subject: Project Number 2214
Dear Council Members,

I really do not understand why UTC should be expanded. It is a very nice open mall that serves well our community as is. No major modifications should be needed. Westfield is already built to the maximum allowed on its property. It is proposing a community plan amendment that would give it a huge increase in what it is entitled to develop on the same land. The DEIR should explain what justification there is to vastly increase the value of Westfield's property by giving them all these new development rights. The DEIR fails to describe what exactly Westfield will build. The DEIR must describe exactly what will be built.

I am sure you will consider this issue seriously and will take into consideration the input of the community.

Sincerely,
Luciana Astiz (UC resident for 13 years)

18.1 According to Section 210021.1(a), the purpose of an EIR is to identify the significant effects on the environment, identify alternatives, and to indicate how significant effects can be mitigated or avoided. CEQA does not require "justification" for the applicant's proposal. Please refer to response to comment 9.3 for a discussion of the level of detail required for the project description.

COMMENTS

RESPONSES

19.1

From: Bernetsky Denice [dbernetsky@sandi.net]
Sent: Wednesday, September 19, 2007 10:09 PM
To: DSDEAS@sandiego.gov
Cc: scottpeters@sandiego.gov
Subject: UTC Revitalization Project

I am opposed to the 250 Multi-family dwelling units, 750 dwelling units, and 250 hotel rooms that Westfield Corp wants to build in the UTC area. I would like to see the city place a 10 year multi-family dwelling building moratorium so no more multi family units can be build in UTC. There is no more buildable space in the UTC Community and I am appalled that they are trying to stack these Multi-family units into the sky. There is already too much traffic in the area and building more multi-family units will only gridlock the area during all hours a day. Please think of how this will impact the future instead of letting the "almighty dollar" and "greed" take the best of you and our community. I am a home owner in the UTC area and I am not paying taxes in this area so they can overbuild it and create more traffic so it takes me 30 minutes to drive down Governor Drive and Genesee. I believe there are other areas where you can build.

Denice A. Bernetsky
5871 Tulane Street
San Diego, CA 92122
dbernetsky@sandi.net

19.1 The commenter's opposition to the project is noted. As no issue regarding the adequacy of the EIR is identified, no further response can be made.

COMMENTS

RESPONSES

From: cgbischoff@aol.com
Sent: Wednesday, October 10, 2007 12:30 AM
To: DSDEAS@sandiego.gov
Cc: info@rosecanyon.org
Subject: Westfield Expansion

TO: DSDEAS

I am a twenty year resident of UC, and
I am opposed to Westfield's proposed high rise planning.

As a retired architect having served the County of San Diego for over twenty years and familiar with high rise construction in downtown San Diego, and I am alarmed at the proposal for 35 story high rise buildings in University City, a class of buildings totally out of character with the prevailing residential and business use development. I don't believe there are any 35 story, 300 foot high rise residential towers in downtown San Diego, and this is only University City. Three hundred foot high towers in UTC would look like white elephants and a mistake.

Rather, please propose softer development fitting in with current community planning.

20.1

20.1

The commenter's opposition to the project is noted. Refer to response to comment 9.106 from the University Community Planning Group for a discussion of building heights.

COMMENTS

RESPONSES

From: Kim B {kimbolivar1@hotmail.com}
Sent: Wednesday, October 10, 2007 12:54 PM
To: dsdeas@sanidiego.gov
Subject: Westfield Expansion

To whom it may concern,

21.1

"I use Rose Canyon Open Space Park for walking, running, biking, and nature walks. The Draft EIR assumes the proposed Regents Road bridge project would be built, which would relieve traffic generated by the Westfield mega expansion. This would ruin the most scenic and peaceful area of Rose Canyon Park, used by school groups, scouts, and individuals. How will the Westfield mega expansion mitigate for this? Given that the project will add up to 750 units of housing, how will the project meet the increased need for parks when there is no land available for new parks and our community already has far fewer parks than city standards? How will the project meet the need for increased recreational and library facilities for these new residents? And what will be the impacts on parks and libraries of these new residents in combination with all the new residents in all the other residential projects being built?"

21.2

Thank you for your attention,

Kim Bolivar.

21.1 As discussed in response to comment 9.50 from the University Community Planning Group, the proposed Master PDP would not trigger the need for the Regents Road Bridge. Furthermore, as discussed in response to comment 9.60, impacts and mitigation resulting from construction of the Regents Road Bridge were analyzed in the UCNSTC EIR.

21.2 Please refer to response to comment 9.87 from the University Community Planning Group for a discussion regarding parks. The project applicant would be required to pay FBA fees, which is a funding mechanism for the North University City Public Facilities and Financing Plan, which includes enhancement to local libraries. Therefore, no significant library is identified. Also refer to response to comment 7.3 from SANDAG for further discussion regarding the FBA.

COMMENTS

RESPONSES

From: r b [ddloverddlover@yahoo.com] Sent: Wednesday, October 10, 2007 4:13 PM To: DSDEAS@sandiego.gov Cc: info@rosecanyon.org Subject: Project Number 2214			
I wish to comment upon the Draft Environmental Impact Report (DEIR) on the Westfield UTC expansion.			
22.1	I live very close to the UTC - within walking distance. I often walk, drive, and shop in the area, visiting UTC in the process. 1. To me, the magnitude of the expansion is very large. The area is already subject to considerable congestion. The DEIR would allow a vast expansion without limits. The expansion should be limited to a defined, quantified extent that is clearly stated and described. This is required by California environmental law.	22.1	Please refer to response to comment 9.3 from the University Community Planning Group for a discussion of the level of detail required for the project description.
22.2	2. The DEIR states that freeway ramps will become more congested. What is the justification for allowing this additional congestion, before the existing congestion is alleviated?	22.2	Please refer to response to comment 9.93 from the University Community Planning Group regarding the amount of traffic associated with the proposed project.
22.3	3. In addition, the DEIR assumes that the proposed Regents Road bridge project would be built. This is unjustified. There is considerable ongoing opposition to this bridge in the community. I firmly believe that the bridge will never be built. Adjustment to accommodate this strong likelihood is required in the report.	22.3	As discussed in response to comment 9.50 from the University Community Planning Group, the proposed Master PDP would not trigger the need for the Regents Road Bridge.
22.4	4. Currently the somewhat open area around UTC is encompassed by lawns and slopes that block many views of the parking lots and malls. These lend themselves to a park-like appearance. It would be unlikely that this appearance would be unaltered should this expansion be allowed. There is already a deficit of parkland in this area. The new residents of this and surrounding buildings will add to this deficiency. Considerable attention should be paid to this issue in the DEIR. Robert W. Byrnes 4018 Nobel Drive #305 San Diego, CA 92122 (858) 623-9756	22.4	Please refer to response to comment 9.87 from the University Community Planning Group for a discussion regarding parks.

COMMENTS

RESPONSES

23.1 23.1

From: David Chait [davidchait2@yahoo.com]
Sent: Tuesday, October 09, 2007 10:37 PM
To: DSDEAS@sandiego.gov
Subject: Westfield expansion

Can you please help control the growth in OUR community. We like it the way it is We do not want Westfield to get even bigger.

David Chait.

Resident of UTC

23.1 The commenter's opposition to the project is noted. As no issue regarding the adequacy of the EIR is identified, no further response can be made.

COMMENTS

RESPONSES

Ann M. Collins
5586-2 Renaissance Avenue
San Diego, CA 92122-5669
(858) 450-4477
am.collins@worldnet.att.net

August 21, 2007

Ms. Martha Blake, Senior Planner
City of San Diego Development Services Center
1222 First Avenue, MS 501
San Diego, CA 92101

Dear Ms. Blake:

24.1

I am writing to you about the proposed expansion to the UTC mall in North University City. I have lived just down the street from Sears, in the Renaissance community, for 10 years now. I am appalled at what Westfield America has in mind for the shopping center.

24.2

To add more housing in an area that is already so densely populated and will only get worse with the addition of all the units--many still under construction that weren't in the original permit--to the southwest of the La Jolla Village Drive/I-805 interchange (where the oco-terrorist fire occurred) is crazy.

24.3

In the *Union-Tribune* article I read about Westfield's plans, I have to wonder where the company plans to find the space to add additional lanes to La Jolla Village Drive and to widen the ramps to and from I-805. There is certainly no space to be found at the intersection of La Jolla Village Drive and Towne Centre Drive, where there are left-turn lanes involved. And to widen the ramps to I-805 makes no sense to me since that highway in that exact area is a traffic nightmare for several hours every weekday afternoon/evening. Adding more traffic to an already impossible bottleneck would be horrible. I have to wonder what Westfield is thinking. Perhaps they plan to pay to widen the highway itself.

24.4

All of this makes me think back to the Airport Authority's big plans to make the Miramar Air Station San Diego's commercial airport. I predict that the same sort of traffic problems that would have resulted if an international airport was put there will result if the Westfield project goes ahead.

24.5

The other day, I received in the mail Westfield's brochure, "Imagine the New UTC: A Revitalization of Westfield UTC." It truly reads like propaganda, especially when you notice the fine print on the back cover. "This brochure is illustrative only and does not constitute any warranty or representation

1

24.1

The commenter's opposition to the project is noted. As no issue regarding the adequacy of the EIR is identified, no further response can be made.

24.2

As discussed on page 5.3-49 of the EIR, the Civil Engineer has prepared a feasibility study on all proposed transportation/circulation mitigation measures. The Feasibility Report is included as Appendix U to the TIS (see EIR Appendix B).

24.3

Comment noted. Please refer to the TIS and Section 5.3 of the EIR for a discussion of transportation/circulation impacts.

24.4

Comment noted. As no issue regarding the adequacy of the EIR is identified, no further response can be made.

24.5

Comment noted.

COMMENTS

RESPONSES

24.5
cont. as to the proposed design, make-up, size, style, layout or appearance of Westfield UTC. We reserve the right, at our sole discretion, to vary the plans for the center at any time." I have little confidence in Westfield to do the right thing for the community or to even design what would be a good-looking project. When they took over the UTC mall, I immediately noticed a cheapening in the look of the mall. Carts and other unattached retail structures were added wherever Westfield could find the space for them. Shopping there reminds me of going to the San Diego County Fair. I do not consider this a quality shopping experience. Westfield's brochure talks about "Spacious outdoor plazas and courtyards" and "Inviting outdoor plazas." I have my doubts about that happening. Those plazas could easily get filled up with more carts.

24.6 The brochure also talks about what Westfield is calling "Torrey Trail," which is the greenbelt that starts at Towne Centre Drive and goes up to UTC, just below the ice rink. The brochure mentions "Scenic trails" and "Quiet walkways connecting with Palm Plaza." Note the use of the plural. I'm sorry, but there are housing projects on both sides of that greenbelt, and the greenbelt narrows as the current cement path gets closer to the mall. Where do they plan to put these trails and walkways?

24.7 If you have reviewed the brochure, you may have noticed that there is no mention of parking structures being added. In fact, one (near the ice rink) is to be eliminated in order to put up "Modern loft spaces with courtyards" and "Comfortable homes for young families." The only mention of parking is in what they are calling "Nobel Heights: Modern residences with separate parking." I should hope there would be separate parking. Aren't all new houses, condos, and apartments in San Diego required to provide a certain number of parking spaces as well as visitor parking?

24.8 The parking situation is already a problem at Christmastime, and next Christmas it will be worse because of the addition of the new Crate & Barrel building at the northeast corner of the mall property, which was built in what was formerly part of the parking lot near Sears. Perhaps Westfield hopes everyone will leave their cars at home and take the proposed trolley. Somehow, I don't think that's going to happen. UTC mall receives customers who, in my observation, are middle to upper class, many of them families shopping together or moms with young children in strollers. I really don't see that kind of customer arriving and leaving by trolley, especially when laden down with bags of merchandise.

24.9 Returning to the housing planned for the east side of the mall, I have to wonder about the impact those residents will have on Towne Centre Drive, which just became a divided road with a median in it. Getting in and out of the mall, specifically turning left onto Towne Centre Drive, can be

2

24.6 A discussion of Torrey Trail is included on page 3-11 of the EIR. Any park improvements constructed in the Torrey Trail area would be developed with input from the community and would take into account the adjacent residential housing.

24.7 Parking is discussed on pages 3-13 and 3-14 of the EIR, and is also discussed as Issue 3 in Section 5.3. As no issue regarding the adequacy of the EIR is identified, no further response can be made.

24.8 Parking is discussed on pages 3-13 and 3-14 of the EIR, and is also discussed as Issue 3 in Section 5.3. As discussed on page 5.3-72, impacts to the parking supply would be considered significant and mitigated to below a level of significance through the expansion of the existing off-site employee program during the month of December and incorporation of a monitoring program to ensure parking needs for the expanded center would be met.

24.9 The EIR has acknowledged potential impacts to Towne Centre Drive, and included Mitigation Measure MM 5.3-5, MM 5.3-7 and MM 5.3-8 to mitigate the impacts.

COMMENTS

RESPONSES

24.9

cont.

problematic due to the traffic. There are no signals, and adding any between Golden Haven and La Jolla Village Drive would slow traffic on that street even more. On weekends, when there is less traffic, I often ride my bike on Towne Centre Drive, and when I ride south from La Jolla Village Drive, I always worry that one of the cars waiting in line to exit the mall will run me over in their quest to get on the road. I call it "Beat the Bicyclist" because when that lull in car traffic arrives, the waiting driver doesn't want to wait for the cyclist to go by.

24.10

I'm sorry this letter is so long, but I hope you will take into consideration the issues I have raised. Please do not allow Westfield to go ahead with their grandiose plans. Do not allow them to add hotels, housing, and office space. Most especially, do not allow them to build over the current legal height limit (60 feet) for that area.

Thank you for your time.

Sincerely,

Ann Collins

Ann M. Collins

24.10

The commenter's opposition to the project is noted. As no issue regarding the adequacy of the EIR is identified, no further response can be made.

COMMENTS

RESPONSES

From: jcostel1@san.rr.com
Sent: Wednesday, October 10, 2007 7:40 AM
To: DSDEAS@sanidiego.gov
Subject: Project Number 2214
Project Number 2214

25.1

"The Draft EIR states that the project would add almost 18,000 new vehicle trips a day and would further clog the freeway ramps and local streets. What is the justification for building a project that is so dependent on auto traffic? The project should provide solutions to substantially reduce the traffic it generates. The DEIR states that freeway ramps will get worse. What is the justification for adding more traffic before the existing freeway problems are fixed?"

25.2

The project would allow Westfield to decide over time to build whatever combination of projects it wants: a vastly expanded mall in addition to up to four residential, office and hotel towers up to 35 stories tall. This vague "blank check" approach in an EIR violates California environmental law. San Diego may not have the water for more residents.

Regards

John Costello

6243 Buisson st.

UC resident and Voter

25.1

Please refer to response to comment 9.93 from the University Community Planning Group for a discussion of project traffic.

25.2

Please refer to response to comment 9.3 from the University Community Planning Group for a discussion of the level of detail required for the project description. Also refer to response to comment 9.26 from the University Community Planning Group for a discussion of water supply.

file:///G:/PROJECTS/Enviro/VWXYZ/WCI-02/Final%20EIR/Comment%20letters/25_Costello.htm [10/17/2007 11:03:19 AM]

COMMENTS

RESPONSES

26.1

From: Elle Dang [elledang@hotmail.com]

Sent: Wednesday, October 10, 2007 3:21 PM

To: dsdeas@sanidiego.gov

Subject: Project Number 2214

The proposed Westfield community plan will not only remove the "community" from the UTC area, but condemn it to a new low of mega concrete and traffic

The increased traffic (18,000 cars daily), construction and noise levels will seriously affect the quality of life of those who live in the area (35 foot buildings, 750 new units of living space).

Thank you,

L.Dang

UC resident

26.1

Comment noted. Various aspects which help define quality of life including air quality, noise, transportation/circulation and aesthetics/visual quality are discussed in the EIR.

COMMENTS

RESPONSES

27.1

From: LaRu DeKock [Ldekock@san.rr.com]
Sent: Wednesday, October 10, 2007 10:13 AM
To: DSDEAS@sanidiego.gov
Subject: Project 2214

Mayor and Council:

This is craziness. Since moving here five years ago, I have developed weepy eyes. My doctor says it's particulates from all the extra car exhausts. This UTC expansion, plus the 4 towers, the bridge and the widening of Genessee will bring thousands of more cars into what I thought was going to be a neat place to live. Then there's the traffic and noise. It's worse and worse. What was supposed to be a happy retirement in Renaissance is turning into the fall of Rome.

All my life I heard "It will be good for the economy", and I swallowed that, hook, line, and sinker. But, now, at 76, I am beginning to wake up and smell the coffee. Westfield may be good for the economy, but it will play havoc with the quality of life of all who live in north University City. Not fair. Who needs a second urban node in University City? Only the profiteers.

LaRu DeKock

27.1

As discussed in Section 5.4, no localized CO hotspot impacts would occur, therefore no potential health related impacts would occur. As discussed in Section 5.3, the EIR has acknowledged potential impacts to transportation/circulation. As discussed in Section 6.3.7, no significant impacts associated with long-term noise are anticipated.

COMMENTS

RESPONSES

From: rita deleo [njoylaxmiluv@yahoo.com]

Sent: Wednesday, October 10, 2007 2:31 PM

To: dsdeas@sanidiego.gov

Cc: Info@rosecanyon.org

Subject: Project Number 2214/Gross Over-development

To whom it may concern,

28.1

The Draft EIR states that the project would add almost 18,000 new vehicle trips a day and would further clog the freeway ramps and local streets. What is the justification for building a project that is so dependent on auto traffic? The project should provide solutions to substantially reduce the traffic it generates. The DEIR states that freeway ramps will get worse. What is the justification for adding more traffic before the existing freeway problems are fixed? What will be the full impact of adding years of construction traffic, especially in combination with other major construction projects such as the four Monte Verde Mega Towers across the street? Specifically, what will the November-December holiday traffic conditions be?

28.2

I use Rose Canyon Open Space Park for walking, running, biking, and nature walks. The Draft EIR assumes the proposed Regents Road bridge project would be built, which would relieve traffic generated by the Westfield mega expansion. This would ruin the most scenic and peaceful area of Rose Canyon Park, used by school groups, scouts, and individuals. How will the Westfield mega expansion mitigate for this? Given that the project will add up to 750 units of housing, how will the project meet the increased need for parks when there is no land available for new parks and our community already has far fewer parks than city standards? How will the project meet the need for increased recreational and library facilities for these new residents? And what will be the impacts on parks and libraries of these new residents in combination with all the new residents in all the other residential projects being built?

28.3

Instead of thinking about revenue, think about families and the type of neighborhoods we would all like to live in. Less crowded, quiet, safe, green. Think about COMMUNITY. And, please don't waste our money. This is not a development of land that is available, this is a gross over-development of land that is already used to its maximum capacity. Again, please do what's RIGHT for the community.
Sincerely,
Laxmi DeLeo

28.1

Please refer to response to comment 9.93 from the University Community Planning Group for a discussion of project traffic. Cumulative traffic is discussed in Sections 5.3 and 7.2.2. Please refer to response to comment 9.66 from the University Community Planning Group for a discussion of cumulative impacts with the Monte Verde project. Please refer to response to comment 9.51 from the University Community Planning Group for a discussion of holiday traffic.

28.2

Please refer to responses to comments 21.1 and 21.2 from Ms. Bolivar regarding Regents Road Bridge and funding of community facilities.

28.3

Comment noted. As no issue regarding the adequacy of the EIR is identified, no further response can be made.

COMMENTS

RESPONSES

29.1



From: judith dolan [dolan1950@hotmail.com]

Sent: Wednesday, October 10, 2007 3:16 PM

To: dsdeas@sanidiego.gov

Subject: UTC Mall Expansion

I think the expansion is excessive. The area is already very crowded.

Judith Dolan
4639 Governor Dr.
S.D., CA 921222

29.1

The commenter's opposition to the project is noted. As no issue regarding the adequacy of the EIR is identified, no further response can be made.

COMMENTS

RESPONSES

30.1

From: Jack Forman [jackforman@sbcglobal.net]
Sent: Tuesday, October 09, 2007 11:36 PM
To: DSDEAS@sanidiego.gov
Cc: info@rosecanyon.org.
Subject: Project #2214 - Westfield Expansion of UTC

As a resident of University City, I am strongly opposed to the expansion program proposed for UTC.

The current draft of the EIR fails to specify what will be built at UTC, except to note that it includes towers up to 35 stories high and 750 units of additional housing. University City is already densely populated, and very little undeveloped land is left in UC. The infrastructure of the community will not support additional population living in and traveling through the community. Unfortunately, Draft EIR for the proposed expansion project simply assumes that the Regents Road Bridge will be built and that Genesee Avenue will be widened. That is not at all certain, given the widespread local and regional opposition to both proposed traffic projects. And, it is also far from certain that the bridge and the expansion of Genesee Ave. will alleviate traffic problems during rush hour.

I am also opposed to the UTC expansion because it will negatively impact the community's aesthetic beauty. It will also probably increase the noise pollution in the UTC area, and according to the draft EIR, it will add significant amounts of pollution to the air. The only people who will profit from this misbegotten expansion of UTC

Stop this proposed project that endangers the UC community before it gets started.

Vote NO on Project #2214 at the Council meeting on Wednesday, October 10, 2007.

Jack Forman
 4165 Porte de Palmas #195
 San Diego, CA 92122
jackforman@sbcglobal.net

30.2

Community Character

Sample comment: Westfield is already built to the maximum allowed on its property. It is proposing a community plan amendment that would give it a huge increase in what it is entitled to develop on the same land. The DEIR should explain what justification there is to vastly increase the value of Westfield's property by giving them all these new development rights. The DEIR fails to describe what exactly Westfield will build. The DEIR must describe exactly what will be built.

30.1

The commenter's opposition to the project is noted. Please refer to response to comment 9.3 from the University Community Planning Group for a discussion of the level of detail required for the project description. Please refer to response to comment 9.60 from the University Community Planning Group for a discussion of Regents Road Bridge. As discussed in Section 6.3.7, no significant impacts associated with long-term noise are anticipated. As discussed in Section 5.4, no localized CO hotspot impacts would occur, therefore no potential health related impacts would occur.

30.2

As discussed in response to comment 18.1 from Ms. Astiz, CEQA does not require "justification" for the project. Please refer to response to comment 9.3 from the University Community Planning Group for a discussion of the level of detail required for the project description.

COMMENTS

RESPONSES

30.3	Recreation Sample comment: "I use Rose Canyon Open Space Park for walking, running, biking, and nature walks. The Draft EIR assumes the proposed Regents Road bridge project would be built, which would relieve traffic generated by the Westfield mega expansion. This would ruin the most scenic and peaceful area of Rose Canyon Park, used by school groups, scouts, and individuals. How will the Westfield mega expansion mitigate for this? Given that the project will add up to 750 units of housing, how will the project meet the increased need for parks when there is no land available for new parks and our community already has far fewer parks than city standards? How will the project meet the need for increased recreational and library facilities for these new residents? And what will be the impacts on parks and libraries of these new residents in combination with all the new residents in all the other residential projects being built?"	30.3	Please refer to response to comment 9.60 for a discussion of Regents Road Bridge. Please refer to response to comment 21.2 for a discussion of parks and libraries.
30.4	Views/aesthetics Sample comment: "The Draft EIR vaguely states it will overcome the visual impact of having new 35 story buildings adjacent to 2-3 story buildings and single family homes. The DEIR should explain how this will be done. The addition of huge new buildings and increased density will change the character of the community. The DEIR should explain why such a proposal is beneficial to the community."	30.4	Please refer to response to comment 9.106 from the University Community Planning Group for a discussion of building height.
30.5	Noise Sample comment: What will be the noise impacts of all that increased traffic and all that construction on residents throughout the area? What will the noise impacts of the traffic and operations of all these buildings on neighboring residents?	30.5	Significant short-term noise impacts are discussed under Issue 2 of Section 5.9. Implementation of mitigation measures would reduce short-term noise impacts to less than significant. As discussed in Section 6.3.7, no significant impacts associated with long-term noise are anticipated. Also refer to responses to comments 9.5 and 9.96 from the University Community Planning Group.
30.6	Air Pollution Sample comment: The DEIR states the project will increase air pollution. What justification is there for a project that increases air pollution? The DEIR should identify specific substantial measures to reduce air pollution.	30.6	Significant impacts to air quality are identified in Section 5.4, and mitigation measures are proposed. As discussed on page 5.4-28. Although the EIR stated there are no feasible mitigation measures to reduce NOx during construction to less than significant, the applicant has accepted a new mitigation measure (MM5.4-7 in the Final EIR) that will mitigate construction-related NOx. Despite the reduction in short-term NOx emissions, this project would still have significant and unmitigable impacts, and candidate findings and overriding considerations will be presented to the City Council. The purpose of this document is to disclose the significant impacts of the project so that the City Council can make an informed decision. The decision to approve, deny, or modify the project would be made by the San Diego City Council at a public hearing.
30.7	The Westfield UTC Draft EIR: Key Facts 1. Would add almost 18,000 new traffic trips every day and further clog the freeway ramps. 2. Assumes the proposed Regents Road bridge project would be built. It would vastly increase traffic and drive the need for both the proposed Regents Road bridge project and the widening of Genesee Avenue between Nobel and the 52. 3. Would increase air pollution. 4. Would add up to 750 units of new housing with no new parks or libraries. 5. Would send all of its storm water and runoff into Rose Canyon, and from there to Mission Bay. 6. Would allow Westfield to decide over time to build whatever combination of projects it wants: a vastly expanded mall in addition to up to four residential, office and hotel towers up to 35 stories tall. This vague "blank check" approach in an EIR violates California environmental law.	30.7	Please refer to responses to comments 21.1, 21.52, 28.1 and 30.6. As discussed on EIR page 5.5-21, the project design would include a number of measures to reduce potential impacts, including implementation of BMPs related to NPDES permit and current City Storm Water Standard/SUSUMP requirements. Please refer to response to comment 9.3 from the University Community Planning Group for a discussion of the level of detail required for the project description.

COMMENTS

RESPONSES

August 13, 2007

Martha Blake, Senior Planner
City of San Diego Development Services Center
1222 First Avenue MS 501
San Diego, CA 92101

Dear Ms. Blake,

My family and I have lived in University City for more than 30 years. When we first moved here in 1976, we enjoyed a small, close-knit community where traffic was never an issue. Through the years, more and more people and business have come to this area. Each year, brought more unmanageable traffic. Today, it is a 30 minute commute from the UTC area of La Jolla Village Drive and Genesee Ave. to 805 or to our residential area of University City at Genesee and Governor. (Please keep in mind that this is approximately 2-3 miles) It is nearly that long to get to Freeway 5. Once on these freeways, things go from bad to worse. The traffic situation is horrendous already and adding a few extra lanes here and there simply won't help. Won't the freeways need to be widened to accommodate all the extra cars that need to go elsewhere.? Where does all of this stop!!!

Is there no limit to the expansion that University City can accommodate? Please, consider the quality of life that we who live in this area deserve. UTC shopping center is large enough to fill the needs of the people in this area. In December (and on the weekends) parking is very, very difficult to find, as it is.

I am almost unable to address the issue of "35,000 square feet of office suites, 250 hotel rooms and 725 apartments and condominiums". Where will all these people park and drive? How many more cars does this translate into? It is totally inconceivable to me that anyone is even considering this. Please, take a drive in this area around 8am and 5pm. Try getting on 805 going South. Try finding a place to park at UTC. Check out the parking lot on 805 and 5 when traffic passes through the Golden Triangle. Cars are often stopped all the way back to the "merge" in the evenings. This area can not handle any more traffic, cars or people.

We, who love this community, plead with you to discourage such an expansion. For the sake of our children, the environment and for those of us who have chosen to stay in this nice community, please deny these businessmen the profits (and that is all they want) that they are seeking.



Susan Foster
3190 Mercer Lane
San Diego, CA 92122

31.1

31.1

As discussed in Section 5.3, the EIR has acknowledged significant impacts to transportation/circulation. As no issue regarding the adequacy of the EIR is identified, no further response can be made.

COMMENTS

RESPONSES

32.1

From: Phil Fowler [Pfowler@TorreyPinesBank.com]

Sent: Wednesday, October 10, 2007 9:17 AM

To: DSDEAS@sanidiego.gov

Subject: Westfield UTC proposed expansion

Westfield is already built to the maximum allowed on its property. It is proposing a community plan amendment that would give it a huge increase in what it is entitled to develop on the same land. The DEIR should explain what justification there is to vastly increase the value of Westfield's property by giving them all these new development rights. The DEIR fails to describe what exactly Westfield will build. The DEIR must describe exactly what will be built.

Thank you

Phil Fowler
University City resident

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32.1

As discussed in response to comment 18.1 from Ms. Astiz, CEQA does not require "justification" for the project. Please refer to response to comment 9.3 from the University Community Planning Group for a discussion of the level of detail required for the project description.

COMMENTS

RESPONSES

33.1

From: Nancy Frederich [garynancy30@hotmail.com]

Sent: Wednesday, October 10, 2007 3:25 PM

To: DSDEAS@sanidiego.gov

Subject: Utc Expansion

Expanding and building high rises in the UTC area is unwanted by the majority of the UTC residents. The developers are the ones who are to gain from these projects. UTC residents do not welcome the increase in traffic and of course the Regents Road Bridge, that will surely go along with all of the building and increased population. We already have a "DOWN TOWN" that is only ten minutes away and don't welcome another one!! I did not move here to be in the middle of a busy city environment. I moved to the University area to raise my kids in a calm, safe environment. I can't help but think that the developers with the power and money will end up winning this round. I only wish that for once, common sense and family values would prevail.

The Regents Road Bridge is another project not welcomed by this community. I have lived in this area my entire life, disaster evacuation, traffic and medical response times are NONISSUES. The developers are again the ones to gain from this project. I cant help but wonder what is motivating the City Council and the Mayor to push this project through so quickly. It will be interesting to see who Scott Peter's will be working for when his term is up. I smell a RAT!!!!

Nancy Frederich
858-274-3480

33.1

The commenter's opposition to the project is noted. As no issue regarding the adequacy of the EIR is identified, no further response can be made.

COMMENTS

RESPONSES

From: cgarland@earthlink.net
Sent: Wednesday, October 10, 2007 10:58 AM
To: DSDEAS@sandiego.gov
Cc: SD City Council
Subject: Project 2214

Dear Council Members,

34.1

I strongly oppose expansion of the Westfield Shopping Town and adjacent building plans and object to the sketchy Draft EIR. The Westfield Mall, and adjacent structures are already built out to the maximum allowable limits.

I oppose a community plan amendment that would allow Westfield a huge increase in development of this and adjacent properties. The Draft EIR does not provide any sensible reason to vastly increase the development of Westfield's property. It inadequately describes what Westfield will build in this already seriously congested and substantially overbuilt area.

34.2

Their are substantial issues regarding also the burden of visual pollution and scenic preservation with this project. Attractive natural skylines and views of mountain ranges from the sidewalks and public areas would be blocked and overshadowed by inevitably ugly tall buildings, cutting off views and natural illumination.

34.3

The assumption included in the Draft EIR that the Regents Road Building will be built is not at all certain and is one example of a stipulation that is probably in error. Construction of the costly Regents Road bridge would damage a natural park and Federally-protected small riparian wetland containing threatened animal and plant species, and is highly controversial. Construction of such a bridge will be delayed for decades, if it ever occurs. This assumption, which is rather pivotal in calculations of the traffic burden, should not be allowed.

34.4

Please do not cave in this obvious power grab by Westfield and the building industry and their efforts to overbuild this development, regardless of the inevitable degradation of the quality of life of residents due to increased traffic congestion, an even more overburdened nearby freeway, and a substantially increased burden of harmful respiratory nitrogen oxide and carbon monoxide air pollution from the inevitable additional traffic congestion in this already-congested area.

Respectfully,

Rick Garland
University City

34.1

The commenter's opposition to the project is noted. As discussed in response to comment 18.1 from Ms. Astiz, CEQA does not require "justification" for the project. Please refer to response to comment 9.3 from the University Community Planning Group for a discussion of the level of detail required for the project description.

34.2

As discussed in Section 5.2, there are no public view corridors in the area of the project, and the project would not block public views from parks or views of natural features. Therefore, no significant view impacts would occur.

34.3

Please refer to response to comment 9.60 from the University Community Planning Group for a discussion of Regents Road Bridge.

34.4

As discussed in Sections 5.3 and 5.4, the EIR has acknowledged significant impacts to transportation/circulation and air quality. As no issue regarding the adequacy of the EIR is identified, no further response can be made.

COMMENTS

RESPONSES

35.1

From: Cheryl Geyerman [CAG@adi-sandiego.com]

Sent: Wednesday, October 10, 2007 9:54 AM

To: DSDEAS@sandiego.gov

Cc: info@rosecanyon.org

Subject: OPPOSE Westfield Massive Expansion at University Town Centre

I am opposed to the massive expansion at UTC. There are several reasons why:

1. Traffic in that area is heavy; buses are not a solution; parking will be difficult. This would add almost 18,000 new traffic trips every day and further clog the freeway ramps.
2. The plan assumes the proposed Regents Road bridge project would be built which is not a given at this point. It would vastly increase traffic and drive the need for **both** the proposed Regents Road bridge project and the widening of Genesee Avenue between Nobel and the 52. The bridge is heavily opposed by the community, and the law, so far, has been on the side of those who oppose it.
3. Adding up to 750 units of new housing with no new parks or libraries, which is already heavily urbanized with little open space is a bad idea.
5. Storm water and runoff would be sent into Rose Canyon, and from there to Mission Bay--creating another environmental problem that San Diego government cannot run and hide from, though that's what it tends to do.
6. This plan would allow Westfield to decide over time to build whatever combination of projects it wants: a vastly expanded mall in addition to up to four residential, office and hotel towers up to 35 stories tall. **This vague "blank check" approach in an EIR violates California environmental law.** And, as such, will be opposed in the courts.

Cheryl A. Geyerman

University City, San Diego, CA

35.1

Please refer to response to comment 30.7 from Mr. Forman regarding the same issues.

COMMENTS

RESPONSES

3890 Nobel Drive #308
 San Diego, CA 92122
 August 21, 2007

Martha Blake, Senior Planner
 City of San Diego
 Dear Mr. Blake:

Thank you for giving the public the opportunity to express their thoughts regarding the planned expansion of the UTC mall.

The proposed expansion by Westfield, audacious at best, would severely impact the quality of life for the residents of University City and neighboring La Jolla, many of whom are seniors. The last thing the neighborhood needs are 18,000 additional cars daily and 4 buildings, each over 300 feet. The proposed plan would be detrimental to the residents in several critical ways: Air pollution due to construction dust and later from the increased number of vehicles; Noise from construction and increased traffic; Significant increase in the amount of sewage and water usage.

The current proposal must be rejected. Westfield needs to come up with a new plan and design; one that is much smaller in scope, environmentally sound, and better suited to the needs of the neighborhood. Working collaboratively

36.1 The EIR discusses potential impacts to noise, transportation/circulation, sewage and water usage in Sections 5.9, 5.2, 5.7 and 5.8. As no issue regarding the adequacy of the EIR is identified, no further response can be made.

36.2 The commenter's opposition to the project is noted. As no issue regarding the adequacy of the EIR is identified, no further response can be made.

COMMENTS

RESPONSES

36.2
cont.

with local environment groups, secular
and religious institutions in the area,
(and there are several), and local businesses
around the mall as well as with individual
residents is essential to the success
of this project.

There is much work to be done.

Sincerely,
Blossom H. Hauser

COMMENTS

RESPONSES

From: Robert Gottlieb [rcgottlieb@ieee.org]
Sent: Tuesday, October 09, 2007 10:09 PM
To: DSDEAS@sanidiego.gov
Cc: info@rosecanyon.org
Subject: Project Number 2214

Hi,

37.1

The Draft EIR states that the project would add almost 18,000 new vehicle trips a day and would further clog the freeway ramps and local streets. What is the justification for building a project that is so dependent on auto traffic? The project should provide solutions to substantially reduce the traffic it generates. The DEIR states that freeway ramps will get worse. What is the justification for adding more traffic before the existing freeway problems are fixed? What will be the full impact of adding years of construction traffic, especially in combination with other major construction projects such as the four Monte Verde Mega Towers across the street? Specifically, what will the November-December holiday traffic conditions be?

I strongly object to this expansion and would propose that Westfield look elsewhere to expand.

v/r

Robert Gottlieb

37.1 Please refer to response to comment 28.1 from Ms. Deleo regarding the same issues.

COMMENTS

RESPONSES

38.1

From: Patricia Gregory [pats_gila_girl@yahoo.com]

Sent: Wednesday, October 10, 2007 10:16 AM

To: DSDEAS@sanidiego.gov

Subject: Project # 2214

Why does a small community like UYC need a mall expansion-750 units of housing- a hotel tower & office towers that could reach 35 stories tall.

Westfield UTC is assuming that Regents Road Bridge will to through in order to accomidate more traffic. It sounds like you're putting the cart before the horse.

The DEIR states that freeway ramps will get worse. Also the major streets.

I DO NOT approve of this hugh project.

Mrs Patricia Gregory
3032 Award Row
San Diego, CA 92122

38.1

As discussed in response to comment 18.1 from Ms. Astiz regarding the same issues, CEQA does not require "justification" for the project. Please refer to responses to comments 21.1 from Ms. Bolivar and 9.93 from the University Community Planning Group.

COMMENTS

RESPONSES

From: The Hagstroms [rhehags@san.rr.com]
Sent: Wednesday, October 10, 2007 8:09 AM
To: DSDEAS@san.rr.com
Cc: info@roseanyon.org
Subject: Project Number 2214

To All Those Concerned:

39.1

I have been a resident of University City for over 17 years. It was a place we chose to raise our family based on the community atmosphere that they had here. Since that time the city has allowed many new "high rises" to go up. Also, added all those town homes at 805 and LaJolla Village Drive. I believe we should be able to have some area left to enjoy. Expanding the Westfield Shopping area will change the character of this community forever.

39.2

We already have traffic problems due to greedy people building more town homes and such in our community. We already have clogged parking lots around our area. Lord forbid there would be an actual emergency. Emergency personnel would not be able to get in or out efficiently due to the current road situation. The Draft EIR states that the project would add almost 18,000 more vehicle trips a day and would clog the freeway ramps and local streets even more. The issue that you should be addressing is "how to fix the traffic problem" that already exists before creating and adding to the traffic problem and the air pollution problem.

39.3

It seems that by creating this expansion, people are looking at the short term rather than the long term effect. Short term means more money for the city. Long term the impact on the community, children, wildlife, traffic, and yes, the schools.

Please do not let this happen to a beautiful community as UTC.

Thank you.
Michele & Richard Hagstrom

39.4

Traffic

"The Draft EIR states that the project would add almost 18,000 new vehicle trips a day and would further clog the freeway ramps and local streets. What is the justification for building a project that is so dependent on auto traffic? The project should provide solutions to substantially reduce the traffic it generates. The DEIR states that freeway ramps will get worse. What is the justification for adding more traffic before the existing freeway problems are fixed? What will be the full impact of adding years of construction traffic, especially in combination with other major construction projects such as the four Monte Verde Mega Towers across the street? Specifically, what will the November-December holiday traffic conditions be?"

39.1

As discussed in Section 5.2, the EIR has acknowledged potential impacts to visual character. As no issue regarding the adequacy of the EIR is identified, no further response can be made.

39.2

As discussed in Sections 5.3 and 5.4, the EIR has acknowledged significant impacts to transportation/circulation and air quality. It is not within the scope of this project to "fix an existing traffic problem". The EIR has proposed mitigation measures to reduce project-related impacts.

39.3

The commenter's opposition to the project is noted. As no issue regarding the adequacy of the EIR is identified, no further response can be made.

39.4

Please refer to response to comment 28.1 from Ms. Deleo regarding the same issues.

COMMENTS

RESPONSES

39.5	Community Character Westfield is already built to the maximum allowed on its property. It is proposing a community plan amendment that would give it a huge increase in what it is entitled to develop on the same land. The DEIR should explain what justification there is to vastly increase the value of Westfield's property by giving them all these new development rights. The DEIR fails to describe what exactly Westfield will build. The DEIR must describe exactly what will be built.	39.5	As discussed in response to comment 18.1 from Ms. Astiz regarding the same issues, CEQA does not require "justification" for the project. Please refer to response to comment 9.3 from the University Community Planning Group for a discussion of the level of detail required for the project description.
39.6	Recreation "I use Rose Canyon Open Space Park for walking, running, biking, and nature walks. The Draft EIR assumes the proposed Regents Road bridge project would be built, which would relieve traffic generated by the Westfield mega expansion. This would ruin the most scenic and peaceful area of Rose Canyon Park, used by school groups, scouts, and individuals. How will the Westfield mega expansion mitigate for this? Given that the project will add up to 750 units of housing, how will the project meet the increased need for parks when there is no land available for new parks and our community already has far fewer parks than city standards? How will the project meet the need for increased recreational and library facilities for these new residents? And what will be the impacts on parks and libraries of these new residents in combination with all the new residents in all the other residential projects being built?"	39.6	Please refer to responses to comments 21.1 and 21.2 from Ms. Bolivar regarding the same issues.
39.7	Views/aesthetics "The Draft EIR vaguely states it will overcome the visual impact of having new 35 story buildings adjacent to 2-3 story buildings and single family homes. The DEIR should explain how this will be done. The addition of huge new buildings and increased density will change the character of the community. The DEIR should explain why such a proposal is beneficial to the community."	39.7	Please refer to response to comment 9.106 from the University Community Planning Group for a discussion of building height.
39.8	Noise What will be the noise impacts of all that increased traffic and all that construction on residents throughout the area? What will the noise impacts of the traffic and operations of all these buildings on neighboring residents?	39.8	Please refer to response to comment 30.5 from Mr. Forman on the same issues.
39.9	Air Pollution Sample comment: The DEIR states the project will increase air pollution. What justification is there for a project that increases air pollution? The DEIR should identify specific substantial measures to reduce air pollution.	39.9	Please refer to response to comment 30.6 from Mr. Forman on the same issues.
39.10	The Westfield UTC Draft EIR: Key Facts 1. Would add almost 18,000 new traffic trips every day and further clog the freeway ramps. 2. Assumes the proposed Regents Road bridge project would be built. It would vastly increase traffic and drive the need for both the proposed Regents Road bridge project and the widening of Genesee Avenue between Nobel and the 52. 3. Would increase air pollution. 4. Would add up to 750 units of new housing with no new parks or libraries. 5. Would send all of its storm water and runoff into Rose Canyon, and from there to Mission Bay. 6. Would allow Westfield to decide over time to build whatever combination of projects it wants: a vastly expanded mall in addition to up to four residential, office and hotel towers up to 35 stories tall. This vague "blank check" approach in an EIR violates California environmental law.	39.10	Please refer to response to comment 30.7 from Mr. Forman on the same issues.

COMMENTS

RESPONSES

From: Tom Hale [thale@san.rr.com]
Sent: Wednesday, October 10, 2007 4:49 PM
To: DSDEAS@sanidiego.gov
Cc: info@rosecanyon.org
Subject: Project Number 2214 : Westfield proposal: huge mall expansion
October 0,2007

City of San Diego,

Regarding **Project Number 2214** :
the Westfield proposal: huge mall expansion; 750 units of housing, hotel tower, office tower- towers 35 stories tall on the existing UTC site

The Westfield UTC Shopping Center expansion will have a huge impact in increased costs for infrastructure & city services to the City of San Diego. The traffic burden in that area with the huge dwelling structures built nearby within a few blocks directly east & west of the Westfield UTC site in the last few years will bring more traffic congestion to an area that already suffers with traffic jams on the 805, 5, & 52 freeways surrounding the site & the streets in this area.

Our whole Golden Triangle community has become over developed & crowded with heavy traffic & congestion during the 7:30 - 9:30 & 3 - 6:30 PM period every day around the whole area with the traffic which flows on each side of & in the Golden Tarnished Triangle.

Westfield's proposed building plans will put an even larger burden on this whole community regarding city services, how large is not certain, but their known proposals are beyond what this community can handle & bear.

Westfield's increase at this site will be at our expense for the whole city of San Diego in city services: water, streets repairs, energy & power supply, police & fire protection, etc..

We all depend on the city of San Diego to provide these services, which are in poor condition city wide, without adequate repairs or upgraded infrastructure to provide basic city services & adequate police & fire protection to our residents & visitors.

We do know Westfield has included plans to build more large towering developments for Westfield's benefit, placing a huge drain on our water supply & air pollution in University City.

This whole area has to bear the brunt of Westfield's increase at our expense.

Do not approve the incomplete plan in the Draft EIR.

Resident & Home owner:

Tom Hale

5372 Bragg St.

University City, 33 years

40.1 As discussed in Sections 5.3 and 5.7, the EIR has acknowledged potential impacts to transportation/circulation and public utilities. The commenter's opposition to the project is noted. As no issue regarding the adequacy of the EIR is identified, no further response can be made.

COMMENTS

RESPONSES

From: Shalom Halevy [shalevy@mathwizards.com]

Sent: Tuesday, October 09, 2007 10:41 PM

To: DSDEAS@sanidiego.gov

Cc: Friends of Rose Canyon

Subject: Project Number 2214

Enough to developers controlling city hall and our quality of life!!!

41.1	I oppose this project because of its impact on traffic, noise, recreation, etc. as it would: 1 add almost 18,000 new traffic trips every day and further clog the freeway ramps. 2. increase air pollution. 3. add up to 750 units of new housing with no new parks or libraries. 4. send all of its storm water and runoff into Rose Canyon, and from there to Mission Bay. 5. allow Westfield to decide over time to build whatever combination of projects it wants: a vastly expanded mall in addition to up to four residential, office and hotel towers up to 35 stories tall.	41.1	Please refer to response to comment 30.7 from Mr. Forman on the same issues.
41.2	Westfield is already built to the maximum allowed on its property. It is proposing a community plan amendment that would give it a huge increase in what it is entitled to develop on the same land.	41.2	Comment noted. As no issue regarding the adequacy of the EIR is identified, no further response can be made.
41.3	The DEIR should explain what justification there is to vastly increase the value of Westfield's property by giving them all these new development rights.	41.3	As discussed in response to comment 18.1 from Ms. Astiz on the same issues, CEQA does not require "justification" for the project. Please refer to response to comment 9.3 from the University Community Planning Group for a discussion of the level of detail required for the project description.
41.4	The DEIR fails to describe what exactly Westfield will build. The DEIR must describe exactly what will be built.	41.4	Please refer to response to comment 9.3 from the University Community Planning Group for a discussion of the level of detail required for the project description.
41.5	The Draft EIR states that the project would add almost 18,000 new vehicle trips a day and would further clog the freeway ramps and local streets. What is the justification for building a project that is so dependent on auto traffic? The project should provide solutions to substantially reduce the traffic it generates. The DEIR states that freeway ramps will get worse. What is the justification for adding more traffic before the existing freeway problems are fixed? What will be the full impact of adding years of construction traffic, especially in combination with other major construction projects such as the four Monte Verde Mega Towers across the street? Specifically, what will the November-December holiday traffic conditions be?	41.5	Please refer to response to comment 28.1 from Ms. Deleo on the same issues.

COMMENTS

RESPONSES

From: diane hanlon [dchan@webtv.net]
Sent: Wednesday, October 10, 2007 10:41 AM
To: DSDEAS@sandiego.gov
Cc: info@rosecanyon.org; d_hanlon@webtv.net
Subject: PROJECT #2214

I am writing in protest of the following:

Westfield Proposed Massive Expansion of UTC, which Would Bring New Traffic, High Towers and Assumes Regents Road Bridge Project Would be Built which residents are against.

- 42.1 Traffic
- The Draft EIR states that the project would add almost 18,000 new vehicle trips a day and would further clog the freeway ramps and local streets. What is the justification for building a project that is so dependent on auto traffic? The project should provide solutions to substantially reduce the traffic it generates. The DEIR states that freeway ramps will get worse. What is the justification for adding more traffic before the existing freeway problems are fixed? What will be the full impact of adding years of construction traffic, especially in combination with other major construction projects such as the four Monte Verde Mega Towers across the street? Specifically, what will the November-December holiday traffic conditions be?
- 42.2 Community Character
- Westfield is already built to the maximum allowed on its property. It is proposing a community plan amendment that would give it a huge increase in what it is entitled to develop on the same land. The DEIR should explain what justification there is to vastly increase the value of Westfield's property by giving them all these new development rights. The DEIR fails to describe what exactly Westfield will build. The DEIR must describe exactly what will be built.
- 42.3 Recreation
- I use Rose Canyon Open Space Park for walking, running, biking, and nature walks. The Draft EIR assumes the proposed Regents Road bridge project would be built, which would relieve traffic generated by the Westfield mega expansion. This would ruin the most scenic and peaceful area of Rose Canyon Park, used by school groups, scouts, and individuals. How will the Westfield mega expansion mitigate for this? Given that the project will add up to 750 units of housing, how will the project meet the increased need for parks when there is no land available for new parks and our community already has far fewer parks than city standards? How will the project meet the need for increased recreational and library facilities for these new residents? And what will be the impacts on parks and libraries of these new residents in combination with all the new residents in all the other residential projects being built?
- 42.4 The Draft EIR vaguely states it will overcome the visual impact of having new 35 story buildings adjacent to 2-3 story buildings and single family homes. The DEIR should explain how this will be done. The addition of huge new buildings and increased density will change the character of the community. The DEIR should explain why such a proposal is beneficial to the community.
- 42.5 Noise
- What will be the noise impacts of all that increased traffic and all that construction on residents throughout the area? What will the noise impacts of the traffic and operations of all these buildings on neighboring residents?
- 42.6 Air Pollution
- The DEIR states the project will increase air pollution. What justification is there for a project that increases air pollution? The DEIR should identify specific substantial measures to reduce air pollution.
- The Westfield UTC Draft EIR:
1. Would add almost 18,000 new traffic trips every day and further clog the freeway ramps.
 2. Assumes the proposed Regents Road bridge project would be built. It would vastly increase traffic and drive the need for both the proposed Regents Road bridge project and the widening of Genesee Avenue between Nobel and the 52.
 3. Would increase air pollution.
 4. Would add up to 750 units of new housing with no new parks or libraries.
 5. Would send all of its storm water and runoff into Rose Canyon, and from there to Mission Bay.
 6. Would allow Westfield to decide over time to build whatever combination of projects it wants: a vastly expanded mall in addition to up to four residential, office and hotel towers up to 35 stories tall. This vague approach in an EIR violates California environmental law.
- Sincerely,
- Diane Hanlon
 7746 Camino Noguera
 San Diego, CA 92122
 858-453-1754

- 42.1 Please refer to response to comment 28.1 from Ms. Deleo on the same issues.
- 42.2 As discussed in response to comment 18.1 from Ms. Astiz on the same issues, CEQA does not require "justification" for the project. Please refer to response to comment 9.3 from the University Community Planning Group for a discussion of the level of detail required for the project description.
- 42.3 Please refer to responses to comments 21.1 and 21.2 from Ms. Bolivar regarding the same issues.
- 42.4 Please refer to response to comment 9.106 from the University Community Planning Group for a discussion of building height.
- 42.5 Please refer to response to comment 30.5 from Mr. Forman on the same issues.
- 42.6 Please refer to response to comment 30.6 from Mr. Forman on the same issues.

COMMENTS

RESPONSES

43.1

From: Brian hassler [hasslebc@juno.com]
Sent: Wednesday, October 10, 2007 1:55 PM
To: DSDEAS@sanidiego.gov
Subject: WESTFIELD UTC EXPANSION

The proposed Westfield expansion at UTC would overwhelm University City.

This is not/should not be a "downtown" area. We are a residential area, and all good sense has gone out the window on this and many other projects. The densities/heights are unbelievable. The traffic is already gridlocked. THIS IS NOT ACCEPTABLE- NOT IN MY BACKYARD.

Brian C. Hassler
2912 Fried Ave.
San Diego, Ca.92122

43.1

The commenter's opposition to the project is noted. As no issue regarding the adequacy of the EIR is identified, no further response can be made.

COMMENTS

RESPONSES

44.1 **From:** Marilyn Hauck [MaHauck@san.rr.com]
Sent: Wednesday, October 10, 2007 7:44 AM
To: DSDEAS@sanidiego.gov
Subject: Subject 2214
We are against the massive expansion of UTC.
The shopping center is enough without adding hotels, offices and housing.
Please vote against this expansion and preserve UTC as it is.
We do not need more congestion.
We want to preserve our canyon.
Thank you,
Voters and environmentally concerned citizens,
Lane and Marilyn Hauck

44.1 The commenter's opposition to the project is noted. As no issue regarding the adequacy of the EIR is identified, no further response can be made.

COMMENTS

RESPONSES

	From: Jim [jim7@san.rr.com] Sent: Thursday, October 11, 2007 8:20 AM To: DSDEAS@sandiego.gov Cc: rose canyon.org Subject: No UTC Expansion We are adamantly opposed to the Westfield UTC expansion attempt!	
45.1	The Draft EIR states that the project would add almost 18,000 new vehicle trips a day and would further clog the freeway ramps and local streets. What is the justification for building a project that is so dependent on auto traffic? The project should provide solutions to substantially reduce the traffic it generates. The DEIR states that freeway ramps will get worse. What is the justification for adding more traffic before the existing freeway problems are fixed? What will be the full impact of adding years of construction traffic, especially in combination with other major construction projects such as the four Monte Verde Mega Towers across the street? Specifically, what will the November-December holiday traffic conditions be?"	45.1 Please refer to response to comment 28.1 from Ms. Deleo on the same issues.
45.2	<u>Community Character</u> Westfield is already built to the maximum allowed on its property. It is proposing a community plan amendment that would give it a huge increase in what it is entitled to develop on the same land. The DEIR should explain what justification there is to vastly increase the value of Westfield's property by giving them all these new development rights. The DEIR fails to describe what exactly Westfield will build. The DEIR must describe exactly what will be built.	45.2 As discussed in response to comment 18.1 from Ms. Astiz on the same issues, CEQA does not require "justification" for the project. Please refer to response to comment 9.3 from the University Community Planning Group for a discussion of the level of detail required for the project description.
45.3	We are residents of University City and do not want any more increased traffic on Genessee or La Jolla Village Drive. We do not want the community to become a major city. Please vote NO on this proposed expansion. Sincerely, Jim & Sue Heleniak; 5429 Curie Way, San Diego 92122	45.3 The commenter's opposition to the project is noted. As no issue regarding the adequacy of the EIR is identified, no further response can be made.

COMMENTS

RESPONSES

46.1 **From:** Nancy Ivey [nancyi@iveyengineering.com]
Sent: Wednesday, October 10, 2007 10:18 AM
To: DSDEAS@san Diego.gov
Subject: Project number 2214
Please!!! **ENOUGH** building in University City. We cannot accommodate any more traffic in UC without building a bridge that would destroy our park like setting. My family and I use the canyons for hiking, walking and enjoying the birds. There are plenty of shopping malls in SD now.

Nancy Ivey

46.1 Please refer to response to comment 21.1 from Ms. Bolivar regarding the same issues.

COMMENTS

RESPONSES

47.1

From: Sky Jeannette [sky4health@sbcglobal.net]
Sent: Wednesday, October 10, 2007 3:51 PM
To: DSDEAS@sanidiego.gov; info@rosecanyon.org
Subject: Project #2214
To Whom It may Concern,

I strongly oppose the huge proposed project of high rises and stores, etc. at UTC. Enough is enough! We already have a lovely area filled with plenty of people, restaurants and shops.

What is the compelling reason for stuffing more people and traffic in an already congested area? At some point, the quality of life will be lost with too much building.

Stop this initiative of expansion.

Thank you.

Sincerely,

Susan A. Jeannette
Curie Place, San Diego, UC

47.1

The commenter's opposition to the project is noted. As no issue regarding the adequacy of the EIR is identified, no further response can be made.

COMMENTS

RESPONSES

September 6, 2007

Ms. Martha Blake
Senior Planner
City of San Diego Development Services Center
1222 First Ave. MS 501
San Diego, CA 92101

Dear Ms. Blake,

I am writing to provide public comment on the UTC expansion plan.

48.1

First, I am surprised at the short community notice for this major change. UTC only made public to neighborhood residents their plan in mid-August. I currently own a condominium and reside in the complex directly across Nobel from UTC.

48.2

I have lived in the North University City neighborhood continuously since 1992. As the neighborhood has expanded we have seen the residential quality steadily decline. The expansion of Nobel to the 1805 had significantly changed the character of the street. The traffic volume has increased as well as the related noise and pollution. Worst of all traffic normally flows well in excess of the 35 mph speed limit east of Genesee. As you are aware this has caused a number of pedestrian accidents in the Nobel corridor from 15 to 1805.

I wish to comment based on my viewpoint as an owner, a driver and a pedestrian (I regularly walk 3 miles several times a week in the neighborhood).

48.3

As an owner our property values have declined along with the residential quality of the area. This became more acute when the City approved a number of condominium conversions resulting in much higher vacancy rates. There is no shortage of rental and residential property in North University City. I object to the addition of even more residential housing in an area that can not fill the current housing inventory.

48.4

As a driver, the addition of more traffic in the neighborhood is unimaginable. Currently there is a 30 minute wait to leave the area going southbound between 4:30 pm and 6:30 pm weekdays. Merely widening the on-ramps will not improve the situation as the freeway is already running at maximum capacity as is Genesee. The City has been unable to correct the traffic problem on Genesee (yes we supported the reverse traffic lane) and has not started the Regents Road bridge that was funded years ago. More residential units will only make the problem worse. More office space will have an even greater negative impact on traffic as it impacts the rush hour. We can no longer get across the street or make a left turn at the intersection (yes it is designated an intersection by the street signage) of Nobel and Lombard Pl. Adding more housing and offices to UTC does not make sense. We frequently see space available signs on existing office complexes in the area and several new office complexes are being built currently. Why

48.1

A notice of preparation was circulated for 30 days starting on July 12, 2002 and a public scoping meeting was held on June 7, 2002 as required by CEQA. The Draft EIR was publicly noticed and available for public review for 60 days.

48.2

Comment noted. As no issue regarding the adequacy of the EIR is identified, no further response can be made.

48.3

The commenter's opposition to the project is noted. As no issue regarding the adequacy of the EIR is identified, no further response can be made.

48.4

As discussed in Section 5.3, the EIR has identified significant and unmitigable impacts related to transportation/circulation. As discussed in response to comment 18.1 from Ms. Artiz regarding the same issues, CEQA does not require "justification" for the project. As no issue regarding the adequacy of the EIR is identified, no further response can be made.

COMMENTS

RESPONSES

48.4

cont.

do we need more if we can not fill the current inventory, much less the inventory under construction?

48.5

As a pedestrian the walking quality is poor. Controlled intersections on Genesee and Nobel (east of Genesee) are few and far between. Drivers routinely exceed the speed limit, do not stop properly and seldom yield for a pedestrian. On any given day it is routine to have a driver honk at me for being in a crosswalk. The city continues to favor automobiles over pedestrians by closing pedestrian crosswalks in the neighborhood and building inaccessible pedestrian overpasses. The pedestrian overpass over Genesee in front of UTC dumps into a parking lot with no sidewalk available. Likewise the pedestrian overpass on La Jolla Village Drive in front of UTC dumps pedestrians off in an area that quickly requires stairs. Nobel is exclusively a residential street on the South side. Many homes open directly on to the street. More traffic and more pollution will do little to enhance the residential quality of the neighborhood.

48.6

I do not dispute Westfield's right to expand retail shopping in UTC. This is the purpose of the property. I do object to Westfield adding additional office and residential space in a neighborhood that has an abundance of both. When Fashion Valley was expanded there was no additional residential or office space added by the developer. Why should UTC be any different?. A mall is a retail destination, not a city or neighborhood. Building a new neighborhood at the mall without taking into consideration the existing neighborhood is not being a good corporate citizen and some would characterize as being greedy.

Thank you for taking the time to understand our opinions and providing a mechanism for public comment.

Sincerely,

Adam Lakritz
4435 Nobel Dr. #30
San Diego, CA 92122
858 622 1086

cc: Scott Peters (via email)

48.5

As discussed under Issue 5 of Section 5.3, the project proposes numerous pedestrian and bicycle facility improvements. As no issue regarding the adequacy of the EIR is identified, no further response can be made.

48.6

The commenter's opposition to the project is noted. As no issue regarding the adequacy of the EIR is identified, no further response can be made.

COMMENTS

RESPONSES

From: Judith Landau [j_e_landau@hotmail.com]
Sent: Tuesday, October 09, 2007 11:52 PM
To: DSDEAS@sandiego.gov
Cc: info@rosecanyon.org
Subject: Project Number 2214

Re: Westfield Expansion at UTC - Draft EIR I live in South University City (address below) and work in a 9-storey office building in North University City, and am concerned about the likely damage to the UC community by this project.

49.1

One of the major issues is the enormous traffic increase on already compromised road systems, as admitted in the DEIR. I'd especially ask what will the November-December holiday traffic conditions be?

49.2

The developers are aiming to attract thousands of shoppers from around the region - this will no longer be a local UC mall serving the UC community, but instead the source of traffic jams on streets and freeway ramps, air pollution, polluted water runoff and over-use of precious water resources. How does this developer plan to avoid all these ills for our community?

Thank you
Judith Landau
5989 Agee Street, San Diego CA 92122
858-452-6815

49.1

Please refer to response to comment 9.51 from the University Community Planning Group for a discussion of holiday traffic.

49.2

The EIR acknowledged that the proposed project is a regional shopping center. The EIR has discussed potential impacts to transportation/circulation, air quality, hydrology/water quality and water conservation in Sections 5.3, 5.4, 5.5, and 5.8. Where appropriate, mitigation measures have been proposed to reduce significant impacts. The EIR has also acknowledged significant and unmitigable impacts to transportation/circulation and air quality.

COMMENTS

RESPONSES

50.1

From: David Laney [dclaney@gmail.com]
Sent: Wednesday, October 10, 2007 3:24 PM
To: DSDEAS@sanidiego.gov
Cc: info@rosecanyon.org
Subject: Project Number 2214
Sir/Madame:

I am writing you to voice my strong opposition to the expansion of the UTC shopping center. As a homeowner in the LJ Shores area, I am concerned that the additional traffic will bring the area that is already near gridlock into total gridlock. This includes access to both 15 and 1805 as well as traffic on N. Torrey Pines Road, La Jolla Village Drive and Genesee. Until the recent widening of LJ Village Drive, traffic was often backed-up all the way to the Torrey Pines Gliderport in the evening. How will an additional 18,000 trips per day be accommodated?

The project should provide solutions to substantially reduce the traffic it generates. The DEIR states that freeway ramps will get worse. What is the justification for adding more traffic before the existing freeway problems are fixed? What will be the full impact of adding years of construction traffic, especially in combination with other major construction projects such as the four Monte Verde Mega Towers across the street? Specifically, what will the November-December holiday traffic conditions be?

This project must assume that the Regents bridge is constructed in order to manage traffic. Planning based on that assumption is risky (to the community) since construction of the bridge is opposed by several community groups and litigation may delay the bridge or it may never be built."

Again, I urge you to oppose this ill-conceived expansion until these significant issues are adequately addressed.

David Laney, PhD
Sugarman Drive
La Jolla, CA 92037

50.1

The commenter's opposition to the project is noted. Please refer to responses to comments 21.1 and 28.1.

COMMENTS

RESPONSES

51.1

From: Geoffrey Laundry [gelaun@mac.com]
Sent: Wednesday, October 10, 2007 12:56 PM
To: DSDEAS@sanidiego.gov
Cc: Friends of Rose Canyon
Subject: Project 2214

Dear Sirs

Given the urgent requirement of updating San Diego's infrastructure (for example, water mains), your rush to spend tens of millions on a bridge to nowhere is ludicrous. Expand the trolley service, Build the coaster station at Nobel Drive. Get into the 21st century. To lay down endless new acres of asphalt when you can't even maintain what you have doesn't make any sense.

Here's to a revitalized San Diego.

Geoff Laundry

51.1

Comment noted. As no issue regarding the adequacy of the EIR is identified, no further response can be made.

COMMENTS

RESPONSES



Sue Lemontre
1815 E. Alder Dr
San Diego, CA 92116-2325

3-13-27

Re: VTA Expansion

Dear Mr. Blake,

Regarding the 281,000
gallons of water VTA expansion
would use per day:

Is not there water avail-
able from the treatment plant
located in that vicinity?

Why not make using that
treated water a contingency
for approval of the project?
We've tried a "toilet, to tar"
program and had it
rejected - maybe they'll take
a good look at it if they
can't get the project approved
otherwise.

Sue Lemontre
jlemontre@cox.net

52.1

52.1

Water supply is discussed in EIR Section 5.8. The project proposes to use recycled water for landscaping irrigation. As no issue regarding the adequacy of the EIR is identified, no further response can be made.

COMMENTS

RESPONSES

53.1

From: Richard Medlock [rmedlock@san.rr.com]

Sent: Wednesday, October 10, 2007 11:08 AM

To: DSDEAS@sanidiego.gov

Subject: Project 2214

We are citizens of University City and are opposed to the Westfield expansion proposal. Our community has reached it maximum population based on available facilities and roadways.

We are opposed to the Regents Road bridge proposal.

We are opposed to the Genesee Avenue widening proposal.

Richard and Julie Medlock
5710 Bloch Street
San Diego CA 92122
858 450-0101

53.1

The commenter's opposition to the project is noted. As no issue regarding the adequacy of the EIR is identified, no further response can be made.

COMMENTS

RESPONSES

54.1

From: Brandalyn Patton [brandalyn@onlinecpi.org]

Sent: Monday, September 24, 2007 4:31 PM

To: dsdeas@sandiego.gov

Subject: Project Number 2214

I could not find any documents on the UTC expansion project on your site. Can you email me the EIR.

Thanks

Brandalyn Patton

Research and Policy Analyst

Center on Policy Initiatives

3727 Camino Del Rio South, Suite 100

San Diego, CA 92108

619-584-5744, Ext. 23

619-584-5748 Fax

brandalyn@onlinecpi.org

54.1

Comment noted. As no issue regarding the adequacy of the EIR is identified, no further response can be made.

COMMENTS

RESPONSES

55.1

From: Tom Petrie [petrie@fusion.gat.com]
Sent: Wednesday, October 10, 2007 8:30 AM
To: DSDEAS@sanidiego.gov
Subject: Project Number 2214

As a resident of University City, I have a question concerning Westfield's expansion plans, as embodied in the Draft Environmental Impact Report (Project Number 2214). The Draft EIR assumes the proposed Regents Road bridge project will be built, which would supposedly relieve traffic generated by the Westfield large-scale expansion plans. At present, there is no EIR for the Regents Road Bridge and there will not be one for *at least* one year for the SD City Council to examine. If the eventual Regents Road bridge EIR is rejected by the City Council (or if the bridge issue is delayed or cancelled by Court action), how would this eventuality affect the Westfield DEIR analysis? I would greatly appreciate a response to this question.

I think that any assumption that the Regents Road bridge is going to be built is highly speculative at this time, and so approval of the the DEIR for project 2214 would be highly premature.

Thank You.

Tom Petrie

55.1

Please refer to response to comment 21.1 from Ms. Bolivar for a discussion of Regents Road Bridge.

COMMENTS

RESPONSES

Martha Blake
Senior Planner
City of San Diego Development Services Center
1222 First Av.
MS 501
San Diego CA 92101

Subject: Project Number 2214

Dear Ms. Blake,

56.1

The DEIR presents a broad scenario of possible development scenarios but does not address specific projects. How can the community adequately assess the impacts that will occur from the project when everything is so nebulous? Each scenario would have an impact, some worse than others.

56.2

Impact on the residents, schools, businesses and commercial establishments surrounding UTC, including South University City, must be thoroughly addressed. Genesee Avenue is gridlocked several times a day under present conditions. How will the placement of an additional traffic signal (for bus only) on Genesee Ave between Nobel and Esplanade help relieve congestion? This will further add to the congestion on this street. **Fig. 3.2, pg. 3.10.**

56.3

I-805 is gridlocked during both am and pm peak travel times which now extend to several hours each day. The southbound ramp to 805 at Governor Dr. is severely impacted by present southbound traffic moving to exit to Hwy 52. Adding any additional vehicles to I-805 will further impact it. It may be years before adequate transit reaches the area or freeway improvements are made. Nobel Dr. was to be the answer to congestion when UTC was first built. It took 20 years for Nobel Dr. to go through! The trolley may never be a part of the transit scenario. Improvements must be concurrent with development, and we must know exactly what development is being proposed.

Sincerely,

Carole Pietras
6917 Lipmann ST
San Diego CA 92122

56.1

The potential land use scenarios are shown in Table ES-2 and discussed in Section 3.4 of the EIR. As stated on page ES-7, the "EIR evaluates the worst-case of all eight land use scenarios proposed by the Master PDP." Therefore, within Section 5.0, Environmental Analysis, depending on the issue, the EIR identifies which of the eight land use scenarios would result in the maximum or worst-case impacts.

56.2

A feasibility study on all proposed transportation/circulation mitigation measures was prepared (Rick Engineering 2007a), which determined that all improvements recommended in the Traffic Impact Study and within the EIR are feasible from an engineering perspective.

56.3

Comment noted. As no issue regarding the adequacy of the EIR is identified, no further response can be made.

COMMENTS

RESPONSES

From: Shelley Plumb [sheljoy@san.rr.com]
Sent: Wednesday, October 10, 2007 2:22 PM
To: DSDEAS@sandiego.gov
Subject: Project No. 2214 - Westfield UTC Expansion

57.1

As a long-time resident of University City, I am writing to voice my concerns about the DEIR regarding Westfield's proposed expansion of University Town Centre. The DEIR states that this expansion would add approx. 18,000 trips per day that will clog our surface roads and freeway onramps. We must consider also the impact of air pollution and noise that this increased traffic will have on the surrounding residents. The freeway onramps are already clogged at rush hour and traffic often is at a standstill. We need to lower air pollution -- not increase it. I am very concerned about the impact this expansion would have around holiday times. We will not be able to get in or out of UTC because of the increased traffic, congestion and no parking. On Freeway 163, at the Fashion Valley exit (Friars Rd.), from the end of November until the end of December, traffic is stopped on the freeway trying to get into Fashion Valley. If one is brave enough to wait in the long times, parking is extremely difficult to find once in the shopping center. I don't want the same thing to happen at UTC. I don't want multi-storied parking structures. In this age of global warming, we must cut down on consumption and we certainly do not need 150 new stores, more movie theatres (we have Landmark, AMC La Jolla 12, Pacific Town Square Stadium 14 within easy distance). Are people going to go to a congested shopping mall to see a movie when these others offer abundant parking and easy in-and-out access?

57.2

In University City, we have a major regional resource: Rose Canyon Open Space Park. The DEIR assumes that a proposed bridge will be built thereby relieving some of the traffic generated by the expansion. The proposed bridge would destroy the most quiet and peaceful part of the canyon and bring even more traffic into South University City. The DEIR cannot assume that this bridge will be built to offset traffic and it offers no mitigation if the bridge, in fact, is ever built.

57.3

A major concern must be that the DEIR fails to describe exactly what Westfield want to build. The DEIR must describe exactly what will be built. They must justify this huge expansion, which will require a community plan amendment, especially in light of changing attitudes worldwide about consumption, overcrowding, waste, global warming, pollution, noise, and the breaking down of communities. This expansion is totally out of character with the area surrounding UTC and will cause more stress on our sewers, drainage and roadways. It is absolutely unnecessary and will not benefit the community. It may mean profit for Westfield while degrading our lifestyle and our community. We cannot let this happen.

Thank you.

Sincerely,

Shelley Plumb
5952 Scripps Street
San Diego, CA 92122

57.1

The EIR identified significant impacts to transportation/circulation and air quality in Sections 5.3 and 5.4. Please refer to response to comment 9.51 from the University Community Planning Group for a discussion of holiday traffic.

57.2

Please refer to response to comment 21.1 from Ms. Bolivar for a discussion of Regents Road Bridge.

57.3

As discussed in response to comment 18.1 from Ms. Artiz, CEQA does not require "justification" for the project. Please refer to response to comment 9.3 from the University Community Planning Group for a discussion of the level of detail required for the project description.

COMMENTS

RESPONSES

From: Jane E Richardson [JER@ntrs.com]
Sent: Wednesday, October 10, 2007 2:29 PM
To: DSDEAS@sanidiego.gov
Subject: Project Number 2214

58.1

As a registered voter in San Diego County for over 33 years and as an 18 year resident homeowner in the UTC area, I am VERY OPPOSED to the proposed massive development of the UTC shopping center property. Recently I received in my home mail a polished, mass mailer from the developer seeking my support of this project. Not only do I believe the mailing was somewhat misleading, I find the developer's budget impossible to compete with. I hope that when the City considers this project, quality of life concerns will prevail over developer profits. Please do not allow the proposed variance to the community plan and permit this massive project to go forward. The nature and life style of the Golden Triangle area have deteriorated greatly over recent years as the City has allowed such dense development to go forward. This area can not handle more congestion. We have precious little open space now. Rose Canyon is our only remaining natural setting and it is threatened by the proposed Regents Road bridge. PLEASE limit the development of this area. I don't want to live in a high rise, congested, concrete covered neighborhood.

Thank you.

Jane E. Richardson

58.1

The commenter's opposition to the project is noted. As no issue regarding the adequacy of the EIR is identified, no further response can be made.

COMMENTS

RESPONSES

59.1

From: ringsfamily@aol.com
Sent: Wednesday, October 10, 2007 10:39 AM
To: DSDEAS@sanidiego.gov
Subject: Project #2214 Westfield Expansion.
Hello,

My husband and I are 25 year residents of University City and we are VERY concerned about the upcoming expan of the Westfield Shopping Center known as UTC. The project that is being proposed is HUGE and would impact our community greatly in a negative way. It seems that what is being proposed is a Fashion Valley type expansion, PLUS residential units. Fashion Valley has been built into a cement city which is unattractive aesthetically and overwhelming to visit. The traffic getting in and out is insane, and residents in University City are rightly concerned that this project will ruin our community, not only causing incredible traffic and congestion, but negatively impacting our way of life. Really... how many more stores do we really need?? Our community does not need an improved UTC. It is an adequate mall, and not long ago they did a remodel and changed it's layout. This Project is overkill. Too large, too many shops, too much residential, too much impact in general!! How many average daily trips will this add to Genessee and La Jolla Village drive. The traffic will be outrageous on the surface streets and the freeway's will be backed up for miles. I feel the project as it is proposed would only benefit the shopping mall owner and the developer. If it is more residential units you need, consider that without inflicting on our community the type of mall that is Fashion Valley. Please remember there is a quality of life here in University City that we value greatly. We do not want to give that up for a little more space in a Gap store or some new high end Fendi or Gucci stores. Please vote against the current proposal and seek a compromise that would be beneficial to the community as well as the developer.

Thank you,
Sincerely,
Beverlee and Steve Ring
4151 Tamilynn Court
San Diego, CA 92122 (UC)
858-450-3286
RingsFamily@aol.com

59.1 The commenter's opposition to the project is noted. As no issue regarding the adequacy of the EIR is identified, no further response can be made.

COMMENTS

RESPONSES

From: Allan Sathyadev [sathyadev@yahoo.com]
Sent: Wednesday, October 10, 2007 6:58 AM
To: DSDEAS@sandiego.gov
Subject: Project Number 2214
 Dear Sir/Ms

Please note some of the comments I have on the above project

- 60.1 **Traffic**
 "The Draft EIR states that the project would add almost 18,000 new vehicle trips a day and would further clog the freeway ramps and local streets. What is the justification for building a project that is so dependent on auto traffic? The project should provide solutions to substantially reduce the traffic it generates. The DEIR states that freeway ramps will get worse. What is the justification for adding more traffic before the existing freeway problems are fixed? What will be the full impact of adding years of construction traffic, especially in combination with other major construction projects such as the four Monte Verde Mega Towers across the street? Specifically, what will the November-December holiday traffic conditions be?"
- 60.2 **Community Character**
 Westfield is already built to the maximum allowed on its property. It is proposing a community plan amendment that would give it a huge increase in what it is entitled to develop on the same land. The DEIR should explain what justification there is to vastly increase the value of Westfield's property by giving them all these new development rights. The DEIR fails to describe what exactly Westfield will build. The DEIR must describe exactly what will be built.
- 60.3 **Recreation**
 "I use Rose Canyon Open Space Park for walking, running, biking, and nature walks. The Draft EIR assumes the proposed Regents Road bridge project would be built, which would relieve traffic generated by the Westfield mega expansion. This would ruin the most scenic and peaceful area of Rose Canyon Park, used by school groups, scouts, and individuals. How will the Westfield mega expansion mitigate for this? Given that the project will add up to 750 units of housing, how will the project meet the increased need for parks when there is no land available for new parks and our community already has far fewer parks than city standards? How will the project meet the need for increased recreational and library facilities for these new residents? And what will be the impacts on parks and libraries of these new residents in combination with all the new residents in all the other residential projects being built?"
- 60.4 **Views / aesthetics**
 "The Draft EIR vaguely states it will overcome the visual impact of having new 35 story buildings adjacent to 2-3 story buildings and single family homes. The DEIR should explain how this will be done. The addition of huge new buildings and increased density will change the character of the community. The DEIR should explain why such a proposal is beneficial to the community."
- 60.5 **Noise**
 What will be the noise impacts of all that increased traffic and all that construction on residents throughout the area? What will the noise impacts of the traffic and operations of all these buildings on neighboring residents?
- 60.6 **Air Pollution**
 The DEIR states the project will increase air pollution. What justification is there for a project that increases air pollution? The DEIR should identify specific substantial measures to reduce air pollution.

Allan Sathyadev
 2545 San Clemente Terr
 San Diego, CA 92122

- 60.1 Please refer to response to comment 28.1 from Ms. Deleo regarding the same issues.
- 60.2 As discussed in response to comment 18.1 from Ms. Artiz regarding the same issues, CEQA does not require "justification" for the project. Please refer to response to comment 9.3 from the University Community Planning Group for a discussion of the level of detail required for the project description
- 60.3 Please refer to response to comment 21.1 from Ms. Bolivar regarding the same issues.
- 60.4 Please refer to response to comment 9.106 from the University Community Planning Group for a discussion of building height.
- 60.5 Please refer to response to comment 30.5 from Mr. Forman regarding the same issues.
- 60.6 Please refer to response to comment 30.6 from Mr. Forman regarding the same issues.

COMMENTS

RESPONSES

61.1

From: Fred Saxon [fsaxon@yahoo.com]
Sent: Tuesday, October 09, 2007 11:20 PM
To: DSDEAS@sandiego.gov
Cc: info@rosecanyon.org
Subject: Stop the Westfield Expansion!!!!

According to the Draft EIR, the Westfield expansion will lead to:
MORE traffic, MORE pollution, MORE noise, and thus completely change the character of University
City. It will do nothing to add more parks. And it will completely and irreversibly change the quality
of life for UC residents. Please do not allow this corporate expansion.

F. Saxon

61.1

The commenter's opposition to the project is noted. As no issue regarding the adequacy of the EIR is identified, no further response can be made.

COMMENTS

RESPONSES

62.1

From: Shira Scott [spscott@mail.sdsu.edu]
To: DSDEAS@sanidiego.gov
Cc:
Subject: UTC Expansion
Attachments:

Sent: Tue 9/25/2007 5:34 PM

Martha Blake,

I am deeply disturbed that proposed expansions that include adding up to 725 dwelling units and up to 250 hotel rooms are even considered. I have lived in University City for over 10 years and have watched an excessive amount of construction going on around the UTC shopping area. This construction and added dwelling units crowds our city and makes traffic unbearable, especially on Genesee, between 4:00-6:30pm. I don't understand why elected officials are not standing up for their constituents and fighting against this. I love living in University City and hope to live here for the next 30 years and throughout retirement. I am frustrated however by the constant updates of development projects getting approved in a section of the city that can not handle more growth. Please help the citizens fight the developers!

Shira Scott
A very concerned citizen

62.1

The commenter's opposition to the project is noted. As no issue regarding the adequacy of the EIR is identified, no further response can be made.

COMMENTS

RESPONSES

63.1

From: Kathleen Scully [scully.kathleen@gmail.com] on behalf of Kathleen Scully [kscully@ucsd.edu]
Sent: Tuesday, October 09, 2007 10:35 PM
To: DSDEAS@sanidiego.gov
Cc: Friends of Rose Canyon
Subject: Westfield Proposes Massive Expansion of UTC

The Draft EIR states that the project would add almost 18,000 new vehicle trips a day and would further clog the freeway ramps and local streets. What is the justification for building a project that is so dependent on auto traffic? The project should provide solutions to substantially reduce the traffic it generates. The DEIR states that freeway ramps will get worse. What is the justification for adding more traffic before the existing freeway problems are fixed? What will be the full impact of adding years of construction traffic, especially in combination with other major construction projects such as the four Monte Verde Mega Towers across the street? Specifically, what will the November-December holiday traffic conditions be?

Kathleen Scully, Ph.D.

UCSD
9500 Gilman Drive
La Jolla, CA 92093

Residence:
5503 Dalen Avenue
San Diego, CA 92122

63.1 Please refer to response to comment 28.1 from Ms. Deleo regarding the same issues.

COMMENTS

RESPONSES

64.1

From: Carinne [rememberriver@san.rr.com]
Sent: Tuesday, October 09, 2007 9:53 PM
To: DSDEAS@sanidiego.gov; info@rosecanyon.org
Subject: Project Number 2214
To Whom it May Concern,

I oppose the expansion of the Westerfield Mall at UTC. I am a thirty year resident of University City. I use Rose Canyon Open Space Park for walking, running, biking, and nature walks. The Draft EIR assumes the proposed Regents Road bridge project would be built, which would relieve traffic generated by the Westfield mega expansion. This would ruin the most scenic and peaceful area of Rose Canyon Park, used by school groups, scouts, and individuals. How will the Westfield mega expansion mitigate for this? Given that the project will add up to 750 units of housing, how will the project meet the increased need for parks when there is no land available for new parks and our community already has far fewer parks than city standards? How will the project meet the need for increased recreational and library facilities for these new residents? And what will be the impacts on parks and libraries of these new residents in combination with all the new residents in all the other residential projects being built?

Please don't destroy our quality of living and refuse the expansion.
Carinne Senske

64.1

Please refer to responses to comments 21.1 and 21.2 from Ms. Bolivar regarding the same issues.

COMMENTS

RESPONSES

From: ssexton@san.rr.com
Sent: Wednesday, October 10, 2007 3:55 PM
To: DSDEAS@sanidiego.gov
Cc: info@roseacanyon.org; cityattorney@sanidiego.gov
Subject: Project Number 2214

To Whom It May Concern:

Please help me understand why the expansion of the Westfield UTC complex is in the best interest of this city. We are obviously already in dire straits regarding the city water situation - how on earth can it possibly be improved with the constant building of new homes, in this case another 750 units? And a hotel, which uses massive amounts of water? It is completely irrational in these times to even remotely consider changing the UC community plan to INCREASE water usage, purely for the sake of commerce. Can you spell D-E-S-E-R-T?

I also can't fathom why the city would want to bring in MORE traffic to an area that is already fighting to keep the traffic under control as it is. The community was very clear in it's opposition to the building of Regents Bridge. Painfully, the city council, under the pathetic leadership of Mr. Peters, is already trying to spend ANOTHER \$5M on designing a bridge that the community is adamantly opposed to (hopefully the city attorney will be able to stop that debacle - as illegal and an egregious waste of funds). Is expanding Westfield the first step that Mr. Peters is trying to take to really overburden the UC traffic flow, thereby justifying his push for the Regents bridge? So he can get donations from those companies for yet another campaign? I can't possibly come up with any other justification other than pure selfish greed on his part and the builders.

Please do not disregard our love of our community and Rose Canyon - we cherish it and do not want further expansion in UC. The residents do NOT want increased traffic and we do NOT want a bridge - PERIOD.

Expanding UTC to include residence units will exacerbate the traffic problems. We deeply resent the continued efforts of the city and council to over-populate and over-commercialize our community. This has been shown repeatedly by the votes of our planning group [which you often ignore] and by our overwhelming financial support for the groups that hired legal counsel to handle the bridge fiasco.

Hopefully you will carefully consider all the issues at hand [city budget, unwanted bridge/inadequate EIRs, water use, La Jolla slides, etc.] and this expansion will not have your support. You have faced enough embarrassment with the Sunroad debacle - please do not go down that same path again. LISTEN to the community residents, NOT the commercial entities who don't really seem to care about the citizens of San Diego.

Your very careful consideration of these issues would be appreciated.

Most sincerely,
Stephanie Sexton
UC resident

65.1

65.1 The commenter's opposition to the project is noted. As no issue regarding the adequacy of the EIR is identified, no further response can be made.

COMMENTS

RESPONSES

From: Conor Soraghan [csoragha@hotmail.com]
Sent: Tuesday, October 09, 2007 9:18 PM
To: dsdeas@sanidiego.gov; info@rosecanyon.org
Subject: Proposed Westfield Expansion Project Number 2214

Dear Sir/madam'

I am writing you concerning the proposed Westfield Expansion. This is a tremendously bad idea on so many levels namely:

66.1

Westfield is already built to the maximum allowed on its property. It is proposing a community plan amendment that would give it a huge increase in what it is entitled to develop on the same land. The DEIR should explain what justification there is to vastly increase the value of Westfield property by giving them all these new development rights. The DEIR fails to describe what exactly Westfield will build. The DEIR **must** describe exactly what will be built.

66.2

What will be the noise impacts of all that increased traffic and all that construction on residents throughout the area? What will the noise impacts of the traffic and operations of all these build on neighboring residents?

66.3

The DEIR states the project will increase air pollution. What justification is there for a project that increases air pollution? The DEIR should identify specific substantial measures to reduce air pollution.

66.4

IN SUMMARY - THE REASONS WHY THIS EXPANSION IS SO BAD:

1. Would add almost 18,000 new traffic trips every day and further clog the freeway ramps.
2. Assumes the proposed Regents Road bridge project would be built. It would vastly increase traffic and drive the need for both the proposed Regents Road bridge project and the widening of Genes Avenue between Nobel and the 52.
3. Would increase air pollution.
4. Would add up to 750 units of new housing with no new parks or libraries.
5. Would send all of its storm water and runoff into Rose Canyon, and from there to Mission Bay.
6. Would allow Westfield to decide over time to build whatever combination of projects it wants: a vastly expanded mall in addition to up to four residential, office and hotel towers up to 35 stories. This vague "blank check" approach in an EIR violates California environmental law.

66.5

Please fully complete the EIR and please do NOT let Westfield destroy UTC. No giveaways to wealthy developers. Thank you.

Conor Soraghan.
csoragha@hotmail.com

66.1

As discussed in response to comment 18.1, CEQA does not require "justification" for the project. Please refer to response to comment 9.3 from the University Community Planning Group for a discussion of the level of detail required for the project description.

66.2

Please refer to response to comment 30.5 from Mr. Forman regarding the same issues.

66.3

Please refer to response to comment 30.6 from Mr. Forman regarding the same issues.

66.4

Please refer to response to comment 30.7 from Mr. Forman regarding the same issues.

66.5

It is not clear why the commenter believes that the EIR is not complete; therefore no further response can be made.

COMMENTS

RESPONSES

From: Anne St Louis [amstlouis@earthlink.net]

Sent: Thursday, October 11, 2007 10:26 AM

To: DSDEAS@sandiego.gov

Cc: info@rosecanyon.org

Subject: Project Number 2214

To Whom It May Concern

67.1

Our area suffers major traffic congestion and is already an extremely high density business center. I totally disagree with Westfield's proposal to expand their development rights. Westfield is already built to the maximum allowed on its property. It is proposing a community plan amendment that would give it a huge increase in what it is entitled to develop on the same land. The DEIR should explain what justification there is to vastly increase the value of Westfield's property by giving them all these new development rights. The DEIR fails to describe what exactly Westfield will build. The DEIR must describe exactly what will be built. Have you seen the HUGE apartment complexes that have already been built just east of Westfield?

67.2

Further, this Draft EIR assumes the proposed Regents Road bridge project would be built, which would relieve traffic generated by the Westfield mega expansion. This would ruin the most scenic and peaceful area of Rose Canyon Park, used by school groups, scouts, and individuals. How will the Westfield mega expansion mitigate for this? Given that the project will add up to 750 units of housing, how will the project meet the increased need for parks when there is no land available for new parks and our community already has far fewer parks than city standards? How will the project meet the need for increased recreational and library facilities for these new residents? And what will be the impacts on parks and libraries of these new residents in combination with all the new residents in all the other residential projects being built?"

For some reason, our leaders have decided that it is okay to abandon long-standing plans for the University City. I am paying close attention to your upcoming vote.

Sincerely,
Anne St. Louis

President
Biovation, Inc.

67.1

As discussed in response to comment 18.1 from Ms. Artiz regarding the same issues, CEQA does not require "justification" for the project. Please refer to response to comment 9.3 from the University Community Planning Group for a discussion of the level of detail required for the project description.

67.2

Please refer to responses to comments 21.1 and 21.2 from Ms. Bolivar regarding the same issues.

COMMENTS

RESPONSES

From: DESTEELE@aol.com
Sent: Tuesday, October 09, 2007 8:32 PM
To: DSDEAS@sandiego.gov
Cc: info@rosecanyon.org
Subject: Project Number 2214 Questions?
 Sirs:

I wish to express my concern for the proposed Westfield Mega Expansion project. Following is an overview of the reasons for this concern. I urge you to carefully consider these below impacts before allowing progress to this proposed project.

68.1	Traffic "The Draft EIR states that the project would add almost 18,000 new vehicle trips a day and would further clog the freeway ramps and local streets. What is the justification for building a project that is so dependent on auto traffic? The project should provide solutions to substantially reduce the traffic it generates. The DEIR states that freeway ramps will get worse. What is the justification for adding more traffic before the existing freeway problems are fixed? What will be the full impact of adding years of construction traffic, especially in combination with other major construction projects such as the four Monte Verde Mega Towers across the street? Specifically, what will the November-December holiday traffic conditions be?"	68.1	Please refer to response to comment 28.1 from Ms. Deleo regarding the same issues.
68.2	Community Character Westfield is already built to the maximum allowed on its property. It is proposing a community plan amendment that would give it a huge increase in what it is entitled to develop on the same land. The DEIR should explain what justification there is to vastly increase the value of Westfield's property by giving them all these new development rights. The DEIR fails to describe what exactly Westfield will build. The DEIR must describe exactly what will be built.	68.2	As discussed in response to comment 18.1 from Ms. Artiz regarding the same issues, CEQA does not require "justification" for the project. Please refer to response to comment 9.3 from the University Community Planning Group for a discussion of the level of detail required for the project description.
68.3	Recreation "I use Rose Canyon Open Space Park for walking, running, biking, and nature walks. The Draft EIR assumes the proposed Regents Road bridge project would be built, which would relieve traffic generated by the Westfield mega expansion. This would ruin the most scenic and peaceful area of Rose Canyon Park, used by school groups, scouts, and individuals. How will the Westfield mega expansion mitigate for this? Given that the project will add up to 750 units of housing, how will the project meet the increased need for parks when there is no land available for new parks and our community already has far fewer parks than city standards? How will the project meet the need for increased recreational and library facilities for these new residents? And what will be the impacts on parks and libraries of these new residents in combination with all the new residents in all the other residential projects being built?"	68.3	Please refer to responses to comment 21.1 and 21.2 from Ms. Bolivar regarding the same issues.
68.4	Views/aesthetics "The Draft EIR vaguely states it will overcome the visual impact of having new 35 story	68.4	Please refer to response to comment 9.106 from the University Community Planning Group for a discussion of building height.

COMMENTS

RESPONSES

68.4
cont. buildings adjacent to 2-3 story buildings and single family homes. The DEIR should explain how this will be done. The addition of huge new buildings and increased density will change the character of the community. The DEIR should explain why such a proposal is beneficial to the community."

68.5 Noise
What will be the noise impacts of all that increased traffic and all that construction on residents throughout the area? What will the noise impacts of the traffic and operations of all these buildings on neighboring residents?

68.6 Air Pollution
The DEIR states the project will increase air pollution. What justification is there for a project that increases air pollution? The DEIR should identify specific substantial measures to reduce air pollution.

Concerned citizen and resident,
Don Steele
3436 Millikin Ave.,
San Diego, CA 92122

68.5 Please refer to response to comment 30.5 from Mr. Forman regarding the same issues.

68.6 Please refer to response to comment 30.6 from Mr. Forman regarding the same issues.

COMMENTS

RESPONSES

From: Pamela Steinberg [pammanny@sbglobal.net]
Sent: Wednesday, October 10, 2007 4:01 PM
To: DSDEAS@sanidiego.gov
Subject: UTC Mall Expansion
 Dear Gentlemen and Ladies:

69.1

I can understand that Weisfield would like to expand there mall and I have no problem with it going to a two story mall. But it doesn't seem wise to give them an aproval on development without limits. 750 housing units and 35 story buildings right next to single story homes is not what was originally planned for this site. A mall is not a housing complex and should stay as it was zoned. I do not see any justification for the Weisfield proposing a community plan amendment that would give it a huge increase in what it is entitled to develop on the same land. The DEIR should explain what justification there is to vastly increase the value of Westfield's property by giving them all these new development rights The DEIR fails to describe what exactly Westfield will build. The DEIR must describe exactly what will be built.

I received a brochure from Wesifield pushing for this development showing only a 2 storydevelopment - now that I have learned the real development issue I do not like the false advertisement I received from this company. It showed a bell tower like structure, but that isn't a 35 foot comdo structure either.

The Draft EIR vaguely states it will overcome the visual impact of having new 35 story buildings adjacent to 2-3 story buildings and single family homes. The DEIR should explain how this will be done. The addition of huge new buildings and increased density will change the character of the community. The DEIR should explain why such a proposal is beneficial to the community.

To top it off, they are assuming the Regents Road bridge will be done which means we are giving up premium open space that is used by school groups, scouts, joggers, bikers, walkers, and nature lovers. This again ruins more open space for more stores that are not required. We already have so many malls in this area and congestion, the open space is greatly needed for all the recreational use it gets each day.

69.2

The other problems I see with this developement is that it doesn't appear to go thru EIR requirements per California Law which concerns me. What impact will this have on our roads, noise requirements for the single family homes backed up to this monstrous development, and the sewer and other city infrastrutures. I know from a fact that the sewer development won't even handle the new towers going in at La Jolla Village Dr and Genessee. This development has to upgrade our existing pipes going into Rose Canyon. Who is going to fix the pipes in Rose Canyon and upgrade for the mall? None of this has been addressed and it is extremely costly. As a taxpayer I would like to know the outcome of this issue.

I feel there are too many unopened questions and EIR issues for my to approve any development and I would encourage you not to approve this development.

Pam Steinberg
 4185 Porte de Merano #155
 San Diego, CA

69.1

As discussed in response to comment 18.1 from Ms. Artiz regarding the same issues, CEQA does not require "justification" for the project. Please refer to response to comment 9.3 for a discussion of the level of detail required for the project description. Also please refer to responses to comments 21.1 for a discussion of Regents Road Bridge and 9.106 for a discussion of building heights.

69.2

As discussed in Sections 5.3, 5.5.9 and 6.3.7, potential impacts to transportation/circulation and noise have been identified.

The recently approved Monte Verde project has already addressed the need for the sewer upgrade in University City by evaluating and agreeing to upsize the sewer line between Rose Canyon and the Monte Verde project site. That upsizing will fully mitigate this project's cumulative impacts on sewer capacity, as the Monte Verde site is located adjacent to the University Towne Center site. The University Towne Center project applicant will still be required to contribute its fair share amount, which may then be used to reimburse the Monte Verde project applicant for any expenses associated with upsizing the sewer line. Regardless of whether the sewer upgrade is completed by the Monte Verde project applicant, the University Towne Center project is not permitted to connect to the sewer line unless and until the line has been upsized.

The environmental impacts of the sewer upgrade have been addressed in the Final EIR for the 560-Unit Monte Verde Project, certified by the City of San Diego on September 17, 2007. The sewer expansion is expected to have environmental impacts on biological resources, historical resources, and visual effects/neighborhood character. According to the Monte Verde Final EIR and findings previously adopted by the City, the impacts to biological and historical resources will be mitigated to a level below significance. As discussed in Section 5.2 of the EIR, impacts on visual effects/neighborhood character may remain significant is the sewer line is not placed underground.

COMMENTS

RESPONSES

From: cyberchou@san.rr.com
Sent: Wednesday, October 10, 2007 8:30 AM
To: DSDEAS@sanidgo.gov
Cc: info@rosecanyon.org
Subject: No! Westfield Proposes Massive Expansion of UTC

To Whom It May Concern:

Westfield is already built to the maximum allowed on its property. It is proposing a community plan amendment that would give it a huge increase in what it is entitled to develop on the same land. Stop allowing money and political ambition manipulate the plan set in place and stop these constant attacks on the master plan. The DEIR should explain what justification there is to vastly increase the value of Westfield's property by giving them all these new development rights.

The DEIR fails to describe what exactly Westfield will build. The DEIR must describe exactly what will be built.

Westfield is proposing a community plan amendment that would give it a huge increase in what it is entitled to develop on the same land.

The DEIR should explain what justification there is to vastly increase the value of Westfield's property by giving them all these new development rights. The DEIR fails to describe what exactly Westfield will build. The DEIR must describe exactly what will be built.

Sincerely,
David & Ivonne Stewart

70.1

70.1

As discussed in response to comment 18.1 from Ms. Artiz regarding the same issues, CEQA does not require "justification" for the project. Please refer to response to comment 9.3 for a discussion of the level of detail required for the project description.

COMMENTS

RESPONSES

From: Elizabeth Stiles [ecstiles@gmail.com]
Sent: Monday, September 24, 2007 10:02 AM
To: mblake@sandiego.gov
Subject: RE: UTC

September 24, 2007

Martha Blake, Senior Planner
City of San Diego
1222 First Avenue, MS501
San Diego, CA 92101

RE: UTC

Dear Ms. Blake:

I currently live at Torrey Pines Village, a complex directly adjacent to UTC, and have taken great interest in the upcoming UTC revitalization project. Their displays tout that the project will include:

- a.. Preservation of natural open spaces
- b.. New specialty boutiques and dining options
- c.. New luxury department store experiences
- d.. Environmentally friendly designs
- e.. Convenient/hassle-free experience
- f.. Improved connections with community
- g.. New transit options, more transportation choices

I am particularly excited that Westfield will be pursuing environmentally friendly designs. I think this is a great opportunity to educate the public about the benefits of green development and find out what the community wants; and so far I think Westfield has done very well to seek community feedback through their UTC Experience booth at the mall, and presentations and mailings to the community.

In their presentations, they have shown how they plan to improve pedestrian access, walkways, and bridges—an improvement I think the whole community will benefit from. Like myself, many living in the UTC area appreciate being able to walk to the grocery store and for other shopping needs... and these changes will make that much easier and also safer, particularly along Genesee and La Jolla Village Drive.

I will also enjoy the expanded shopping and dining options, which will be very hassle-free for me since I can walk to the mall. I am interested to see how the new parking and transit options will accommodate visitors who cannot just walk over. While, I wonder how hassle-free accessing a significantly larger mall in a very dense urban area can be, I think the plans expressed so far have shown that they are pursuing as hassle-free an experience as possible. At the very least, the transit center will be a huge improvement and a great option for getting to the mall.

Overall, the improvements to transportation, pedestrian access, and the use of environmentally friendly projects make this a project that I am really looking forward to. Thank-you for letting me provide some input.

Sincerely,
Elizabeth Stiles

71.1

71.1 Comment noted. As no issue regarding the adequacy of the EIR is identified, no further response can be made.

COMMENTS

RESPONSES

72.1 **From:** jstrebappraisals@aol.com
Sent: Wednesday, October 10, 2007 8:11 AM
To: DSDEAS@sandiego.gov
Cc: info@rosecanyon.org
Subject: project 2214

72.2 I use Rose Canyon Open Space Park for cycling. The Draft EIR assumes the proposed Regents Road bridge project would be built, which would relieve traffic generated by the Westfield mega expansion and benefit only the developers at a huge cost to the environment and our lifestyle. This would ruin the most scenic and peaceful area of Rose Canyon Park, used by school groups, scouts, and individuals.

72.3 How will the Westfield mega expansion mitigate for this? Given that the project will add up to 750 units of housing, how will the project meet the increased need for parks when there is no land available for new parks and our community already has far fewer parks than city standards? How will the project meet the need for increased recreational and library facilities for these new residents? And what will be the impacts on parks and libraries of these new residents in combination with all the new residents in all the other residential projects being built? The end result is noise, pollution and highway speed traffic thru a residential area. I for one can live without another windfall for developers and their politicians.

West UC resident

John Streb
J.Streb Residential Appraisals, Inc.
2621 Denver Street, #D
San Diego, Ca. 92110
(619)-276-8734
(619)-276-8736 fax
john@jstrebappraisals.com

72.1 Please refer to response to comment 21.1 from Ms. Bolivar regarding the same issues.

72.2 Please refer to response to comment 21.2 from Ms. Bolivar regarding the same issues.

72.3 Comment noted. As no issue regarding the adequacy of the EIR is identified, no further response can be made.

COMMENTS

RESPONSES

From: Jerry Streichler [jstreic@bgnet.bgsu.edu]
Sent: Wednesday, October 10, 2007 11:17 AM
To: DSDEAS@sanidiego.gov
Subject: Project Number 2214

I live in the Golden Triangle. My address is given below.

73.1

Every morning and evening during what we consider "rush hours," I drive along the stretch of La Jolla Village Drive between I-5 and I-805.

I am not a traffic engineer, but it should be obvious to lay persons and professional experts alike that the traffic flows already created by the already approved and completed and soon to be completed projects in the affected area have not been addressed.

The consequences are already being felt and all the dangers of pollution, distraught drivers, wasted gas consumption, time wasted sitting in idle traffic jams are evident.

To pile on another project without insuring that environmental and other neighborhood impacts are ameliorated and in fact without assuring that any new project will assume complete responsibility and costs of easing the existing and foreseeable traffic flow problems and other environmental issues will not only be politically foolhardy, but will be a complete abrogation of leadership responsibility.

73.2

Clearly, the magnitude of this project is such that anyone familiar with large construction projects must realize that large numbers of citizens, owners and renters in the areas will be seriously discommoded for a period of several years.

It seems that any EIR dealing with this issue must address the identified threats to the community and its citizens and must insure that citizens are not penalized in their daily lives on behalf of increasing the investment value of those proposing the project.

If the project were to be approved to move forward, that approval should include provisions that the construction that will be undertaken will be done under conditions that will insure, as a first priority, the comfort, convenience and health and safety of the community's citizens and visitors.

Jerry Streichler
4007 Porte de Palmas #66
San Diego, CA 92122

858 450 3147

73.1

As discussed in Section 5.3, the EIR acknowledged significant impacts to transportation/circulation. It is not within the scope of this project to fix existing problems. The EIR has proposed mitigation measures to reduce project-related impacts.

73.2

Potential impacts of the project are identified on Section 5.0 of the EIR and mitigation measures are identified where appropriate.

COMMENTS

RESPONSES

Martha Blake – Senior Planner
City of San Diego Development Services Center
1222 First Ave MS 501
San Diego, CA. 92101

13Aug07

74.1

Ms Blake: I urge you to oppose the planned expansion of UTC and the associated zoning changes and master plan amendments. The planned expansion is way over the mark, does not agree with the community plan, and smacks of developer steamrolling.

The addition of high rise offices, hotel rooms and residential units (condominiums) will overwhelm this area and destroy the spatial qualities that now exist. The area is already dense, has terrible traffic issues at rush hour (and at high-shopping times), and certainly does not need it's skyline disrupted with 300+ foot high rise buildings. UTC is a moderate size shopping mall in the middle of a residential area and should remain so. The mall is one of the few in San Diego that is still rather easily accessible and somewhat convenient from a parking and walking standpoint. Pls don't make a Fashion Valley out of UTC!

Sincerely,

A. Verna 
5157 Dawne St
San Diego, CA. 92117

74.1

The commenter's opposition to the project is noted. As no issue regarding the adequacy of the EIR is identified, no further response can be made.

COMMENTS

RESPONSES

75.1

From: Weaver, Linda [Linda.Weaver@cnb.com]

Sent: Wednesday, October 10, 2007 9:37 AM

To: DSDEAS@sandiego.gov

Cc: Carinne

Subject: Westfield UTC mall expansion - Against!

I own a home in the UTC area and I work directly across the street from the Mall. The proposed expansion will be a traffic nightmare in an area that is already far worse than downtown for access. The Mall claims they will pay for the widening of La Jolla Village Drive to ease the congestion, but they are just finishing a huge new Crate and Barrel store **only 15 feet from La Jolla Village Drive, effectively making that option impossible!**

Can you believe anything they say if they are already telling lies that are this transparent and cavalier?

It's all about the bucks for them. But it's all about quality of life for the City Council. **Do the right thing. Vote this project down.**

Linda Weaver

City National Bank

4275 Executive Square, Suite 750

La Jolla, CA 92037

Phone: (858) 642-4907

Fax: (858) 642-4952

Unit # 055

75.1

The commenter's opposition to the project is noted. A Feasibility Report on all proposed transportation/circulation mitigation measures was prepared, which determined that all improvements recommended in the Traffic Impact Study and within the EIR are feasible from an engineering perspective. The Feasibility Report is included as Appendix U to the TIS (see EIR Appendix B).

COMMENTS

RESPONSES

From: Stephanie Webber [swebber@san.rr.com]
Sent: Tuesday, October 09, 2007 9:21 PM
To: DSDEAS@san.diego.gov
Subject: Project Number 2214

I would like to state my opposition to the Westfield project development proposed at UTC.

76.1 I live in University City and have done for the last 30 years, as the area has been developed with numerous high density housing projects and high rise offices and hotels, the traffic congestion has got worse and worse. I cannot understand why the city would allow even denser housing and development here. This project is stated to add almost 18,000 new vehicle trips a day to our already overcrowded neighborhood. It will further clog the freeway ramps and local streets. What is the justification for building a project that is so dependent on auto traffic? I believe any project of this type should not be permitted unless it provides solutions to substantially reduce the traffic it generates. In addition to the impact once the project is completed, what will be the full impact of adding years of construction traffic, especially in combination with other major construction projects such as the four Monte Verde Mega Towers across the street? I believe the area will be impassable during the November-December holiday period.

Other concerns I have include:

76.3 There isn't a complete description of what is to be built, this offers a blank slate to Westfield which I do not think is right. What is the justification for this?

76.4 Rose Canyon: I and many of my friends and neighbors in the area love to walk in the canyon, one of the few open spaces left in the area. The Draft EIR assumes the Regents Road bridge will be built to help handle the traffic this project will generate. I am vehemently opposed to this - it would be doubly dreadful for residents of this area - the canyon will be ruined and it will allow yet another mega-development to spoil our neighborhood and clog it with traffic.

76.5 The Visual Appearance: The Draft EIR vaguely states it will overcome the visual impact of having new 35 story buildings adjacent to 2-3 story buildings and single family homes. The DEIR should explain how this will be done. The addition of huge new buildings and increased density will change the character of the community. The DEIR should explain why such a proposal is beneficial to the community not just to the developers.

76.6 Noise: What will be the noise impacts of all that increased traffic and all that construction on residents throughout the area?

76.7 Air Pollution: The DEIR states the project will increase air pollution. What possible justification is there for a project that increases air pollution?

76.8 All in all I am horrified at the proposed development and hope that the City Council will respect the quality of life that existing residents wish to maintain rather than siding (as so very often seems to be the case) with developers whose only goal is to make vast amounts of money...and who do not live in the area at all.

Sincerely

Stephanie Webber
5556 Stresemann Street

76.1 Please refer to response to comment 9.93 from the University Community Planning Group for a discussion of project traffic.

76.2 Please refer to response to comment 28.1 from Ms. Deleo regarding the same issues.

76.3 As discussed in response to comment 18.1, CEQA does not require "justification" for the project. Please refer to response to comment 9.3 for a discussion of the level of detail required for the project description.

76.4 Please refer to response to comment 21.1 from Ms. Bolivar regarding the same issues.

76.5 Please refer to response to comment 9.106 from the University Community Planning Group for a discussion of building height.

76.6 Please refer to response to comment 30.5 from Mr. Forman regarding the same issues.

76.7 Please refer to response to comment 30.6 from Mr. Forman regarding the same issues.

76.8 Comment noted. As no issue regarding the adequacy of the EIR is identified, no further response can be made.

COMMENTS

RESPONSES

Kevin T. Wirsing
3276 Willard Street
San Diego, CA 92122

October 10, 2007

Ms. Martha Blake, Environmental Planner
City of San Diego Development Services Center
1222 First Avenue, MS 501
San Diego, CA 92101

RE: Draft Environmental Impact Report – Project No. 2214 – University Towne Center

Dear Ms. Blake:

The project as proposed appears to assume that there is essentially no finite limit on the traffic which can be absorbed by the existing or planned roadway infrastructure in the University Community planning area. This apparent assumption leads to the following questions:

- 1) Is this in fact an assumption the drafters of the draft EIR and the city have made in evaluating the traffic impacts of the project?
- 2) If, on the contrary, the drafters believe there is a finite limit on the traffic that the existing or planned roadway infrastructure can absorb, what is that limit?
- 3) If there is a limit on the traffic that the existing or planned roadway infrastructure can absorb, will the traffic generated by the project exceed that limit?
- 4) If there is a limit on the traffic that the existing or planned roadway infrastructure can absorb, will the traffic generated by *other proposed* projects in the University Community plan area exceed that limit?

Very truly yours,

Kevin Wirsing

77.1

77.1

As discussed in Section 5.3, transportation/circulation significant impacts have been identified. As no issue regarding the adequacy of the EIR is identified, no further response can be made.

COMMENTS

RESPONSES

From: Susan Worsham [susanworsham@san.rr.com]

Sent: Wednesday, October 10, 2007 3:59 PM

To: DSDEAS@san.rr.com

Cc: 'Milo Worsham'; susanworsham@san.rr.com

Subject: Westfield Expansion

I am writing to voice concerns over the Westfield expansion:

78.1

- The Draft EIR states that the project would add almost 18,000 new vehicle trips a day and would further clog the freeway ramps and local streets. What is the justification for building a project that is so dependent on auto traffic? The project should provide solutions to substantially reduce the traffic it generates.

78.2

- The DEIR states that freeway ramps will get worse. What is the justification for adding more traffic before the existing freeway problems are fixed? What will be the full impact of adding years of construction traffic, especially in combination with other major construction projects such as the four Monte Verde Mega Towers across the street? The wait on the on ramps is already beyond reasonable at the southbound LJ Village Dr, Nobel and Governor .
- Westfield is already built to the maximum allowed on its property. It is proposing a community plan amendment that would give it a huge increase in what it is entitled to develop on the same land. The DEIR should explain what justification there is to vastly increase the value of Westfield's property by giving them all these new development rights. The DEIR fails to describe what exactly Westfield will build and must describe exactly what will be built,

78.3

- The Draft EIR vaguely states it will overcome the visual impact of having new 35 story buildings adjacent to 2-3 story buildings and single family homes. The DEIR should explain how this will be done. The addition of huge new buildings and increased density will change the character of the community. The DEIR should explain why such a proposal is beneficial to the community.

78.4

Please take the appropriate measures to ensure that traffic, noise and air pollution are improved, not worsened, that the character and views of the community are enhanced and not degraded, and that the recreational and environmental areas are protected and not destroyed.

Thank you.

Susan and Milo Worsham
4571 Robbins St.
San Diego, CA

858-552-0565

78.1

Please refer to responses to comments 9.93 from the University Community Planning Group and 28.1 from Ms. Deleo regarding the same issues.

78.2

As discussed in response to comment 18.1 from Ms. Artiz regarding the same issues, CEQA does not require "justification" for the project. Please refer to response to comment 9.3 for a discussion of the level of detail required for the project description.

78.3

Please refer to response to comment 9.106 from the University Community Planning Group for a discussion of building height.

78.4

Comment noted. As no issue regarding the adequacy of the EIR is identified, no further response can be made.