

McKinley Village Project (P08-806)

Revised Final Environmental Impact Report

State Clearinghouse Number: SCH 2008082049



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Date Completed: April 2017

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**Revised Final Environmental Impact Report
for the
McKinley Village Project**

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APRIL 2017

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CHAPTER 1 INTRODUCTION

INTRODUCTION

This Revised Final Environmental Impact Report (Final Revised EIR) contains the public and agency comments received during the public review period for the McKinley Village Revised Draft EIR, and responses to each of those comments.

All written comments received during the public review period (January 18, 2017, through March 6, 2017) on the Revised Draft EIR are addressed in this Final Revised EIR. In many instances comments raise issues that are outside of the scope of the Revised Draft EIR and the City is not required to provide responses to those comments. However, the City has attempted to provide responses to each of the comments received.

The responses in this Revised Final EIR clarify, correct, and/or amplify text in the Revised Draft EIR, as appropriate. Under such circumstances, the City Council finds that recirculation of the Revised Final EIR is not required. This document has been prepared in accordance with the California Environmental Quality Act (CEQA; California Public Resources Code (PRC), Sections 21000–21177).

BACKGROUND

In *East Sacramento Partnership for a Livable City v. City of Sacramento*, the Court of Appeal, Third Appellate District, upheld the McKinley Village EIR (certified in 2014) with one exception -- the Court held the traffic analysis in the EIR failed to explain or provide substantial evidence to support the conclusion that the McKinley Village Project (Project) would not result in significant traffic impacts to specific intersections on 28th, 29th and 30th Streets. Specifically, the Court determined the EIR failed to explain why traffic levels of service (LOS) E and F are not considered significant environmental impacts under the City's General Plan LOS Policy that allows LOS F in the Core Area. Pursuant to the Court's decision, "...the City need only correct [this] deficiency in the EIR...before considering recertification of the EIR." To address the Court's decision the City prepared the Revised Draft EIR pursuant to the Court's directive to better explain the City's determination that LOS F is acceptable in the Core Area and is not considered a significant effect on the environment.

The comments and responses that make up this Revised Final EIR, in combination with the Revised Draft EIR constitute the Revised EIR that will be considered for certification by the decision makers of the City of Sacramento.

USE OF THE REVISED FINAL EIR

The City Council will review the Revised EIR to ensure it adequately addresses the concerns raised in the Appellate Court's decision. The Revised EIR has been prepared to support action by the City Council that would, consistent with the Court of Appeal decision, set aside the EIR that was certified as part of the original approval, set aside the project entitlements, and take further action that could include certification of the Revised EIR and re-approval of the project entitlements.

On March 21, 2017, the Superior Court, implementing the Court of Appeal opinion, entered its judgment that ordered the City "...to vacate and set aside the certification of the EIR and related project approvals for the McKinley Village residential housing project. (The approvals include resolution Nos. 2014-0102, 2014-0103, 2014-0104, 2014-0105, 2014-0106 and Ordinance Nos. 2014-011 and 2014-012.) [The City] shall not reapprove the project unless and until [the City] has taken the actions necessary to correct the above-described deficiencies in the transportation and circulation section of the EIR and thereby bring the EIR into compliance with CEQA, this judgment, and the Court of Appeal's Opinion..." (Judgment after Remittitur, page 4)

This Revised EIR has been prepared to provide the necessary basis for the City Council to take action consistent with the Judgment, and to certify the Revised EIR and re-approve project entitlements.

SUMMARY OF TEXT CHANGES

Chapter 2 in this Revised Final EIR, Text Changes to the Revised Draft EIR, identifies all changes made to the document. These minor text changes provide additional clarity in response to comments received on the Revised Draft EIR, but do not change the significance of the conclusions presented in the Revised Draft EIR. Recirculation is therefore not required by CEQA.

RESPONSES TO COMMENTS

A list of public agencies and individuals commenting on the Revised Draft EIR is provided in Chapter 3 in this Revised Final EIR. A total of 55 comment letters were received and each letter and response is included in Chapter 3. Each response is numbered and presented with brackets indicating how the letter has been divided into individual comments. Each comment is given a binomial with the number of the comment letter appearing first, followed by the comment number. For example, comments in Letter 1 are numbered 1-1, 1-2, 1-3, and so on. Immediately following the letters are the responses, each with binomials that correspond to the bracketed comments. As the subject matter of one topic may overlap between letters, the reader is occasionally referred to one or more responses to review all the information on a given subject. To assist the reader, cross-references to other comments are provided. In addition, master responses have been prepared for the same issue or concern raised in multiple comments. The master responses precede the comment letters and, where applicable, the reader is referred back to the master response to address the issue raised in the comment.

CHAPTER 2 TEXT CHANGES TO THE REVISED DRAFT EIR

INTRODUCTION

This chapter presents minor corrections, additions, and revisions made to the Revised Draft EIR in response to written comments. New text is indicated in underline and text to be deleted is reflected by ~~strike through~~, unless otherwise noted in the introduction preceding the text change.

The changes made to the Revised Draft EIR represent only a minor clarification of the analysis contained in the Revised Draft EIR and do not constitute significant new information that, in accordance with CEQA Guidelines Section 15088.5, would trigger the need to recirculate all or part or all of the Revised Draft EIR. Recirculation is therefore not required.

Chapter 1, Introduction

To address a request from a commenter, the tables provided in the Revised Draft EIR on page 1-1 and 1-2 are numbered and a note added that explains the average delay is provided in seconds per vehicle.

Table 1-1
Existing Plus Project Conditions - Core Area Intersection¹ LOS E or F Operations²

Intersection ³	Control	Peak Hour	Existing		Existing Plus Project	
			Level of Service	Average Delay ⁵	Level of Service	Average Delay ⁵
E Street/29th Street/SB Capital City Freeway Off-Ramp ⁴	Traffic	AM	C	26	E	66
	Signal	PM	C	22	C	31

Notes:

- ¹ The Court agreed with the City's approach in the EIR to analyze intersections in order to determine significance of Project and cumulative impacts, rather than roadway segments. (Opinion, pp. 16-17.)
- ² See Table 4.9-10 (pp.4.9-52 to 54) from the Draft EIR for the full table of intersections analyzed in the Draft EIR. This table only lists intersections in the Core Area that, under Existing plus Project conditions, will operate at either LOS E or F.
- ³ The Court also referenced the intersection of 28th and E Street, which decreases from LOS A to D; however, LOS D is an acceptable LOS anywhere in the City, and not just in the Core Area. (DEIR, pp. 4.9-45 -4.9-46, 4.9-53; Opinion, p. 19.)
- ⁴ As described in the EIR, information on operations at intersections that are part of the regional transportation network (which includes the Capitol City Freeway) are provided for information purposes only. (DEIR, p. 4.9-38.)
- ⁵ For signalized and all-way stop controlled intersections, average intersection delay is reported in seconds per vehicle for the overall intersection.

Table 1-2
Cumulative Plus Project Conditions - Core Area Intersection LOS E or F Operations⁵

Intersection ⁶	Control	Peak Hour	Cumulative		Cumulative Plus Project	
			Level of Service	Average Delay ⁷	Level of Service	Average Delay ⁷
C Street/28th Street	All-Way Stop	AM	D	27	E	40
		PM	F	69	F	108
E Street/28th Street	All-Way Stop	AM	D	29	F	53
		PM	E	49	F	69
H Street/28th Street	Traffic Signal	AM	C	16	D	38
		PM	F	146	F	164
E Street/29th Street/SB Capital City Freeway Off-Ramp ⁴	Traffic Signal	AM	D	49	D	55
		PM	E	77	F	142
H Street/29th Street/SB Capital City Freeway On-Ramp ⁴	Traffic Signal	AM	E	60	E	65
		PM	D	47	D	45
E Street/30th Street	Traffic Signal	AM	D	39	D	40
		PM	C	33	E	51
H Street/30th Street/NB Capital City Freeway On-Ramp ⁴	Traffic Signal	AM	F	119	F	124
		PM	F	266	F	314

Notes:

- ⁴ As described in the EIR, information on operations at intersections that are part of the regional transportation network (which includes the Capitol City Freeway) are provided for information purposes only. (DEIR, p. 4.9-38.)
- ⁵ See Table 4.9-20 (pp.4.9-77 to 79) from the Draft EIR for the full table of intersections analyzed in the Draft EIR. This table only lists intersections in the Core Area that, under Cumulative plus Project conditions, will operate at either LOS E or F.
- ⁶ Note that, at the intersection of D Street and 28th Street, certain turn movements operate at LOS F in the Cumulative Plus Project condition as noted in parenthesis in Table 4.9-20; however, impacts are determined based on overall operation of the intersection, which is acceptable LOS C.
- ⁷ For signalized and all-way stop controlled intersections, average intersection delay is reported in seconds per vehicle for the overall intersection.

CHAPTER 3 COMMENTS AND RESPONSES

This chapter contains the comment letters received in response to the Revised Draft EIR which was circulated for public review from January 18, 2017, through March 6, 2017. Each comment letter is numbered, each comment is bracketed, and responses are provided to each comment. The responses amplify or clarify information provided in the Revised Draft EIR and/or refer the reader to the appropriate place in this chapter where the requested information can be found. Comments that are not directly related to environmental issues (e.g., opinions on the merits of the project unrelated to its environmental impacts) may either be discussed or noted for the record.

The changes to the analysis contained in this Revised Final EIR represent only minor clarifications and do not constitute significant new information.

A list of all commenters is provided below followed by the Master Responses prepared to address issues that were raised in numerous comment letters followed by the comment letters and responses.

Letter Number	Date of Letter	Sender Organization
<i>State and Local Agencies</i>		
1	02/24/2017	Central Valley Regional Water Quality Control Board
<i>Organizations</i>		
2	03/1/2017	East Sacramento Preservation, Inc.
3	03/03/2017	Marshall New Era Neighborhood Association
<i>Individuals</i>		
4	03/03/2017	Stephen R. Cook, Brown Rudnick
5	01/22/2017	Gary McDowell
6	02/26/2017	Susie Sargent Williams
7	02/26/2017	Karen Jacques
8	02/27/2017	Kate Lenox
9	02/27/2017	Shannon Downs
10	02/27/2017	Robert & Petra Sullivan
11	02/27/2017	Michael J Greene
12	02/27/2017	Valerie Roberts
13	02/27/2017	Tim & Toni Chapralis
14	02/28/2017	Rick & Sally Doerr
15	02/28/2017	Patti and Don Herberger
16	02/28/2017	Mike Grinstead
17	02/28/2017	Dawn M. Olson
18	02/28/2017	Nancy E. Wolford
19	02/28/2017	Linda Zeiszler

Letter Number	Date of Letter	Sender Organization
20	02/28/2017	Barbara Thalacker and Terry Reed
21	02/28/2017	Jo Ann Pinotti
22	02/28/2017	Susan McMillan
23	02/28/2017	Jean Amdahl Meagher
24	02/28/2017	Nick Kastle
25	02/28/2017	MaryAnne Kelly
26	02/28/2017	Kevin Wehr
27	02/28/2017	Mary French
28	02/28/2017	Kathleen Marshall
29	03/01/2017	Will Green
30	03/01/2017	Walter Watters
31	03/01/2017	Richard Clark
32	03/02/2017	C Street and Alhambra Residents
33	03/02/2017	Michael Murphy
34	03/02/2017	Gary and Shari Beck
35	03/02/2017	Michael Greene
36	03/02/2017	Kathy Ullerich
37	03/02/2017	Jan Ellen Rein
38	03/02/2017	Michael Irwin
39	03/02/2017	Lesley A Schroeder
40	03/02/2017	Jill and Rick Ferreter
41	03/03/2017	Anne Rodgers
42	03/03/2017	Holly Longacre
43	03/03/2017	Jennifer Howell
44	03/03/2017	Tamarin Austin
45	03/03/2017	Laura Lee Brennan
46	03/03/2017	Suzy Campbell
47	03/03/2017	Patricia Ansell
48	03/03/2017	Shannon Ross
49	03/03/2017	Ashley Conrad-Saydah
50	03/03/2017	Melinda Johnson
51	03/04/2017	Pam Beedie
<i>Comments Received After Close of the Comment Period</i>		
52	03/07/2017	Susan Norris
53	03/10/2017	Henry Li, Regional Transit
54	03/21/2017	Gene Whitehouse, United Auburn Indian Community
55	03/21/2017	Kirk E. Trost, Sacramento Area Council of Governments

Master Response 1 Overview of the Legal Requirements

A number of comments suggested that the City's decision to revise and recirculate portions of the traffic analysis in the McKinley Village Revised EIR is contrary to the Court of Appeal's decision in *East Sacramento Partnership for a Livable City v. City of Sacramento* (2016) 5 Cal.App.5th 281 (*ESPLC v. City*). These comments asserted that the City was required by the Court to decertify the EIR and prepare a new traffic study. Numerous comments were also received suggesting that the City should not be spending taxpayer dollars to defend the EIR and should instead prepare a new traffic study that responds to the Court of Appeal's decision. A majority of these comments exceed the scope of review and analysis required by the Court of Appeal and therefore a formal response is not required by CEQA. Nevertheless, the City has responded to each of the comments in the interest of full disclosure.

Scope of the Remedy Ordered by the Court of Appeal

On May 30, 2014, petitioner/commenter East Sacramento Partnerships for a Livable City filed a lawsuit in the Sacramento County Superior Court, alleging the City's approval of the McKinley Village Project and certification of the EIR was in violation of CEQA, State Planning and Zoning Law, and the City of Sacramento Municipal Code.¹

On April 9, 2015, the Superior Court ruled in favor of the City and found the City did not violate CEQA, State Planning and Zoning Law, or the Municipal Code in preparing the EIR and denied all claims made by the petitioner on the adequacy of the EIR.

On June 22, 2015, the petitioner filed a Notice of Appeal in the California Court of Appeal, Third Appellate District. The Appellate Court ruled in favor of the City and the Project on all claims but one, requiring that the City clarify the EIR as to whether there are significant impacts to certain intersections along 28th, 29th and 30th streets. Specifically, the Court determined the EIR failed to explain why traffic levels of service (LOS) E and F are not considered significant environmental impacts under the City's 2030 General Plan² LOS Policy that allows LOS F in a specific area of the City (Core Area –bounded by C Street, the Sacramento River, 30th Street, and X Street). Pursuant to the Court's decision, "the City need only correct [this] deficiency in the EIR...before considering recertification of the EIR." The City therefore prepared the Revised

¹ The petitioner filed a Petition for Writ of Mandate and Complaint for Declaratory and Injunctive Relief challenging the McKinley Village EIR.

² Note, the City's 2030 was in effect at the time the EIR was prepared and the traffic analysis was completed.

Draft EIR pursuant to the Court's directive to provide the evidence necessary to support the City's determination that LOS E and F are acceptable in the Core Area.

Contrary to a number of comments, the Court upheld the remaining portions of the traffic analysis --- the Court did not issue any ruling with regard to Meister Way, Tivoli Way, Elvas Avenue, or C Street or any other streets mentioned in the comment letters submitted to the City. Nor did the Court order the City to prepare a new traffic study. In fact, with the one noted exception regarding the LOS policy, the Court upheld the traffic analysis in its entirety. The Court held:

- A vehicular tunnel (or underpass) at Alhambra Boulevard was not part of the Project and did not need to be included in the project description or analyzed in the EIR. (*ESPLC v. City, supra*, 5 Cal.App.5th at p. 292.)
- The half street closure on 28th Street, added in response to public requests for this traffic calming measure, would reduce traffic impacts on 28th Street at C Street and move the traffic to streets better able to handle the traffic; the addition of the half street closure is a "modest change" by the City in response to traffic concerns and does not require additional analysis. (*Id.* at p. 294.)
- The City did not remove the Sutter's Landing Parkway from the General Plan as part of the McKinley Village Project; if the City later proposes a project to amend the General Plan to remove the Parkway, such action would be subject to its own CEQA review. (*Id.* at p. 295.)
- The EIR was not required to analyze and propose mitigation for the Project's impact on freeways because CEQA expressly allows lead agencies to streamline the traffic analysis for certain projects like McKinley Village that are consistent with the regional Sustainable Communities Strategy. (*Id.* at pp. 297-298.) See also March 21, 2017 letter from SACOG.
- Although the EIR did evaluate the Project's impact on 19 roadway segments, the EIR's traffic analysis properly focused on intersections rather than roadway segments because the roadway capacity is governed by intersections. (*Id.* at p. 298.)
- The EIR need not be recirculated to address the C Street roadway segment impact identified in the Final EIR because there was only a correction to the roadway segment's designation, there was no change in the amount of traffic on this roadway segment. (*Id.* at p. 298.)
- The traffic study was legally adequate and the EIR was not required to analyze additional roadway segments on 29th Street, 30th Street and 33rd Street. (*Id.* at p. 298-299.)

- The mitigation measures proposed to reduce or avoid significant project level and cumulative traffic impacts are adequate. (*Id.* at p. 303.)
- The Project is consistent with the transportation policies in the General Plan. (*Id.* at pp. 305-306.)

In addition to upholding the traffic analysis as discussed above, the Court of Appeal also upheld the adequacy of the EIR in all other respects, including:

- The adequacy of the project description as it relates to the development agreement. (*Id.* at p. 291.)
- The adequacy of the project description given the rezoning for multifamily units and the overall increase in 8 units that occurred between the Draft and Final EIR. (*Id.* at p. 292.)
- The adequacy of the project description as it relates to driveway variances. (*Id.* at pp. 292-293.)
- The adequacy of the EIR with regard to potential methane migration, toxic air contaminants and health risks. (*Id.* at pp. 295-298.)
- Consistency with the General Plan land use and environmental policies. (*Id.* at p.306.)
- Consistency with the General Plan noise policies, including where to measure noise impacts. (*Id.* at p. 307.)

On March 21, 2017, the Superior Court, implementing the Court of Appeal opinion, entered its judgment that ordered the City "...to vacate and set aside the certification of the EIR and related project approvals for the McKinley Village residential housing Project. (The approvals include resolution Nos. 2014-0102, 2014-0103, 2014-0104, 2014-0105, 2014-0106 and Ordinance Nos. 2014-011 and 2014-012.) [The City] shall not reapprove the project unless and until [the City] has taken the actions necessary to correct the above-described deficiencies in the transportation and circulation section of the EIR and thereby bring the EIR into compliance with CEQA, this judgment, and the Court of Appeal's Opinion..." (Judgment after Remittitur, page 4)

The only issue that that the Court of Appeal required the City to address in a revised document was the use of the City's General Plan policy/threshold addressing impacts in the downtown Core Area. The Judgment of the Superior Court required the same analysis. The Revised Draft EIR and Appendix A to the Revised Draft EIR respond to the Court's disposition.

The California Supreme Court did not grant review of this case and has not issued any opinion. Commenters' suggestion that the City failed to follow the Supreme Court's ruling are therefore incorrect.

On March 21, 2017, the Sacramento County Superior Court issued its Judgement and Peremptory Writ of Mandate (“Writ”) directing the City to rescind and set aside: (1) Resolution No. 2014-0102 certifying the EIR and adopting the Mitigation Monitoring Program and CEQA Findings of Fact for the McKinley Village Project; (2) Resolution No. 2014-0103 amending the General Plan to re-designate the Project Area from Planned Development to Traditional Neighborhood Medium Density; (3) Resolution No. 2014-0104 approving the McKinley Village Neighborhood Planned Unit Development Guidelines and Specific Plan; (4) Resolution No. 2014-0105 amending the City’s Bikeway Master Plan to incorporate the Bikeway Network for the McKinley Village Project; (5) Resolution No. 2014-0106 adopting Findings of Fact and approving the McKinley Village Project; (6) the CEQA Findings of Fact of the City Council of the City of Sacramento for the McKinley Village Project prepared in support of the aforementioned Resolution 2014-0106; (7) Ordinance No. 2014-012 amending the City’s Zoning Code to rezone the Project Area from M-2 to R-1A PUD, R-2A PUD and RMX PUD; and (8) Ordinance No. 2014-011 Approving City Agreement No 2014-0494, A Development Agreement (McKinley Village).

The Writ remanded these approvals back to the City for reconsideration upon compliance with the Writ and further ordered the City to take action necessary to bring the transportation and circulation section of the Project EIR into compliance with CEQA and the Court of Appeal’s decision prior to reconsidering certification of the EIR.

The Writ does not expand on the scope of the remedy as determined by the Court of Appeal and described above. The Revised Draft EIR and Appendix A to the Revised Draft EIR directly respond to the only issue that the Court of Appeal asked the City to address in a revised document: the use of the City’s General Plan policy/threshold addressing impacts in the downtown Core Area. Nothing more was required.

Legal Costs

The City notes that the litigation is being funded by the project applicant pursuant to an indemnity agreement, which is standard protocol for proposed new development projects in the City.

Decertification

A number of commenters suggest the Court of Appeal directed the City to decertify the EIR prior to taking action to remedy the one noted deficiency in the traffic analysis. As noted above, the Judgment entered by the Superior Court, implementing the Court of Appeal

decision, requires the City to set aside the previous EIR certification. The City intends to comply with this requirement.

As stated above, the trial court issued the Writ on March 21, 2017, ordering the City to rescind and set aside the Project approvals and decertify the EIR. The City is complying with this order by considering adopting a resolution to rescind the 2014 project approvals, which will be approved prior to certification of the Revised Final EIR. Moreover, the Writ gives the City 70 days from March 21, 2017 to comply and file a return to the Writ with the trial court.

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Master Response 2

City of Sacramento Level of Service Thresholds and Applicability to the McKinley Village EIR

Several commenters question the City's approach in the McKinley Village Revised Draft EIR to rely on conformity with the City's General Plan Mobility Policy to support its finding of less-than-significant impacts at specified intersections in the City's Core Area. The evidence provided in the Revised Draft EIR supports the conclusion that impacts at these intersections will be less than significant. In addition, since publication of the Revised Draft EIR, the City has received a letter from Sacramento Regional Transit (Letter 53) and the Sacramento Area Council of Governments (SACOG, Letter 55) in support of the City's use of LOS F as the thresholds of significance in the Core Area (or Downtown core). This support from relevant agencies is due to the fact that the City's use of the 2030 and current 2035 General Plan Mobility Policies to determine the significance of impacts in the Core Area shifts focus away from matters such as road widening and driver inconvenience to reducing environmental impacts such as greenhouse gas (GHG) emissions by incentivizing infill development that will reduce vehicle miles traveled (VMT).

Agencies throughout California have used thresholds based on level of service to determine significance of environmental effects, and the CEQA Guidelines include conflict with level of service standards as one potential metric for transportation/traffic impacts. (Appendix G, XVI) Traffic congestion can result in extended idling time for vehicles, which can result in concentrations of carbon monoxide. Identification of significant impacts based on congestion may support mitigation that requires physical changes in the environment, such as increased roadways, installation of traffic controls, re-paving and re-striping.

The process of identifying a significant effect that leads to increased roadway and intersection capacity via CEQA mitigation may, however, run counter to the City's efforts to comply with the various requirements that have been imposed by state law and regulation, as well as legitimate City policies. These policies, for example, support infill development and a multi-modal transportation system that would tend to reduce vehicle miles traveled, one of the key generators of carbon dioxide and thus a key ingredient of the City's efforts to comply with state law and regulation.

As discussed in Appendix A of the Revised Draft EIR, the application of flexible LOS standards is aimed at encouraging densified development near and around the downtown to encourage a more compact, infill growth pattern that contributes to increased walking, bicycling and use of alternative modes of transit, and resulting reduction in VMT, consistent with recent State legislation aimed at reducing GHG emissions. These include Assembly Bill (AB) 32 and Senate Bills (SB) 32, 375, 226, and 743, each of which promotes infill development, reduction of vehicle miles traveled, and/or multi-modal mobility for GHG reduction and other environmental benefits

associated with more compact, urban, and transit-served development. The goals and directives of AB 32, SB 375, SB 226, and SB 743 are described in more detail in Appendix A of the Revised Draft EIR, to provide more context for the City's LOS policy. Some additional detail follows below.

As described in Appendix A, the Legislature passed the California Global Warming Solutions Act of 2006 (AB 32), which created a comprehensive, multi-year program to reduce GHG emissions in California. AB 32 required the California Air Resources Board (ARB) to develop a Scoping Plan that describes the approach California will take to reduce GHGs to achieve the goal of reducing emissions to 1990 levels by 2020. The Scoping Plan was first approved by ARB in 2008 and must be updated every five years.

ARB adopted the First Update to the Climate Change Scoping Plan (First Update) on May 22, 2014, which concludes that the State is on track to meet the near-term 2020 goal and well positioned to maintain and continue reductions in the years beyond. (First Update, ES2.) As stated in the First Update, the way that communities and infrastructure are designed and built can significantly minimize vehicle miles traveled. (First Update, p. 36.) The First Update notes that the Sustainable Communities Strategies (SCS) developed under SB 375 to influence land use development have met or exceeded the ARB-set regional GHG reduction targets, and successful implementation of these SCS plans is a "critical next step" in achieving the associated GHG emission reductions. As stated in the First Update, implementation to realize these GHG reductions hinges on local governments taking planning actions consistent with the regional SCS.

As discussed in Appendix A, SACOG is responsible for preparing the SCS for the Sacramento region and determined that the Project is consistent with its 2012 Metropolitan Transportation Plan (MTP)/SCS due to its location of residential uses near Downtown that will reduce GHG emissions by developing new uses near existing infrastructure and transportation choices. Following approval of the McKinley Village Project (Project), SACOG adopted an updated 2016 MTP/SCS. SACOG has determined that the Project is also consistent with the 2016 MTP/SCS for the same reasons it was found to be consistent with the 2012 MTP/SCS. The City's approval of the Project thus helps with the "critical" next step identified by ARB of local agencies implementing the SCS by approving consistent projects to achieve GHG reduction goals.

Further, ARB is currently preparing the 2017 Climate Change Scoping Plan Update (Second Update) to address SB 32, which codifies a 2030 GHG emissions reduction target of 40 percent below 1990 levels. Among the "high-level objectives and goals" to reduce GHG emissions in the transportation sector is to "update the CEQA metric of transportation impact from level of service (LOS) to VMT statewide." (Second Update, p. 101.) Appendix C to the Second Update, "Vibrant Communities and Landscapes," includes several actions that the State will take to

maximize GHG reductions through reductions in VMT. These actions will promote infill and compact development patterns with integrated transportation and green infrastructure, which aside from reducing GHG, can also reduce pressures on natural systems and result in lower water and energy use, and save local governments and the State money by reducing the long-term costs of providing service and infrastructure to low density development. (Second Update, Appendix C, pp. 3-4.)

The Second Update cites SB 743 and implementation of its guidelines as a key to encouraging land use and transportation decisions that minimize GHG emissions through reduced VMT. The Office of Planning and Research (OPR) released a draft of the SB 743 Guidelines on January 20, 2016. The Draft Guidelines remove consideration of automobile LOS from Appendix G of the CEQA Guidelines, which provides the basis for many agencies' significance thresholds, and instead focuses on a project's contribution to substantial additional VMT. (Draft Guidelines, pp. 8-9.) The Technical Advisory on Evaluating Transportation Impacts in CEQA attached to the Draft Guidelines also recognizes the importance of developing projects consistent with the region's SCS, noting that development consistent with assumptions for development in an SCS is likely to be more travel efficient. (Draft Guidelines, p. 24.)

Importantly, all of the State efforts described above and in Appendix A to the Revised Draft EIR recognize that roadway congestion, while an inconvenience to drivers, is not itself an environmental impact. (See Pub. Resource Code, § 21099, subd. (b)(2) ["automobile delay, as described solely by level of service or similar measures of vehicular capacity or traffic congestion shall not be considered a significant impact on the environment pursuant to [CEQA]"].) LOS is a qualitative evaluation measure that describes how well a transportation facility performs *from the traveler's perspective*. (Fehr & Peers, *McKinley Village Transportation Impact Study Supplemental Materials Explaining the City of Sacramento LOS Thresholds* (see Appendix A), p.1 citing Transportation Research Board's *Highway Capacity Manual*.) As stated in the opening explanation of OPR's Draft Guidelines, the Legislative findings for SB 743 make it clear that CEQA can no longer "treat vibrant communities, transit and active transportation options as adverse environmental outcomes." (Draft Guidelines, p. 1.) As a result of shifting focus away from LOS, "CEQA will no longer mandate roadways that focus on automobiles to the exclusion of every other transportation option" and "will no longer mandate excessive, and expensive, roadway capacity." (*Ibid.*)

As further explained in SACOG's 2016 MTP/SCS EIR, and as cited in the March 10, 2017 comment letter from Sacramento Regional Transit:

Urban economists recognize congestion as a cost of proximity and density as more people and activities locate closer together to improve accessibility, vehicle

travel speeds tend to decline. They recognize that traffic congestion tends to maintain equilibrium: it increases to the point that delays discourage additional peak-period vehicle trips. From this perspective, traffic congestion is a modest problem, provided that overall accessibility is optimized through local transport options (good walking, cycling, public transit, delivery services, etc.), transport network connectivity, land use proximity, and efficient pricing.

(Regional Transit Letter 53 re: McKinley Village Revised Draft EIR Comments and Concurrence on City of Sacramento Flexible LOS Standard, p. 2, citing SACOG MTP/SCS Draft EIR, p. 16-23.) Consistent with these findings, the City has determined that increased congestion is acceptable in the downtown Core Area. By applying a flexible LOS threshold, the City is incentivizing infill development, which results in better transit options and increased connectivity that reduces overall vehicle miles travelled and actual environmental impacts related to air quality and GHG emissions. If by contrast, the City determined that LOS E and F in the Downtown Core Area was a significant impact, it would require ever-expanding roadway capacity, which urban economists have determined will always be used to the point of congestion, no matter how big the roadways become. (Duranton and Turner, *The Fundamental Law of Road Congestion: Evidence from U.S. Cities* (October 2011); see also SACOG MTP/SS Draft EIR, p. 16-23.) This would mean ever-increasing VMT with resultant increases in GHG emissions.

As stated in SACOG's March 21, 2017 letter (see Letter 55), focusing on inconvenience created by traffic delay through an over-emphasis on LOS, particularly in an employment- and transit-rich area like the Core Area, has the potential to result in an increase rather than decrease in the environmental impacts of the City's transportation network. SACOG notes that widening roads and reducing congestion can:

- induce faster speeds and increase VMT,
- increase the physical distance and time required to cross streets, and spread out land uses, both of which can make walking and biking less attractive options,
- require use of eminent domain, making roadway expansion extremely expensive and frequently impractical,
- result in impacts to biological resources,
- impose a significant burden on infill development projects, which are already substantially more expensive to construct than greenfield development projects, and
- drive development to the urban edges, resulting in increased regional VMT and associated GHG emissions in direct conflict with the objectives of SACOG's MTP/SCS.

For all of these reasons, RT and SACOG have stated their support for the City's decision to use a flexible LOS standard that allows greater congestion in the Core Area than in other areas of the City as an appropriate method for evaluating the environmental significance of an infill project's transportation impacts.

The City's Mobility Policy allowing LOS E and F in the Core Area is further supported by a report from OPR and the Center for Law, Energy, and the Environment at the University of California, Berkeley, regarding ways that local governments can integrate infill planning into their general plans based on the policy roadmap set by best-practice communities. (*Integrating Infill Planning in California's General Plans: A Policy Roadmap Based on Best-Practice Communities*, California Governor's Office of Planning and Research and the Center for Law, Energy and the Environment at the University of California, Berkeley School of Law, September 2014.) The report notes one of the primary ways of changing LOS standards to promote infill involves exempting certain areas from meeting generally applicable LOS standards. (CLEE Report, p. 25.) The report includes a list of sample policies that include allowing for flexible LOS standards or eliminating application of LOS standards altogether in infill areas. (*Id.* at pp. 26-27.) The City's Mobility Policy is consistent with the recommended policies.

As stated in the Supplemental Materials provided by Fehr & Peers (see Appendix A), determining the appropriate LOS threshold to apply across the various communities within the City required consideration of the land use context and diversity of travel options. (Supplemental Materials, p. 2; see also RT Letter noting that the City consulted with RT in developing its flexible LOS policy and RT's support for the policy.) In the downtown Core Area, LOS F was allowed during peak hours recognizing that employment and entertainment destinations are highly concentrated and effectively connected through multiple modes with the greatest level of transit service. (*Id.* pp. 2-3.) The high levels of connectivity for all travel modes are due in part to the urban street grid that provides access to the dense and diverse mix of land uses found within this area. Importantly, lower quality of service associated with LOS F for driving does not mean that destinations in the Core Area are not accessible by the other modes. In fact, transit or bicycling during peak hours in the Core Area may offer a superior experience for travelers with greater speed and reliability than driving plus the added benefit of generating fewer emissions of air pollutants and GHGs. (*Id.* pp. 2-3.) The Supplemental Materials provide evidence that allowing higher delays in areas such as the Downtown Core Area, and providing other modes of transportation (i.e., walking, bicycling, and transit options), this area of the City has some of the lowest VMT in the region. (*Id.* pp. 3-5, 7.)

Specifically, as an area adjacent to Downtown and East Sacramento, VMT from residents of the McKinley Village Project is anticipated to range from 11.3 to 13.5 per day. (*Id.* at p. 5 [Table 1].) This represents an approximately 9 to 24% reduction over the citywide average and a 26 to 38% reduction as compared to the regional average. (*Id.* at p. 4.) This substantial reduction in

VMT as compared to the citywide and regional average demonstrates that, notwithstanding some potential inconvenience associated with congestion, the Project will result in overall environmental benefits, such as air quality benefits and reduced roadway wear and tear, due to Project residents' reduced daily use of the City's roadway network as compared to baseline per capita conditions.

As described in its January 6, 2017 letter requesting de-publication of the appellate court's decision addressed by the Revised Draft EIR, OPR noted the Legislature's intent to "[m]ore appropriately balance the needs of congestion management with statewide goals related to infill development, promotion of public health through active transportation, and reduction of greenhouse gas emissions." (OPR Depub Letter, p. 1, citing SB 743, section 1.) As stated in its letter, OPR has since been working with local governments to recognize the environmental benefits of measuring VMT instead of congestion, and of promoting more urban infill projects. OPR cautions against discouraging local governments from approving urban infill because of traffic congestion, or from updating their environmental review procedures to shift focus away from congestion.

OPR's recommendations are consistent with the legislative direction included in SB 375, which expressly directs that potential congestion and related traffic impacts of qualifying infill projects – such as the McKinley Village Project – on the regional transportation network not be "reference[d], describe[d], or discuss[ed]" in the Project's EIR. (Pub. Resources Code, § 21159.28, subd. (a).) SB 375's legislative directive demonstrates that for qualifying infill projects congestion-related traffic concerns on the regional transportation network should not be considered significant environmental impacts for the purposes of CEQA. Importantly, as stated in SACOG's March 21, 2017 letter (Letter 55), the majority of Core Area roadways impacted by the Project are part of the regional transportation network. All of this substantial evidence supports the approach used in the EIR to analyze the environmental significance of the project's traffic impacts.

These considerations support the City's conclusion that increased traffic congestion in the Downtown core should not be treated as a significant effect on the environment. This conclusion is not simply based on the applicable general plan policy, but on the determination that the physical effects on the environment that may result from increased congestion would not result in a substantial, or potentially substantial, adverse change in the physical conditions within the area affected by the project. (CEQA Guidelines section 15382)

The Court of Appeal pointed to a similar effect at locations outside the Downtown core that the City treated as significant under CEQA and questioned whether the City was simply relying on its

general plan policy. In fact, the City's use of a threshold for the Downtown core that differs from its threshold outside of that area is reasonable.

The first step in impact analysis requires identification of the environmental setting. The Downtown core presents an environmental setting substantially differing from the remainder of most of the City. The Downtown core is composed of a street grid that is interrupted only sporadically by parks and the state Capitol. In vehicle traffic respects, the grid allows drivers to make a variety of choices of routes, resulting in an organic system that changes over time as drivers change their patterns and timing to respond to traffic conditions. While there are some areas of the City that also have a grid street system, none, including the area involved here, are as extensive and organic as the Downtown core.

The Downtown core is also transit-rich. It is served by regional transit with light rail and bus service, and its streets are pedestrian-friendly. The area is increasingly bicycle-friendly. The Downtown core is home to entertainment options that are accessible via pedestrian and bicycle modes, including restaurants, bars, neighborhood theaters and large venues such as the Golden 1 Arena. In addition, the Downtown core is the site of most of the historic districts in the City.

The impact of roadway or intersection congestion is different in the Downtown core than in other areas. Physical changes in capacity would have a substantially greater potential for significant effect in the Downtown area, and would tend to result in greater disruption of neighboring properties and, potentially, historic resources.

There are other areas of the City that have some of these characteristics. It is a reasonable exercise of the City's discretion, however, to distinguish between different areas of the community on the basis of general conditions, as long as the City relies on substantial evidence in making these distinctions. The City believes the environmental setting east of the Business 80 freeway is substantially different than for the Downtown core, and this affects the significance conclusions reached.

While the McKinley Village Project would add traffic to all intersections and roadways within the "Core Area" specifically, at intersections 28th, 29th and 30th streets changing conditions from LOS C to LOS E and from LOS A to LOS D, under Existing Plus Project conditions, and changing conditions to LOS F with delay, under Cumulative Plus Project conditions, the City determines this change in LOS to be acceptable. The City considered impacts to the roadway system are considered significant if the traffic generated by the Project degrades the overall roadway system operation to the extent that the Project would not be consistent with General Plan Mobility Policies M 1.1.1, 1.2.1, 1.2.2, 1.2.4, 1.3.3 and 1.3.5.

Intersections along 28th, 29th, and 30th Streets are within a congested area during the AM and PM peak hours given that two of the State Route 51 (Business 80/Capital City Freeway) on/off ramps to are located at E Street/29th Street and E Street/30th intersections. In the City's judgment, it is infeasible to widen those roadways to add more capacity to maintain an LOS A-D, therefore, LOS F was considered acceptable if the Project is providing improvements to the overall system and promoting non-vehicular trips (walking, bicycling).

As provided in the 2014 EIR project description, and the Project's conditions of approval, the Project will provide a direct pedestrian and bicycle access to Sutter Landing Park. This will be accomplished by: constructing A Street which will connect C Street to 28th Street; improve the A Street Bridge which crosses SR 51; and improving 28th Street between A Street and B Street by constructing sidewalks and bike lanes facilities. This direct connection between C Street in East Sacramento and 28th Street in Midtown will provide a safer route for pedestrians and bicyclists from East Sacramento to Sutter Landing Park. Currently, the pedestrian and bicycle connection between East Sacramento and Sutter Landing Park is provided along E Street. Pedestrians and bicyclists currently have to cross two on/off freeway ramp intersections at 29th Street and 30th Street going towards 28th Street. With the construction of the McKinley Village Project, the direct connection to 28th Street along A Street would encourage more residents to walk or bike to the park and reduce vehicles using this corridor.

Comment Letter 1



Central Valley Regional Water Quality Control Board

24 February 2017

Dana Mahaffey
City of Sacramento,
Community Development Department
300 Richards Boulevard, Third Floor
Sacramento, CA 95811

CERTIFIED MAIL
91 7199 9991 7035 8487 3458

COMMENTS TO REQUEST FOR REVIEW FOR THE NOTICE OF AVAILABILITY – REVISED DRAFT ENVIRONMENTAL IMPACT REPORT, MCKINLEY VILLAGE (P08-086) PROJECT, SACRAMENTO COUNTY

Pursuant to the City of Sacramento Community Development Department's 18 January 2017 request, the Central Valley Regional Water Quality Control Board (Central Valley Water Board) has reviewed the Request for Review for the Notice of Availability - Draft Environment Impact Report for the McKinley Village (P08-086) Project, located in Sacramento County.

Our agency is delegated with the responsibility of protecting the quality of surface and groundwaters of the state; therefore our comments will address concerns surrounding those issues.

I. Regulatory Setting

Basin Plan

The Central Valley Water Board is required to formulate and adopt Basin Plans for all areas within the Central Valley region under Section 13240 of the Porter-Cologne Water Quality Control Act. Each Basin Plan must contain water quality objectives to ensure the reasonable protection of beneficial uses, as well as a program of implementation for achieving water quality objectives with the Basin Plans. Federal regulations require each state to adopt water quality standards to protect the public health or welfare, enhance the quality of water and serve the purposes of the Clean Water Act. In California, the beneficial uses, water quality objectives, and the Antidegradation Policy are the State's water quality standards. Water quality standards are also contained in the National Toxics Rule, 40 CFR Section 131.36, and the California Toxics Rule, 40 CFR Section 131.38.

The Basin Plan is subject to modification as necessary, considering applicable laws, policies, technologies, water quality conditions and priorities. The original Basin Plans were adopted in 1975, and have been updated and revised periodically as required, using Basin Plan amendments. Once the Central Valley Water Board has adopted a Basin Plan amendment in noticed public hearings, it must be approved by the State Water Resources

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KARL E. LONDLEY SCD, P.E., CHAIR | PAMELA C. CREEDON P.E., BCCE, EXECUTIVE OFFICER
11826 Sun Center Drive #200, Rancho Cordova, CA 95670 | www.waterboards.ca.gov/centralvalley



McKinley Village (P08-086) Project
Sacramento County

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Control Board (State Water Board), Office of Administrative Law (OAL) and in some cases, the United States Environmental Protection Agency (USEPA). Basin Plan amendments only become effective after they have been approved by the OAL and in some cases, the USEPA. Every three (3) years, a review of the Basin Plan is completed that assesses the appropriateness of existing standards and evaluates and prioritizes Basin Planning issues.

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For more information on the *Water Quality Control Plan for the Sacramento and San Joaquin River Basins*, please visit our website:
http://www.waterboards.ca.gov/centralvalley/water_issues/basin_plans/.

Antidegradation Considerations

All wastewater discharges must comply with the Antidegradation Policy (State Water Board Resolution 68-16) and the Antidegradation Implementation Policy contained in the Basin Plan. The Antidegradation Policy is available on page IV-15.01 at:
http://www.waterboards.ca.gov/centralvalleywater_issues/basin_plans/sacsjr.pdf

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In part it states:

Any discharge of waste to high quality waters must apply best practicable treatment or control not only to prevent a condition of pollution or nuisance from occurring, but also to maintain the highest water quality possible consistent with the maximum benefit to the people of the State.

This information must be presented as an analysis of the impacts and potential impacts of the discharge on water quality, as measured by background concentrations and applicable water quality objectives.

The antidegradation analysis is a mandatory element in the National Pollutant Discharge Elimination System and land discharge Waste Discharge Requirements (WDRs) permitting processes. The environmental review document should evaluate potential impacts to both surface and groundwater quality.

II. Permitting Requirements

Construction Storm Water General Permit

Dischargers whose project disturb one or more acres of soil or where projects disturb less than one acre but are part of a larger common plan of development that in total disturbs one or more acres, are required to obtain coverage under the General Permit for Storm Water Discharges Associated with Construction Activities (Construction General Permit), Construction General Permit Order No. 2009-009-DWQ. Construction activity subject to this permit includes clearing, grading, grubbing, disturbances to the ground, such as stockpiling, or excavation, but does not include regular maintenance activities performed to restore the original line, grade, or capacity of the facility. The Construction General Permit requires the development and implementation of a Storm Water Pollution Prevention Plan

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McKinley Village (P08-086) Project
 Sacramento County

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(SWPPP).

For more information on the Construction General Permit, visit the State Water Resources Control Board website at:
http://www.waterboards.ca.gov/water_issues/programs/stormwater/constpermits.shtml.

Phase I and II Municipal Separate Storm Sewer System (MS4) Permits¹

The Phase I and II MS4 permits require the Permittees reduce pollutants and runoff flows from new development and redevelopment using Best Management Practices (BMPs) to the maximum extent practicable (MEP). MS4 Permittees have their own development standards, also known as Low Impact Development (LID)/post-construction standards that include a hydromodification component. The MS4 permits also require specific design concepts for LID/post-construction BMPs in the early stages of a project during the entitlement and CEQA process and the development plan review process.

For more information on which Phase I MS4 Permit this project applies to, visit the Central Valley Water Board website at:
http://www.waterboards.ca.gov/centralvalley/water_issues/storm_water/municipal_permits/.

For more information on the Phase II MS4 permit and who it applies to, visit the State Water Resources Control Board at:
http://www.waterboards.ca.gov/water_issues/programs/stormwater/phase_ii_municipal.shtml

Industrial Storm Water General Permit

Storm water discharges associated with industrial sites must comply with the regulations contained in the Industrial Storm Water General Permit Order No. 2014-0057-DWQ.

For more information on the Industrial Storm Water General Permit, visit the Central Valley Water Board website at:
http://www.waterboards.ca.gov/centralvalley/water_issues/storm_water/industrial_general_permits/index.shtml.

Clean Water Act Section 404 Permit

If the project will involve the discharge of dredged or fill material in navigable waters or wetlands, a permit pursuant to Section 404 of the Clean Water Act may be needed from the United States Army Corps of Engineers (USACOE). If a Section 404 permit is required by the USACOE, the Central Valley Water Board will review the permit application to ensure that discharge will not violate water quality standards. If the project requires surface water

¹ Municipal Permits = The Phase I Municipal Separate Storm Water System (MS4) Permit covers medium sized Municipalities (serving between 100,000 and 250,000 people) and large sized municipalities (serving over 250,000 people). The Phase II MS4 provides coverage for small municipalities, including non-traditional Small MS4s, which include military bases, public campuses, prisons and hospitals.

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drainage realignment, the applicant is advised to contact the Department of Fish and Game for information on Streambed Alteration Permit requirements.

If you have any questions regarding the Clean Water Act Section 404 permits, please contact the Regulatory Division of the Sacramento District of USACOE at (916) 557-5250.

Clean Water Act Section 401 Permit – Water Quality Certification

If an USACOE permit (e.g., Non-Reporting Nationwide Permit, Nationwide Permit, Letter of Permission, Individual Permit, Regional General Permit, Programmatic General Permit), or any other federal permit (e.g., Section 10 of the Rivers and Harbors Act or Section 9 from the United States Coast Guard), is required for this project due to the disturbance of waters of the United States (such as streams and wetlands), then a Water Quality Certification must be obtained from the Central Valley Water Board prior to initiation of project activities. There are no waivers for 401 Water Quality Certifications.

Waste Discharge Requirements – Discharges to Waters of the State

If USACOE determines that only non-jurisdictional waters of the State (i.e., "non-federal" waters of the State) are present in the proposed project area, the proposed project may require a Waste Discharge Requirement (WDR) permit to be issued by Central Valley Water Board. Under the California Porter-Cologne Water Quality Control Act, discharges to all waters of the State, including all wetlands and other waters of the State including, but not limited to, isolated wetlands, are subject to State regulation.

For more information on the Water Quality Certification and WDR processes, visit the Central Valley Water Board website at:
http://www.waterboards.ca.gov/centralvalley/help/business_help/permit2.shtml.

Dewatering Permit

If the proposed project includes construction or groundwater dewatering to be discharged to land, the proponent may apply for coverage under State Water Board General Water Quality Order (Low Risk General Order) 2003-0003 or the Central Valley Water Board's Waiver of Report of Waste Discharge and Waste Discharge Requirements (Low Risk Waiver) R5-2013-0145. Small temporary construction dewatering projects are projects that discharge groundwater to land from excavation activities or dewatering of underground utility vaults. Dischargers seeking coverage under the General Order or Waiver must file a Notice of Intent with the Central Valley Water Board prior to beginning discharge.

For more information regarding the Low Risk General Order and the application process, visit the Central Valley Water Board website at:

http://www.waterboards.ca.gov/board_decisions/adopted_orders/water_quality/2003/wqo/wqo2003-0003.pdf

For more information regarding the Low Risk Waiver and the application process, visit the Central Valley Water Board website at:

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http://www.waterboards.ca.gov/centralvalley/board_decisions/adopted_orders/waivers/r5-2013-0145_res.pdf

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Regulatory Compliance for Commercially Irrigated Agriculture

If the property will be used for commercial irrigated agricultural, the discharger will be required to obtain regulatory coverage under the Irrigated Lands Regulatory Program. There are two options to comply:

1. **Obtain Coverage Under a Coalition Group.** Join the local Coalition Group that supports land owners with the implementation of the Irrigated Lands Regulatory Program. The Coalition Group conducts water quality monitoring and reporting to the Central Valley Water Board on behalf of its growers. The Coalition Groups charge an annual membership fee, which varies by Coalition Group. To find the Coalition Group in your area, visit the Central Valley Water Board's website at: http://www.waterboards.ca.gov/centralvalley/water_issues/irrigated_lands/app_app_oval/index.shtml; or contact water board staff at (916) 464-4611 or via email at IrrLands@waterboards.ca.gov.
2. **Obtain Coverage Under the General Waste Discharge Requirements for Individual Growers, General Order R5-2013-0100.** Dischargers not participating in a third-party group (Coalition) are regulated individually. Depending on the specific site conditions, growers may be required to monitor runoff from their property, install monitoring wells, and submit a notice of intent, farm plan, and other action plans regarding their actions to comply with their General Order. Yearly costs would include State administrative fees (for example, annual fees for farm sizes from 10-100 acres are currently \$1,084 + \$6.70/Acre); the cost to prepare annual monitoring reports; and water quality monitoring costs. To enroll as an Individual Discharger under the Irrigated Lands Regulatory Program, call the Central Valley Water Board phone line at (916) 464-4611 or e-mail board staff at IrrLands@waterboards.ca.gov.

1-4

Low or Limited Threat General NPDES Permit

If the proposed project includes construction dewatering and it is necessary to discharge the groundwater to waters of the United States, the proposed project will require coverage under a National Pollutant Discharge Elimination System (NPDES) permit. Dewatering discharges are typically considered a low or limited threat to water quality and may be covered under the General Order for *Dewatering and Other Low Threat Discharges to Surface Waters* (Low Threat General Order) or the General Order for *Limited Threat Discharges of Treated/Untreated Groundwater from Cleanup Sites, Wastewater from Superchlorination Projects, and Other Limited Threat Wastewaters to Surface Water* (Limited Threat General Order). A complete application must be submitted to the Central Valley Water Board to obtain coverage under these General NPDES permits.

1-5

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For more information regarding the Low Threat General Order and the application process, visit the Central Valley Water Board website at:
http://www.waterboards.ca.gov/centralvalley/board_decisions/adopted_orders/general_orders/r5-2013-0074.pdf

For more information regarding the Limited Threat General Order and the application process, visit the Central Valley Water Board website at:
http://www.waterboards.ca.gov/centralvalley/board_decisions/adopted_orders/general_orders/r5-2013-0073.pdf

NPDES Permit

If the proposed project discharges waste that could affect the quality of the waters of the State, other than into a community sewer system, the proposed project will require coverage under a National Pollutant Discharge Elimination System (NPDES) permit. A complete Report of Waste Discharge must be submitted with the Central Valley Water Board to obtain a NPDES Permit.

For more information regarding the NPDES Permit and the application process, visit the Central Valley Water Board website at:
http://www.waterboards.ca.gov/centralvalley/help/business_help/permit3.shtml

If you have questions regarding these comments, please contact me at (916) 464-4644 or Stephanie.Tadlock@waterboards.ca.gov.



Stephanie Tadlock
Environmental Scientist

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Letter 1: Stephanie Tadlock, Environmental Scientist, Central Valley Regional Water Quality Control Board, February 24, 2017

- 1-1: The comment describes the Basin Plan developed by the CVRWQCB. This is not relevant to the Revised Draft EIR, nor is it within the scope of the Revised Draft EIR. The comment is noted and no further response is required.
- 1-2: The comment notes that the Project must comply with the Antidegradation Policy and the Antidegradation Implementation Policy included in the Basin Plan. This requirement is not relevant to the Revised Draft EIR, nor is it within the scope of the Revised Draft EIR. The comment is noted and no further response is required.
- 1-3: The comment describes the requirement to obtain a Construction Stormwater General Permit if one or more acre of soil is disturbed. The project applicant is required to obtain all necessary permits and to prepare a Storm Water Pollution Prevention Plan in order to commence construction activities. The comment also provides information on MS4 permits and an Industrial Storm Water General Permit as well as 404 permit, 401 water quality permit, waste discharge requirements, and dewatering permits. These requirements and permits are not relevant to the Revised Draft EIR, nor is it within the scope of the Revised Draft EIR. The comment is noted and no further response is required.
- 1-4: The comment includes information about required coverage necessary for commercial irrigated agricultural use of a property under the Irrigated Lands Regulatory Program. This does not apply to the Project as the project site does not include irrigated lands used for commercial irrigation, nor is it within the scope of the Revised Draft EIR. The comment is noted and no further response is required.
- 1-5: The comment includes information regarding Low or Limited Threat General NPDES Permits and general NPDES Permits. This requirement is not within the scope of the Revised Draft EIR. The comment is noted and no further response is required.

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Comment Letter 2



March 1, 2017

Dear Mayor, Councilmember Harris, City Council and Ms. Mahaffey:

We believe the McKinley Village Project, as proposed, would produce serious traffic congestion and hazard. We are not antidevelopment and hope that the final outcome will be a tenable traffic plan for East Sacramento. We urge you to follow the court's recent ruling and:

- decertify the existing Environmental Impact Report (EIR);
- correct deficiencies in the existing EIR;
- recirculate a CEQA-compliant EIR before recertification.

2-1

It appears that the City is attempting to circumvent the Court of Appeal's ruling by adopting a "Revised Draft EIR for McKinley Village" *before* the Superior Court can issue the Order. The Revised EIR *does not* contain the traffic analysis required by the Court of Appeal.

2-2

It is troubling to us that developers and their agents in city government have so little regard for the law of the land. We have to ask, do the developers and city officers intend obey the law or circumvent it? Do they consider themselves a special group not bound by the rules the rest of us recognize as valid and essential in a Democracy?

2-3

Sincerely,

Janet Maira

Janet Maira
President
East Sacramento Preservation, Inc.

East Sacramento Preservation, Inc.
PO Box 191763 Sacramento, CA 95819
www.eastsacpreservation.org
contact@eastsacpreservation.org
(916) 457-2725

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**Letter 2: Janet Maira, President, East Sacramento Preservation, Inc.,
March 1, 2017**

2-1: The commenter is requesting the City comply with the Third District Court of Appeal decision on the *East Sacramento Partnerships for a Livable City (ESPLC) v. City of Sacramento* and decertify the EIR and prepare a new traffic study for public review and comment.

The commenter is referred to Master Response 1, which addresses this issue in detail.

2-1: The commenter believes that the City is attempting to circumvent the Court of Appeal's ruling by adopting a Revised Draft EIR before the Superior Court can issue the Order.

The commenter is referred to Master Response 1, which addresses this issue in detail.

2-3: The commenter is providing an opinion that the City is circumventing the law.

The commenter is referred to Master Response 1 for more information regarding the legal ruling.

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Comment Letter 3



Marshall New Era Neighborhood Association
903 28th St
Sacramento CA 95816-4305
marshall.newera@gmail.com

March 3, 2017

VIA EMAIL

Dana Mahaffey Associate Planner
City of Sacramento, Community Development Department
Environmental Planning Services
300 Richards Boulevard, Third Floor
Sacramento, CA 95811

Dear Ms. Mahaffey:

The Marshall New Era Neighborhood Association (MNENA) is writing to express opposition to the "Revised EIR for the McKinley Village Project - January 2017" (Revised EIR). The revised EIR does not contain any new traffic analyses, and proposes no new mitigation that would lessen the significant traffic impacts of the project on our neighborhoods and streets.

3-1

The MNENA submitted comments on the McKinley Village draft EIR on January 10, 2014. Our comments stated that *"this project will bring at least 1,800 vehicle trips per day into Midtown without a thorough and comprehensive analysis of how this increased traffic will actually impact our neighborhood."*

3-2

Unfortunately, two years later, with construction now well underway, the City's traffic analysis is still woefully inadequate. Significant traffic impacts continue to be unmitigated. During the past 12 months, our neighbors have repeatedly reported tractor-trailers and other construction-related vehicles which are transporting materials, as well as, staging operations along 28th St between C St and H St. These observed traffic impacts on our neighborhood are directly related to construction of the McKinley Village project.

3-3

The Revised EIR cites the City's 2030 General Plan Policy M 1.2.2 exemption for Level of Service (LOS) standards as allowing the worst (LOS "F") conditions at intersections directly affecting the MNENA community. The clearly stated goal of Policy M 1.2.2 to *"increase transit ridership, biking and walking which decreases auto travel..."* The McKinley Village project increases rather than decreases auto travel. The project also does nothing to increase transit ridership, biking or walking, therefore use of this exemption is a subversion of the General Plan goal.

3-4

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Marshall New Era Neighborhood Association
903 28th St
Sacramento CA 95816-4305
marshall.newera@gmail.com

The MNENA urges the City to comply with the decision of the Court of Appeal in the case of *East Sacramento Partnerships for a Livable City (ESPLC) v. City of Sacramento, et al.* by decertifying the current EIR, conducting a full, independent traffic analysis, and recirculating the EIR for additional public comment. We have provided additional detailed comments as attached.

3-5

We have collaborated with, and appreciate the City’s ongoing efforts to address traffic concerns along C Street—the traffic circle at 23rd St, two new stop signs, and the half street closure at 28th and C Street. These projects may help to slow traffic down, but they do not address the increased traffic volume which is the primary impact of the McKinley Village project. The MNENA believes that the only real solution to address these traffic issues is to put a vehicular underpass entrance (tunnel) into the McKinley Village development at Alhambra Blvd. The Revised EIR references the Alhambra Tunnel/ Alternative Improvements and Services (p. A-8, A-9), however we have not received information regarding the disposition of this effort. We are already living with the consequences of the City’s planning decisions related this project and we urge the City to address these issues.

3-6

Sincerely,

George Raya

Marshall-New Area Neighborhood Association

cc. Steve Hansen, Councilmember



Marshall New Era Neighborhood Association
 903 28th St
 Sacramento CA 95816-4305
 marshall.newera@gmail.com

Specific Comments on the Revised Draft McKinley Village EIR

p. 1-1, 1-2 Please number the table(s) and provide units/description for the numbers shown (seconds of delay). Copies of Tables 4.9-10 and 4.9-20 should be included in the Revised EIR since they are extensively cited throughout the revisions and should be subject to re-review and comment.

3-7

p. 2.2 As noted in the 3rd Appellate Court Decision (Nov 16, 2016) ESPLC v City of Sacramento

Under cumulative plus project conditions, several intersections on 28th, 29th, and 30th Streets are at LOS F, with significant delays. The EIR found these impacts to be less than significant based solely on the mobility element in the City's general plan. However, the EIR finds similar changes to LOS conditions in East Sacramento, outside the core area, are significant impacts and require mitigation. Accordingly, there is evidence of a significant impact on traffic on 28th, 29th, and 30th Streets (p. 22)

3-8

p. 2.2 The Revised EIR does not acknowledge or address these significant impacts and relies still solely on conformity with the General Plan for the finding of no significance. The 3rd Appellate Court decision states further that:

"...compliance with a general plan policy does not conclusively establish there is no significant environmental impact, and the City failed to explain why it found none in this circumstance" (p. 2)

3-9

The Revised EIR should provide new analyses or explanation and not just simply repeat the General Plan policy justification for degradation of service to LOS F as presented in the Draft EIR from November 2013 (p. 4.9-45)

p 2.4 Section 4.9-1 The revised EIR states that decreased LOS are consistent with the City's policy included in General Plan Policy M 1.2.2 (a) which states that "General Plan conformance could still be found if the project provides improvements to other parts of the citywide transportation system in order to improve transportation-system-wide roadway capacity, to make intersection improvements, or to enhance non-auto travel modes in furtherance of the General Plan goals." Again, the revised EIR offers no new explanation or analyses support the finding of no significant traffic impact at these intersections

3-10

p A-1 Appendix A provides [another] recitation of the General Plan Policy M 1.2.2 as it relates to the "core area" of the City. As noted in the 3rd Appellate Court Decision

"The core area of the general plan covers downtown and midtown Sacramento and includes both busy commercial and quiet residential streets. The CEQA Guidelines caution that "the significance of an activity may vary with the setting." (p.22)

3-11



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The impacted intersections along 28th St are clearly in a “quiet residential” setting and therefore blanket application of the Core Area exemption to justify degraded LOS impacts at every intersection is not warranted without sufficient analyses of traffic impacts.

p. A-8 Alhambra Tunnel/Alternative Improvements and Services. The City should provide the community with an update on the status of the Alhambra Tunnel and the disposition of the funding \$2.2 for the tunnel or \$1.9 for alternative improvements in the project vicinity. Any future revised traffic analyses should consider the impact of a vehicular underpass (tunnel) access in improving LOS conditions at the impacted intersections.

p. A-8 The City should post the feasibility study for a Vehicular Underpass at Alhambra which was funded by \$100K from the project applicant. If such report is not available, the City should conduct a community meeting to apprise the neighborhood of the Alternative Improvements and Services.

↑ 3-11
Cont.
3-12
3-13

Letter 3: George Raya, Marshall-New Era Neighborhood Association, March 3, 2017

3-1: The comment states opposition to the Revised Draft EIR because it does not include a new traffic analysis or new mitigation measures.

The commenter is referred to Response to Comment 4-10 and Master Response 1, which addresses this issue in detail.

3-2: The comment notes the Marshall New Era Neighborhood Association (MNENA) previously submitted comments on the McKinley Village Draft EIR in January 2014. The comment notes the prior comment indicated that the Project would bring 1,800 vehicles into Midtown which was not evaluated in a thorough traffic analysis.

This comment is referencing a prior comment that was provided on the McKinley Village Draft EIR. This concern was addressed in Response to Comment 19-1 (FEIR, p. 3-345). The comment is outside the scope of the Revised Draft EIR; therefore, the comment is noted and provided to the decision-makers for their consideration.

3-3: The comment indicates that the EIR traffic analysis was inadequate and notes that construction-related traffic associated with construction of the McKinley Village project is resulting in significant impacts.

The Transportation and Circulation section in the McKinley Village Draft EIR recognized that "Project buildout could cause potentially significant impacts due to construction-related activities" (DEIR, p. 4.9-62). To address this potential impact, Mitigation Measure 4.9-5 was identified to reduce the impact to less than significant. Mitigation Measure 4.9-5 states:

4.9-5 Prior to the beginning of construction, the applicant shall prepare a construction traffic and parking management plan to the satisfaction of City Traffic Engineer and subject to review by all affected agencies. The plan shall ensure that acceptable operating conditions on local roadways and freeway facilities are maintained. At a minimum, the plan shall include:

- Description of trucks including: number and size of trucks per day, expected arrival/departure times, truck circulation patterns.
- Description of staging area including: location, maximum number of trucks simultaneously permitted in staging area, use of traffic control personnel, specific signage.

- Description of street closures and/or bicycle and pedestrian facility closures including: duration, advance warning and posted signage, safe and efficient access routes for emergency vehicles, and use of manual traffic control.
- Description of driveway access plan including: provisions for safe vehicular, pedestrian, and bicycle travel, minimum distance from any open trench, special signage, and private vehicle accesses.

The construction traffic and parking management plan identified in Mitigation Measure 4.9-5 was developed prior to the beginning of construction of the Project, and has been enforced by the City. In compliance with this plan, signage has been installed directing construction traffic to use the designated routes (see Figure 1). There is a protocol in place for residents to share concerns with the City and report their observations regarding noncompliance with the plan.

- 3-4: The comment correctly states the Revised Draft EIR cites the City's 2030 General Plan policy M 1.2.2, which allows LOS E and F at intersections within the City's Core Area. The comment notes this policy is designed to increase transit ridership, biking and walking and that the McKinley Village Project increases rather than decreases vehicle trips.

Please see Response to Comment 4-3 and Master Response 2 that provides more information in regards to the City's flexible LOS policy.

- 3-5: The comment is requesting that the City comply with the Third District Court of Appeal decision on the *East Sacramento Partnerships for a Livable City (ESPLC) v. City of Sacramento* and decertify the EIR and prepare a new traffic analysis for public review.

The commenter is referred to Master Response 1, which addresses this issue in detail.

- 3-6: The commenter is appreciative that the City has installed traffic calming measures along C Street including a roundabout and stop signs on 23rd Street, two new stop signs and a half Street closure at 28th/C Streets, but notes this has not addressed the increase in traffic and supports a vehicular underpass at Alhambra Boulevard.



Figure 1

The feasibility of constructing an underpass under the Union Pacific rail lines (UPRR) to allow vehicle access between the project site and the northern terminus of Alhambra Boulevard was addressed in Master 1, Response Overview of Alhambra Boulevard and Lanatt Street as Project Access, in the McKinley Village Final EIR (available on the City's website at <https://www.cityofsacramento.org/Community-Development/Planning/Environmental>). As noted in Master Response 2 and in Chapter 2, Project Description of the McKinley Village EIR (DEIR, p. 2-45), the McKinley Village Project potentially included a proposed pedestrian/bicycle underpass that would connect to Alhambra Boulevard, if approved by UPRR and the appropriate government agencies. As part of the Conditions of Project Approval (COA) the City has assumed responsibility for this underpass and it has been removed as part of the Project. Included in the COA for the Project, the project applicant provided the City with \$100,000 in 2014 to study the feasibility of constructing a vehicular underpass in this location. The City contracted with Parsons, a local engineering firm to assess the feasibility of constructing an underpass and the reports, prepared in March 2014 and April 2014 (available on the City's website at <https://www.cityofsacramento.org/Community-Development/Planning/Environmental>), provide more detailed information on the

feasibility and the potential costs to construct an underpass in this location. To date, the City has yet to determine whether to move forward with constructing the underpass. The project applicant has agreed to pay the City approximately \$1.9 million dollars towards future construction of the underpass; however, if the City is not able to obtain the necessary approvals, permits or funding to construct the underpass, the City will use this money to fund improvements to vehicular, bicycle and pedestrian connections between the project site and adjacent neighborhoods. Priority will be given to improvements that benefit bicyclists, pedestrians, and transit. The commenter’s request for an underpass at Alhambra Boulevard is noted and forwarded to the decision-makers for their consideration.

3-7: The comment is requesting that the tables included in the Revised Draft EIR be numbered and information included that describes what average delay is referencing. The commenter is also requesting copies of Tables 4.9-10 and 4.9-20 from the McKinley Village EIR be included.

The tables provided in the Revised Draft EIR on page 1-1 and 1-2 are numbered and new information is shown in underline text, included below.

Table 1-1
Existing Plus Project Conditions - Core Area Intersection1 LOS E or F Operations²

Intersection ³	Control	Peak Hour	Existing		Existing Plus Project	
			Level of Service	Average Delay ⁵	Level of Service	Average Delay ⁵
E Street/29th Street/SB Capital City Freeway Off-Ramp ⁴	Traffic Signal	AM	C	26	E	66
		PM	C	22	C	31

Notes:

- ¹ The Court agreed with the City’s approach in the EIR to analyze intersections in order to determine significance of Project and cumulative impacts, rather than roadway segments. (Opinion, pp. 16-17.)
- ² See Table 4.9-10 (pp.4.9-52 to 54) from the Draft EIR for the full table of intersections analyzed in the Draft EIR. This table only lists intersections in the Core Area that, under Existing plus Project conditions, will operate at either LOS E or F.
- ³ The Court also referenced the intersection of 28th and E Street, which decreases from LOS A to D; however, LOS D is an acceptable LOS anywhere in the City, and not just in the Core Area. (DEIR, pp. 4.9-45 -4.9-46, 4.9-53; Opinion, p. 19.)
- ⁴ As described in the EIR, information on operations at intersections that are part of the regional transportation network (which includes the Capitol City Freeway) are provided for information purposes only. (DEIR, p. 4.9-38.)
- ⁵ For signalized and all-way stop controlled intersections, average intersection delay is reported in seconds per vehicle for the overall intersection.

Table 1-2
Cumulative Plus Project Conditions - Core Area Intersection LOS E or F Operations⁵

Intersection ⁶	Control	Peak Hour	Cumulative		Cumulative Plus Project	
			Level of Service	Average Delay ⁷	Level of Service	Average Delay ⁷
C Street/28th Street	All-Way Stop	AM	D	27	E	40
		PM	F	69	F	108
E Street/28th Street	All-Way Stop	AM	D	29	F	53
		PM	E	49	F	69
H Street/28th Street	Traffic Signal	AM	C	16	D	38
		PM	F	146	F	164
E Street/29th Street/SB Capital City Freeway Off-Ramp ⁴	Traffic Signal	AM	D	49	D	55
		PM	E	77	F	142
H Street/29th Street/SB Capital City Freeway On-Ramp ⁴	Traffic Signal	AM	E	60	E	65
		PM	D	47	D	45
E Street/30th Street	Traffic Signal	AM	D	39	D	40
		PM	C	33	E	51
H Street/30th Street/NB Capital City Freeway On-Ramp ⁴	Traffic Signal	AM	F	119	F	124
		PM	F	266	F	314

Notes:

- ⁴ As described in the EIR, information on operations at intersections that are part of the regional transportation network (which includes the Capitol City Freeway) are provided for information purposes only. (DEIR, p. 4.9-38.)
- ⁵ See Table 4.9-20 (pp.4.9-77 to 79) from the Draft EIR for the full table of intersections analyzed in the Draft EIR. This table only lists intersections in the Core Area that, under Cumulative plus Project conditions, will operate at either LOS E or F.
- ⁶ Note that, at the intersection of D Street and 28th Street, certain turn movements operate at LOS F in the Cumulative Plus Project condition as noted in parenthesis in Table 4.9-20; however, impacts are determined based on overall operation of the intersection, which is acceptable LOS C.
- ⁷ For signalized and all-way stop controlled intersections, average intersection delay is reported in seconds per vehicle for the overall intersection.

As noted on page 1-3 of the Revised Draft EIR, copies of the complete transportation chapter are available for review during normal business hours (Monday through Friday, 8 a.m. to 4 p.m.) or on the City's website at <http://www.cityofsacramento.org/dsd/planning/environmental.cfm>. To address the commenter's request, Tables 4.9-10 and 4.9-20 from the McKinley Village EIR are reprinted below in their entirety; however, the information provided in these tables, with the exception of the excerpts provided above, are provided for informational purposes only and are not subject to additional review and comment.

**Table 4.9-10
Intersection Operations – Existing Plus Project Conditions**

Intersection	Control	Peak Hour	Existing		Existing Plus Project	
			Level of Service	Average Delay ¹	Level of Service	Average Delay ¹
C Street/28th Street	All-Way Stop	AM	A	9	A	9
		PM	A	9	A	10
D Street/28th Street	Side-Street Stop	AM	A (B)	1 (11)	A (B)	1 (12)
		PM	A (B)	1 (11)	A (B)	1 (12)
E Street/28th Street	All-Way Stop	AM	A	7	D	32
		PM	A	7	B	14
H Street/28th Street	Traffic Stop	AM	A	8	A	9
		PM	A	9	A	10
I Street/28th Street	All-way Stop	AM	A	8	A	8
		PM	A	9	A	9
E Street/29th Street/SB Capital City Freeway Off-Ramp	Traffic Signal	AM	C	26	E	66
		PM	C	22	C	31
H Street/29th Street/SB Capital City Freeway On-Ramp	Traffic Signal	AM	B	19	C	21
		PM	C	29	C	29
E Street/30th Street/NB Capital City Freeway On-Ramp	Traffic Signal	AM	C	26	D	45
		PM	C	20	C	27
H Street/30th Street/NB Capital City Freeway On-Ramp	Traffic Signal	AM	D	39	D	40
		PM	D	36	D	38
C Street/Alhambra Boulevard	All-Way Stop	AM	A	9	A	9
		PM	A	9	A	9
E Street/Alhambra Boulevard	Traffic Signal	AM	E	61	E	77
		PM	C	22	C	25
H Street/Alhambra Boulevard	Traffic Signal	AM	F	96	F	110
		PM	E	73	E	80
C Street/33rd Street	All-Way Stop	AM	A	9	A	10
		PM	A	9	A	10
McKinley Boulevard/33rd Street	All-Way Stop	AM	B	13	B	13
		PM	B	13	B	14
C Street/35th Street	All-Way Stop	AM	A	9	A	9
		PM	A	9	B	10
McKinley Boulevard/35th Street	Side-Street Stop	AM	A (C)	2 (17)	A (C)	2 (17)
		PM	A (B)	2 (15)	A (C)	2 (15)

Table 4.9-10
Intersection Operations – Existing Plus Project Conditions

Intersection	Control	Peak Hour	Existing		Existing Plus Project	
			Level of Service	Average Delay ¹	Level of Service	Average Delay ¹
McKinley Boulevard/36th Street	All-Way Stop	AM	B	11	B	11
		PM	A	10	A	10
C Street/39th Street	Side-Street Stop	AM	A (A)	1 (10)	A (A)	1 (10)
		PM	A (B)	1 (10)	A (A)	1 (10)
C Street/ San Miguel Way	Side-Street Stop	AM	A (A)	0 (10)	A (B)	0 (11)
		PM	A (B)	0 (10)	A (A)	0 (10)
C Street/ San Antonio Way	Side-Street Stop	AM	A (B)	1 (11)	A (B)	1 (11)
		PM	A (B)	1 (11)	A (B)	1 (11)
36th Way/San Antonio Way	All-Way Yield	AM	A (A)	7 (7)	A (A)	7 (7)
		PM	A (A)	7 (7)	A (A)	7 (7)
McKinley Boulevard/San Antonio Way	Side Street Stop	AM	A (A)	2 (10)	A (A)	2 (10)
		PM	A (A)	1 (9)	A (A)	1 (9)
C Street/40th Street	Side-Street Stop	AM	A (B)	1 (11)	A (B)	1 (11)
		PM	A (B)	1 (11)	A (B)	1 (11)
36th Way/40th Street	All-Way Yield	AM	A (A)	7 (7)	A (A)	7 (7)
		PM	A (A)	7 (7)	A (A)	7 (7)
McKinley Boulevard/40th Street	Side-Street Stop	AM	A (B)	2 (10)	A (B)	2 (10)
		PM	A (A)	1 (10)	A (A)	1 (10)
C Street/Tivoli Way	Side –Street Stop	AM	A (A)	0 (10)	A (B)	0 (10)
		PM	A (B)	0 (11)	A (B)	0 (12)
36th Way/Tivoli Way	Side-Street Stop	AM	A (A)	2 (9)	A (A)	2 (9)
		PM	A (A)	3 (9)	A (A)	3 (9)
McKinley Boulevard/Tivoli Way	Side-Street Stop	AM	A (A)	0 (9)	A (A)	0 (9)
		PM	A (A)	0 (10)	A (A)	0 (10)
C Street/Meister Way	Side-Street Stop	AM	A (B)	0 (11)	A (B)	0 (11)
		PM	A (B)	0 (11)	A (B)	0 (11)
36th Way/Meister Way	Side-Street Stop	AM	A (A)	6 (9)	A (A)	6 (9)
		PM	A (A)	6 (9)	A (A)	6 (9)
McKinley Boulevard/Meister Way	All-Way Stop	AM	A	8	A	8
		PM	A	8	A	8
Elvas Avenue/McKinley Boulevard	Side-Street Stop	AM	A (A)	3 (10)	A (A)	2 (10)
		PM	A (B)	2 (10)	A (B)	2 (11)

Note:

¹ For signalized and all-way stop controlled intersections, average intersection delay is reported in seconds per vehicle for the overall intersection. For side-street stop controlled intersections, the delay is reported in seconds per vehicles for the overall intersection and (worst approach).

Bold text indicates significant impact.

Source: Fehr & Peers 2013 (see Appendix O).

Table 4.9-20
Intersection Operations – Cumulative Plus Project Conditions

Intersection	Control	Peak Hour	Cumulative		Cumulative Plus Project	
			Level of Service	Average Delay ¹	Level of Service	Average Delay ¹
C Street/28th Street	All-Way Stop	AM	D	27	E	40
		PM	F	69	F	108
D Street/28th Street	Side-Street Stop	AM	A (B)	2 (15)	A (C)	2 (16)
		PM	A (B)	15 (48)	C (F)	24 (84)
E Street/28th Street	All-Way Stop	AM	D	29	F	53
		PM	E	49	F	69
H Street/28th Street	Traffic Signal	AM	C	16	D	38
		PM	F	146	F	164
I Street/28th Street	All-Way Stop	AM	B	12	B	12
		PM	B	11	B	12
E Street/29th Street/SB Capital City Freeway Off-Ramp	Traffic Signal	AM	D	49	D	55
		PM	E	77	F	142
H Street/29th Street/SB Capital City Freeway On-Ramp	Traffic Signal	AM	E	60	E	65
		PM	D	47	D	45
E Street/30th Street	Traffic Signal	AM	D	39	D	40
		PM	C	33	E	51
H Street/30th Street/NB Capital City Freeway On-Ramp	Traffic Signal	AM	F	119	F	124
		PM	F	266	F	314
C Street/Alhambra	All-Way Stop	AM	B	15	C	16
		PM	C	18	C	20
E Street/Alhambra Boulevard	Traffic Signal	AM	F	127	F	138
		PM	F	127	F	200
H Street/Alhambra Boulevard	Traffic Signal	AM	F	190	F	208
		PM	F	380	F	407
C Street/33rd Street	All-Way Stop	AM	B	15	C	16
		PM	B	14	C	16
McKinley Boulevard/33rd Street	All-Way Stop	AM	D	34	E	36
		PM	F	56	F	62
C Street/35th Street	All-Way Stop	AM	B	13	B	14
		PM	B	10	B	11
McKinley Boulevard/35th Street	Side-Street Stop	AM	A (E)	4 (35)	A (E)	4 (36)
		PM	A (D)	4 (33)	A (D)	4 (35)
McKinley Boulevard/36th Street	All-Way Stop	AM	B	14	B	14
		PM	C	15	C	15
C Street/39th Street	Side-Street Stop	AM	A (B)	1 (12)	A (B)	1 (12)
		PM	A (B)	1 (11)	A (B)	1 (11)

Table 4.9-20
Intersection Operations – Cumulative Plus Project Conditions

Intersection	Control	Peak Hour	Cumulative		Cumulative Plus Project	
			Level of Service	Average Delay ¹	Level of Service	Average Delay ¹
C Street/ San Miguel Way	Side-Street Stop	AM	A (B)	0 (11)	A (B)	0 (11)
		PM	A (B)	0 (11)	A (B)	0 (11)
C Street/ San Antonio Way	Side-Street Stop	AM	A (B)	1 (13)	A (B)	1 (13)
		PM	A (B)	1 (11)	A (B)	1 (11)
36th Way/San Antonio Way	All-Way Yield	AM	A (A)	7 (7)	A (A)	7 (8)
		PM	A (A)	7 (7)	A (A)	7 (8)
McKinley Boulevard/San Antonio Way	Side Street Stop	AM	A (A)	1 (10)	A(A)	1 (10)
		PM	A (A)	1 (10)	A(A)	1 (10)
C Street/40th Street	Side-Street Stop	AM	A (B)	1 (12)	A (B)	1 (12)
		PM	A (B)	1 (11)	A (B)	1 (12)
36th Way/40th Street	All-Way Yield	AM	A (A)	7 (7)	A (A)	7 (7)
		PM	A (A)	7 (7)	A (A)	7 (7)
McKinley Boulevard/40th Street	Side-Street Stop	AM	A (B)	1 (12)	A (B)	1 (12)
		PM	A (B)	2 (11)	A (B)	2 (11)
C Street/Tivoli Way	Side –Street Stop	AM	A (B)	0 (13)	A (B)	0 (13)
		PM	A (B)	0 (11)	A (B)	0 (12)
36th Way/Tivoli Way	Side-Street Stop	AM	A (A)	2 (9)	A (A)	2 (9)
		PM	A (A)	1 (9)	A (A)	1 (9)
McKinley Boulevard/Tivoli Way	Side-Street Stop	AM	A (B)	0 (10)	A (B)	0 (10)
		PM	A (A)	0 (10)	A (A)	0 (10)
C Street/Meister Way	Side-Street Stop	AM	A (B)	1 (12)	A (B)	1 (12)
		PM	A (B)	0 (11)	A (B)	0 (11)
36th Way/Meister Way	Side-Street Stop	AM	A (A)	4 (10)	A (A)	4 (10)
		PM	A (A)	7 (10)	A (B)	7 (10)
McKinley Boulevard/Meister Way	All-Way Stop	AM	A	9	A	9
		PM	A	9	A	9
Elvas Avenue/McKinley Boulevard	Side-Street Stop	AM	A (B)	5 (12)	A (B)	5 (13)
		PM	A (B)	3 (12)	A (B)	3 (13)

Note:

¹ For signalized and all-way stop controlled intersections, average intersection delay is reported in seconds per vehicle for the overall intersection. For side-street stop controlled intersections, the delay is reported in seconds per vehicles for the overall intersection and (worst approach).

Bold text indicates significant impact.

Source: Fehr & Peers 2013 (see Appendix O).

- 3-8: The comment cites a passage from the Third District Appellate Court ruling in the *East Sacramento Partnerships for a Livable City (ESPLC) v. City of Sacramento* case and notes the Revised Draft EIR relies on the City's General Plan mobility policy to conclude a finding of less than significant.

The commenter is referred to Response to Comment 4-3 that addresses the use of the City's General Plan mobility policy as a significance threshold and Master Response 1 that clarifies the legal rulings and Master Response 2 that provides further analysis on using the City's General Plan traffic policy as a threshold.

- 3-9: The comment cites a passage from the Third District Appellate Court ruling in the *East Sacramento Partnerships for a Livable City (ESPLC) v. City of Sacramento* case and notes the Revised Draft EIR should provide an explanation of the City's LOS policy.

The commenter is referred to Response to Comment 4-3 that address the use of the City's General Plan mobility policy as a significance threshold and Master Response 1 that clarifies the legal rulings and Master Response 2 that provides further analysis on using the City's General Plan traffic policy as a threshold.

- 3-10: The comment references information provided in the McKinley Village Draft EIR transportation section specific to Policy M 1.2.2 (a).

The commenter is referred to Response to Comment 4-3 and Master Response 2 that addresses this issue in detail.

- 3-11: The comment reiterates information from the Third District Appellate Court ruling in the *East Sacramento Partnerships for a Livable City (ESPLC) v. City of Sacramento* case and notes the intersections along 28th Street are in a quiet residential setting; therefore, the City's application of the Core Area as permissible to allow LOS E or F is not warranted without additional traffic analysis.

The commenter is referred to Response to Comment 4-10 and Master Response 1 that addresses the issue of preparing a new traffic study.

- 3-12: The comment states the City should provide the community with an update on the status of the underpass and the disposition of the funds for alternative transportation improvements. The comment goes on to say any revised traffic analysis should consider the underpass as it relates to LOS impacts.

Please see Response to Comment 3-6 which provides an update on the status of the underpass.

- 3-13: The commenter is requesting the City provide an update on the feasibility study on the underpass and if a report is not available the City should hold a community meeting to update the residents on the status.

Please see Response to Comment 3-6 which provides an update on the status of the underpass.

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Comment Letter 4



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March 3, 2017

VIA HAND DELIVERY AND BY EMAIL

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RE: Comments On Revised Draft Environmental Impact Report For
The McKinley Village Project (P08-086)

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Dear Ms. Mahaffey:

The Revised Draft Environmental Impact Report for the McKinley Village Project (the "RDEIR") is fatally flawed insofar as it (i) improperly attempts to circumvent a decision by the Court of Appeal that requires the Project EIR's decertification; (ii) fails to correct deficiencies in the EIR's traffic analysis that the Court of Appeal concluded render the EIR noncompliant with the California Environmental Quality Act ("CEQA"); (iii) fails to satisfy the requirements for a supplemental or subsequent EIR in that it ignores significant changes in the circumstances since the original EIR was certified; and (iv) was not recirculated as required by CEQA. If these defects are not remedied, the McKinley Village Project will remain in violation of CEQA, and will continue to impair the quality of life of the residents of the City of Sacramento.

4-1

On November 7, 2016, the Court of Appeal of the State of California, Third Appellate District, issued an opinion in the action captioned *East Sacramento Partnerships for a Livable City v. City of Sacramento, et al.*, Case No. C079614 (the "ESPLC Action"), in which the Court of Appeal concluded that the Project's EIR failed to comply with CEQA (the "Opinion"). In particular, the Court held that the EIR's traffic analysis was deficient because the EIR determined, based solely on a mobility element in the City's 2030 General Plan, that the Project's impacts on severely degrading traffic conditions at certain intersections were insignificant. The Court of Appeal explained that the General Plan alone *does not* constitute substantial evidence that the Project's impacts on failing traffic conditions are insignificant. On that basis, the Court remanded the case to the Superior Court for the County of Sacramento for entry of an order requiring the City to decertify the Project EIR, and to bring its traffic analysis into compliance with CEQA.

4-2

Not only has the City failed to follow the procedural steps mandated by the Court of Appeal (*i.e.*, decertification of the Project EIR), but the RDEIR is substantively deficient both in light of the Court of Appeal's Opinion and the requirements of CEQA. First, the RDEIR does not correct the defects that the Court of Appeal identified in its Opinion since the RDEIR, like the original EIR, fails to support its conclusion that the Project's impacts on degrading traffic conditions are less than significant with substantial evidence. Second, the RDEIR fails to account for substantial changes

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from the time that the original Project EIR was certified—including the City's adoption of the 2035 General Plan—that require the City to prepare a supplemental or subsequent Project EIR pursuant to Public Resources Code § 21166 and 14 Cal Code Regs. § 15162(a)(2). For example, the RDEIR continues to analyze the Project's traffic impacts under the version of Mobility Policy 1.2.2 that was in place when the Project was originally approved. This policy was superseded by the 2035 General Plan.

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Accordingly, in order to comply with CEQA and the Court of Appeal Opinion, the City must (i) decertify the Project EIR; (ii) prepare a subsequent or supplemental EIR that both corrects the deficiencies identified by the Court of Appeal and accounts for significant changes since the original Project EIR was certified, including the City's adoption of the 2035 General Plan; and (iii) recirculate the subsequent or supplemental EIR for public review and comment before considering its certification.

4-5

A. The City's Approval of the McKinley Village Project

The McKinley Village Project, which includes the construction of 336 residential units, is located on 49 acres of land zoned for heavy industrial uses. It is surrounded by a major freeway to the north, railroad tracks to the south, and is adjacent to a methane-polluted former landfill. Among other impacts, the Project is expected to generate an additional 3,500 vehicle trips per day in an already congested area.

4-6

The City circulated a draft EIR ("DEIR") for the Project for public review and comment from November 12, 2013 until January 10, 2014. Notwithstanding the size, location, and complexity of the Project, the DEIR claimed that all significant impacts related to the Project could be reduced to a less than significant level. Extensive comments were submitted to the City during the DEIR public comment period. In total, the City received nearly 130 comment letters on the DEIR, most of them from responsible agencies, environmental groups, neighborhood organizations, and citizens concerned about the adverse environmental impacts of the Project. For example, Caltrans submitted comments indicating that it had "serious concerns regarding the lack of adequate traffic analysis" in the DEIR. ESPLC also submitted comments on the DEIR that were supported by analysis prepared by expert environmental, planning, and traffic consultants. Instead of providing good faith, reasoned responses to the comments on the DEIR, the City published the Final EIR ("FEIR") with relatively minimal changes. The FEIR failed to adequately address the deficiencies in the DEIR identified by ESPLC and others.

4-7

The City Council held its first public hearing on the Project on April 29, 2014. At the hearing, Councilmember Hansen moved to approve the Project before the public comment portion of the hearing was opened. Ultimately, in a split 6-3 vote, the City Council certified the EIR and approved the Project. The dissenting councilmembers expressed concerns given the neighborhood opposition; traffic, air, and noise impacts; and inadequate site access and its associated effect on emergency response times. The City filed its Notice of Determination on April 30, 2014.

4-8

B. The ESPLC Action

On May 30, 2014, ESPLC filed a petition for writ of mandate in the Superior Court for the County of Sacramento to challenge the City's approval of the Project. ESPLC argued that the City's approval of the Project failed to comply with CEQA because the Project EIR (i) failed to adequately analyze the Project's significant health impacts; (ii) failed to address significant and unavoidable traffic impacts; (iii) failed to disclose or to mitigate significant methane impacts; and (iv) failed to

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BR March 3, 2017
Page 3

disclose significant unavoidable noise impacts. In addition, ESPLC argued that the Project was inconsistent with the City of Sacramento's 2030 General Plan.

After the trial court denied ESPLC's petition, on June 22, 2015, ESPLC timely filed a notice of appeal of the trial court's judgment. After briefing and oral argument, on November 7, 2016, the Court of Appeal issued its Opinion reversing in part the trial court's denial of ESPLC's petition, and concluding that the Project EIR's traffic analysis failed to comply with CEQA. The Court highlighted the fact that the EIR "found traffic impacts at intersections on 28th and 29th Streets that changed conditions from LOS C to LOS E and from LOS A to LOS D under existing plus project conditions," and that "[u]nder cumulative plus project conditions, several intersections on 28th, 29th, and 30th Streets are at LOS F, with significant delays." As the Court of Appeal explained:

The EIR found these impacts to be less than significant based solely on the mobility element in the City's general plan, without any *evidence* that such impacts were insignificant. Indeed, the Master EIR for the City's 2030 general plan, which adopted the mobility element at issue, recognized that the impact of traffic increases above LOS D-E were "significant and unavoidable." Further, the EIR finds similar changes to LOS conditions in East Sacramento, outside the core area, *are* significant impacts and require mitigation. Accordingly, there is evidence of a significant impact on traffic on 28th, 29th, and 30th Streets. As in *Amador Waterways*, the EIR contains no explanation why such increases in traffic in the core area are not significant impacts, other than reliance on the mobility element of the general plan that permits LOS F in the core area during peak times.

The Court of Appeal went on to explain that the EIR's conclusion that the foregoing traffic impacts were not significant was not supported by substantial evidence because "[t]he general plan alone does not constitute substantial evidence that there is no significant impact." The Court concluded as follows:

Because the EIR fails to explain or provide substantial evidence to support the finding of no significant traffic impact at these intersections, we must reverse the trial court's denial of ESPLC's petition for a writ of mandate and remand the case for issuance of a writ **directing the City to set aside its certification of the final EIR and to take the action necessary to bring the transportation and circulation section of the EIR into compliance with CEQA**....The City need only correct the deficiency in the EIR that we have just described before considering recertification of the EIR. (Emphasis added.)

Thus, the Court of Appeal's Opinion plainly directs the trial court to enter an order requiring decertification of the Project EIR, remediation of the EIR's deficient traffic analysis, and recertification of the EIR.

Neither the City of Sacramento nor the City Council filed a petition for review of the Court of Appeal's decision by the California Supreme Court. However, on December 23, 2016, the City of Sacramento filed a request in the California Supreme Court for the depublication of the Court of Appeal's Opinion. Over a dozen non-parties to the ESPLC Action also filed requests for depublication of the Court of Appeal's Opinion, and ESPLC filed oppositions to those requests. On February 15, 2017, the California Supreme Court denied all of the requests for depublication and declined to review the matter on its own motion, thereby rendering the Court of Appeal's Opinion

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Page 4

final. On February 17, 2017, the Court of Appeal issued a remittitur of the matter to the Superior Court. As directed by the Court of Appeal, on remand, the Superior Court is to enter an order requiring that the EIR be decertified and its traffic analysis brought into compliance with CEQA.

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C. The Revised FEIR Violates both CEQA and the Opinion of the Court of Appeal

As noted, and for the reasons explained below, the RDEIR for the Project does not comply with CEQA or the Court of Appeal's Opinion in the ESPLC Action.

Terra Nova, a leading expert on CEQA issues, reviewed the RDEIR in light of the 2035 General Plan and the Court of Appeal's Opinion, and concluded that the RDEIR complies with neither. Terra Nova's review is attached hereto as Exhibit A, and is incorporated into this letter as though set forth in full.

1. The RDEIR Reflects an Improper Attempt to Circumvent the Court of Appeal's Determination that the Project EIR Must Be Decertified

Upon determining that the Project EIR failed to comply with CEQA, and reversing and remanding the ESPLC Action to the Superior Court for the County of Sacramento, the Court of Appeal expressly directed the Superior Court to issue "a writ directing the City to set aside its certification of the final EIR" Nevertheless, the City has not decertified the Project EIR in accordance with the Court of Appeal's Opinion. Instead, the City attempted to circumvent the Court of Appeal's Opinion by taking advantage of the aforementioned requests for depublication of the Opinion, and the unusual delay that this caused to the remittitur's issuance to the Superior Court, which in turn delayed entry of an order by the Superior Court in the form directed by the Court of Appeal.

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Specifically, while the requests for depublication were pending in the California Supreme Court, instead of decertifying the EIR as required by the Opinion, the City purported to "revise" the Project EIR and posted a Notice of Availability of the RDEIR, purporting to commence a review and public comment period of 45 days that expires on March 3, 2015. However, as the Court of Appeal's decision is now final, and the remittitur to the trial court has been issued, there is no justification for the City's attempt to preemptively circumvent an order that the trial court must issue in the form directed by the Court of Appeal. In accordance with the Court of Appeal's express instruction, that order must require the City to decertify the project EIR.

2. The RDEIR Does Not Correct the Fatal Deficiency Identified by the Court of Appeal

As detailed in the accompanying letter from Terra Nova, the RDEIR remains defective for the same reason identified by the Court of Appeal, namely, that it fails to provide substantial evidence to support its conclusion that certain degrading traffic conditions are not significant. Indeed, the RDEIR contains no new analysis and provides no new evidence that could justify its conclusion that LOS F traffic impacts at intersections in the City's "Core Area" are insignificant. Although the City's "explanation" of Mobility Element policy M.1.2.2 has been expanded since the original EIR to explain certain "community values," it does not address the Court of Appeal's statement that "'community values' do not... necessarily measure environmental impacts."

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Moreover, although the RDEIR attempts to explain how the Mobility Element is consistent with state policies regarding the reduction of vehicle trips and associated greenhouse gas emissions, the RDEIR does not quantify how the Mobility Policy will improve these environmental

4-14



impacts. Rather than providing any evidence (let alone substantial evidence) that the degrading traffic conditions identified by the Court of Appeal do not constitute significant environmental impacts, the RDEIR continues to rely solely on the Mobility Element in the 2030 General Plan to support its conclusion that degrading traffic conditions at certain intersections in the City's "Core Area" are less than significant. As a result, the RDEIR fails to cure the fatal defect identified by the Court of Appeal, or to address the Court's clear and unambiguous statement that "[t]he general plan alone does not constitute substantial evidence that there is no significant impact."

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3. The RDEIR Does Not Satisfy The City's CEQA Obligation to Prepare a Subsequent or Supplemental EIR

The City is required to prepare a Subsequent or Supplemental EIR pursuant to Public Resources Code Section 21166, which provides as follows:

When an environmental impact report has been prepared for a project pursuant to this division, no subsequent or supplemental environmental impact report shall be required by the lead agency or by any responsible agency, unless one or more of the following events occurs:

- (a) Substantial changes are proposed in the project which will require major revisions of the environmental impact report.
- (b) Substantial changes occur with respect to the circumstances under which the project is being undertaken which will require major revisions in the environmental impact report.
- (c) New information, which was not known and could not have been known at the time the environmental impact report was certified as complete, becomes available.

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See also 14 CCR § 15162(a)(2).

Following the City's certification of the Project EIR in 2014, the City of Sacramento adopted its 2035 General Plan. The 2035 General Plan indisputably constitutes a "substantial change" that must be accounted for in the City's review of the McKinley Village Project following the Court of Appeal's Opinion before a subsequent or supplemental EIR can be certified. The adoption of the 2035 General Plan dramatically changes much of the analysis in multiple sections of the RDEIR. For example, the 2035 General Plan substantially revised Mobility Element Policy M 1.2.2, on which the Project EIR's traffic analysis relies. Nevertheless, the RDEIR analyzes traffic impacts under the superseded version of Mobility Policy 1.2.2 that appeared in the City's 2030 General Plan. The changes to Mobility Policy 1.2.2 in the City's 2035 General Plan create potentially significant environmental impacts relating not only to traffic, but to air quality, noise, and emergency services. These impacts must be studied before a supplemental or subsequent EIR can be certified. Thus, the RDEIR is inadequate because its analysis is based on policies and provisions in a General Plan that is no longer valid.

4. The City Failed to Recirculate the EIR as Required By CEQA

Not only did the City fail to decertify the Project EIR, fail to correct the deficiencies in the EIR, and fail to prepare a subsequent or supplemental EIR to account for substantial changes as required by CEQA, but the City also created a faulty and invalid process for circulation of, and

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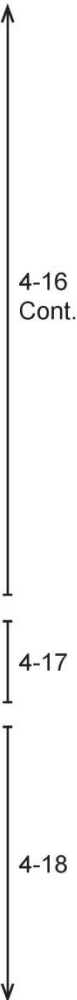
public comment on, the RDEIR. Recirculation of an EIR is governed by 14 CCR § 15088.5, which provides, in relevant part, as follows:

- (a) A lead agency is required to recirculate an EIR when significant new information is added to the EIR after public notice is given of the availability of the draft EIR for public review under Section 15087 but before certification. As used in this section, the term "information" can include changes in the project or environmental setting as well as additional data or other information. New information added to an EIR is not "significant" unless the EIR is changed in a way that deprives the public of a meaningful opportunity to comment upon a substantial adverse environmental effect of the project or a feasible way to mitigate or avoid such an effect (including a feasible project alternative) that the project's proponents have declined to implement. "Significant new information" requiring recirculation include, for example, a disclosure showing that:
 - (1) A new significant environmental impact would result from the project or from a new mitigation measure proposed to be implemented.
 - (2) A substantial increase in the severity of an environmental impact would result unless mitigation measures are adopted that reduce the impact to a level of insignificance.
 - (3) A feasible project alternative or mitigation measure considerably different from others previously analyzed would clearly lessen the significant environmental impacts of the project, but the project's proponents decline to adopt it.
 - (4) The draft EIR was so fundamentally and basically inadequate and conclusory in nature that meaningful public review and comment were precluded.

See also Public Resources Code Section 21092.1.

As discussed above, the City is required to prepare a subsequent or supplemental EIR that accounts for the City's adoption of the 2035 General Plan. That subsequent or supplemental EIR will necessarily include "significant new information" within the meaning of Section 15088.5 of the CEQA Guidelines, and will thus require recirculation.

But even if the RDEIR was procedurally proper or substantively adequate (it is not), and even if a partial recirculation of the EIR was appropriate in this case (it is not), the City's circulation of the RDEIR would remain deficient and a violation of CEQA. In its Notice of Availability of the RDEIR, the City acknowledged that it would not recirculate the EIR as a whole, and stated that "[b]ecause the Court of Appeal expressly limited the scope of the cure required to remedy the EIR's deficiency, the City is recirculating only the Revised Draft EIR and Appendix A to the Revised Draft EIR for review and comment." The Court of Appeal's determination that the Project EIR failed to comply with CEQA was based on its conclusion that the EIR's traffic analysis was deficient. Nevertheless, the City did not recirculate even the complete Section 4.9 of the EIR that discusses "Transportation and Circulation." Instead, the City circulated only a portion of that section reflecting changes that the City made to the Project EIR. However, as explained in the accompanying letter from Terra Nova, it is difficult if not impossible to evaluate the RDEIR because a reader must flip back and forth between the original EIR that the Court of Appeal found defective, and the very limited RDEIR that the City made available for review. A reader cannot simply review the RDEIR





and understand its discussion in context, as the RDEIR includes, for example, partial data from tables that appear in the EIR. Particularly for an issue as complex and interdependent as traffic, the City cannot, consistent with its obligations under CEQA, simply extract and circulate for review just a fragment of the EIR's traffic discussion.

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Accordingly, the City must prepare a supplemental or subsequent EIR that accounts for changes since the original EIR was certified, and that includes an adequate traffic analysis which is supported by substantial evidence. Because that supplemental or subsequent EIR will include substantial new information including, among other things, analysis based on the 2035 General Plan, the City must recirculate that EIR for public review and comment pursuant to CEQA Section 15088.5(a).

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D. Conclusion

For all of the reasons stated above, the RDEIR does not comply with CEQA or with the Court of Appeal's decision in the ESPLC Action. To comply with CEQA and with the Court of Appeal's decision, the City must (i) decertify the Project EIR; (ii) prepare a subsequent or supplemental EIR that both corrects the deficiencies identified by the Court of Appeal and accounts for significant changes since the original Project EIR was certified, including the City's adoption of the 2035 General Plan; and (iii) recirculate the subsequent or supplemental EIR for public review and comment before considering its certification.

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Sincerely,

BROWN RUDNICK LLP

STEPHEN R. COOK

EXHIBIT "A"

☐ ☐
☐ ☐ TERRA NOVA PLANNING & RESEARCH, INC.

February 28, 2017

Mr. Stephen R. Cook
Brown Rudnick LLP
2211 Michelson Drive, 7th Floor
Irvine, CA 92612

RE: McKinley Village Project (P08-806) Revised Draft Environmental Impact Report (SCH 2008082049)

Dear Mr. Cook:

Following our telephone conversations, this letter is written in response to your request that we review the revised Environmental Impact Report for the McKinley Village Project (revised DEIR), released by the City for public comment on January 18, 2017. This review has been undertaken to analyze whether the revised DEIR conforms to the requirements of the California Environmental Quality Act (CEQA), and the direction provided by the Court of Appeal in its Opinion in this case, as provided below, also in the context of the requirements of CEQA. The court found that:

"...Here, the EIR found traffic impacts at intersections on 28th and 29th Streets that changed conditions from LOS C to LOS E and from LOS A to LOS D under existing plus project conditions. Under cumulative plus project conditions, several intersections on 28th, 29th, and 30th Streets are at LOS F, with significant delays. The EIR found these impacts to be less than significant based solely on the mobility element in the City's general plan. However, the EIR finds similar changes to LOS conditions in East Sacramento, outside the core area, are significant impacts and require mitigation. Accordingly, there is evidence of a significant impact on traffic on 28th, 29th, and 30th Streets. As in Amador Waterways, the EIR contains no explanation why such increases in traffic in the core area are not significant impacts, other than reliance on the mobility element of the general plan that permits LOS F in the core area during peak times.

In response to a comment questioning the City's discretion in establishing its own LOS thresholds of significance, the final EIR states that the LOS thresholds of the City's general plan reflect "community values." Such "community values" do not, however, necessarily measure environmental impacts. (Cf. Berkeley Jets, supra, 91 Cal.App.4th at p. 1381 [land use noise threshold not determinative for CEQA].) The core area of the general plan covers downtown and midtown Sacramento and includes both busy commercial and quiet residential streets. The CEQA Guidelines caution that "the significance of an activity may vary with the setting." (CEQA Guideline, § 15064, subd.(b).)

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The general plan alone does not constitute substantial evidence that there is no significant impact. “[T]he fact that a particular environmental effect meets a particular threshold cannot be used as an automatic determinant that the effect is or is not significant. To paraphrase our decision in Communities for a Better Environment, a threshold of significance cannot be applied in a way that would foreclose the consideration of other substantial evidence tending to show the environmental effect to which the threshold relates might be significant...

...Because the EIR fails to explain or provide substantial evidence to support the finding of no significant traffic impact at these intersections, we must reverse the trial court’s denial of ESPLC’s petition for a writ of mandate and remand the case for issuance of a writ directing the City to set aside its certification of the final EIR and to take the action necessary to bring the transportation and circulation section of the EIR into compliance with CEQA....The City need only correct the deficiency in the EIR that we have just described before considering recertification of the EIR.” (emphasis added)

Document Format and Content

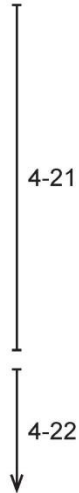
The DEIR contains only portions of Section 4.9, Transportation and Circulation, on the basis that “Section 15088.5 requires recirculation of only the significant new information, rather than the entire EIR.”¹ This reasoning fails for two reasons. First, the writer mis-represents the provisions of CEQA Section 15088.5. Section 15088.5(c) reads:

“If the revision is limited to a few chapters or portions of the EIR, the lead agency need only recirculate the chapters or portions that have been modified.”

In this case, the recirculated document must include the entire Section 4.9, Transportation and Circulation, not only those paragraphs or pages which the City has edited. It is impossible to consider the revised DEIR’s adequacy in this case, because one must move back and forth between the original EIR and the revision to understand the discussion in context. This includes eviscerated Tables, where only portions of the Table are provided in the revised DEIR, and the balance must be found in the original. Particularly for an issue as complex and interdependent as traffic, pulling the discussion out of context is inappropriate, and inconsistent with the requirements of CEQA.

Second, the City was required by the court to “set aside its certification of the final EIR.” As a result of the City’s failure to set aside that certification, there is no EIR on which to depend, and the document should have been recirculated in its entirety, although only the changes in the Transportation and Circulation section were to be made. The court was clear: the City was to only make the changes necessary to this section “before considering recertification of the EIR.” We understand that the City has not complied with the Court of Appeal’s direction

¹ McKinley Village Project Revised Draft Environmental Impact Report, page 1-2.



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to set aside the certification of the document. The City should not compound that error by improperly distributing only revised pages instead of the document as a whole, as required by CEQA.

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In addition, the City’s analysis considers the wrong Mobility Element policy, a policy that is simply no longer operative. Since the certification of the original EIR, the City has substantially amended and adopted a revised Mobility Element Policy M 1.2.2. The revised DEIR should have analyzed the revised policy, not the original, since the original no longer applies or exists.

The substantial change in the adopted General Plan leads to another conclusion: the revised DEIR is inadequate because it considers a General Plan which no longer exists. Under CEQA Section 15088.5(a), a “lead agency is required to recirculate an EIR when significant new information is added to the EIR after public notice is given of the availability of the draft EIR for public review...but before certification.” In this case, the City’s updated General Plan contains substantial new information and changes in policy that must be included in the revised DEIR, because there is no certified EIR at this time. For these reasons, the City must undertake a Supplemental EIR to comply with CEQA. Again, the City’s failure to comply with the Court of Appeal Opinion directing the City to set aside the certification is no reason to avoid compliance with CEQA.

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Analysis

The revised DEIR contains no new analysis, and provides no justification for significant impacts associated with intersections in the City’s Core Area. The “explanation” of the City’s Mobility Element policy M.1.2.2 has been expanded to better explain the “community values” of increased bicycle and pedestrian activity, but does not address the court’s direction that “community values do not, however, necessarily measure environmental impacts.” The revised DEIR states that the threshold of significance relating to LOS is two-pronged:

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The first prong of the threshold is to analyze whether “traffic generated by the project degrades LOS from an acceptable LOS (without the project) to an unacceptable LOS (with the project).”² If it does, then the project will have significant environmental impacts. The revised DEIR, however, continues to state that the fact that the project will degrade LOS in the Core Area is less than significant solely because of the existence of the now defunct Mobility Element policy. There is no consideration that this policy does not measure environmental impact. The revised DEIR failed to provide an analysis of the environmental impact associated with this degradation. As a result, the impacts associated with the first prong of the threshold of significance remain significant and unavoidable, and should be declared as such in the revised DEIR.

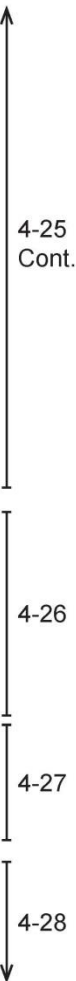
The second prong of the threshold is to determine whether “[t]he LOS (without Project) is unacceptable and Project generated traffic increases the average vehicle

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² CEQA Guidelines, Appendix G.

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delay by 5 seconds or more.” In this case, the revised DEIR clearly states that three intersections would experience a reduction from LOS C/D to LOS E/F, and therefore fail to meet this threshold in the Core Area, and four additional intersections would continue to operate at LOS E and F, and meet this threshold during the AM/PM peak hour. In both cases, the only explanation given for a determination of “less than significant impacts” is Mobility Element policy M 1.2.2. The analysis in the EIR shows that this impact is significant, since by any standard, including the City’s own in every other area but the Core, LOS E and F are unacceptable. The revised DEIR, however, fails to address the court’s determination that the “general plan alone does not constitute substantial evidence that there is no significant impact.” The revised DEIR also fails to address the issue that “a threshold of significance cannot be applied in a way that would foreclose the consideration of other substantial evidence tending to show the environmental effect to which the threshold relates might be significant.” In this case, under the requirements of CEQA and consistent with the court’s interpretation, the City offers no substantial evidence that the reductions in LOS that will be experienced in at least 6 intersections will not have a substantial environmental impact, given that LOS E and F are considered unacceptable in the City and throughout California. The LOS standard is well established, and extends well beyond local jurisdictions. For example, the California Department of Transportation will not fund street improvement projects for locations with unacceptable LOS E or F, unless the relevant jurisdiction can first demonstrate that it will improve the level of service to LOS D or better. This represents substantial evidence that the LOS standard of LOS D or better is a tangible and widely accepted measure of environmental impact when considering intersection traffic flow.



Appendix A

As described above, the revised DEIR includes no new quantitative analysis of the traffic impacts associated with the proposed project. Instead, the revised DEIR relies on an explanation of the City’s policy M 1.2.2, provided in Appendix A of the document. This appendix attempts at length to justify why an unacceptable LOS in the Core Area is possible and acceptable. The analysis, however, does not provide any explanation of whether a failure in LOS standards is an environmental impact. On the contrary, the analysis provided in the Appendix states that in an urban core which is “transit-rich” results in “decreased per capita vehicle travel and increased use of alternative travel modes.” If this is the case, the traffic model for the General Plan and the McKinley Village project must show that LOS will be improved in this environment. Current traffic modeling technology allows for the assignment of vehicle trips to transit, pedestrian or NEV use. This type of quantified analysis would be substantial evidence under CEQA that the Mobility Element policy is having a positive environmental impact. However, the revised DEIR, the EIRs for General Plan 2030 or 2035 do not provide such an analysis, and do not demonstrate that the City’s Core Area policy will, in fact, have any effect on the environment.

The Appendix explains at length how the Mobility Element policy complies with state policies relating to reduced vehicle trips and associated reductions in greenhouse gas emissions. However, the Appendix fails to quantify how the policy will improve both these environmental impacts. Without a demonstrated decrease in either vehicle trips (reflected in LOS) or in greenhouse gas emissions, the Appendix fails to provide the analysis necessary under CEQA to show the level or environmental impact, and the associated reduction that the

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policy will have on that impact. As a result, the Appendix neither addresses the environmental threshold required under CEQA, nor the court's order to demonstrate whether there will be an environmental impact and how that impact will be reduced. Furthermore, the analysis in the Appendix considers a policy which no longer exists. The General Plan 2035 text for Mobility Element Policy 1.2.2 substantially changed from that in the 2030 General Plan. The Appendix's analysis, therefore, is flawed, and should be redone to consider current City policy.

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The Appendix also lists a number of improvements that the applicant has been conditioned to complete in order to reduce the project's impacts on area traffic. What the Appendix fails to demonstrate is that these improvements are project-related conditions of approval that would be required to accommodate the project's impacts on the circulation system. They are not, as required in the Mobility Element policy, improvements related to improving the regional transportation network into and in the Core Area. Therefore, they cannot be considered to be implementing the policy, and must be considered only as they relate to direct project impact improvements.

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Finally, we note that the Appendix continues to include the addition of a vehicular and/or bicycle tunnel at Alhambra Boulevard as a condition of approval. As we have noted in our previous reviews of the environmental documentation for this project, the original EIR had absolutely no analysis of the impacts associated with the tunnel, stating that the tunnel had not been analyzed because it was infeasible. The City, however, continues to give the applicant credit for this access alternative as part of the suite of conditions of approval that purport to mitigate the project's traffic impacts. It is not acceptable under CEQA to provide no analysis of the impacts of a condition of approval, and then to impose it on a project and expect it to be implemented.

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2035 General Plan

In 2013, shortly after the approval of the proposed project, the City adopted changes to its General Plan. Although the original EIR was prepared under the 2030 General Plan, the revised EIR should analyze the project's consistency with the 2035 General Plan, since it is now the document that governs the City's land use decisions.

4-31

Most significant in this change as it relates to the traffic impacts for the project is the horizon year adopted with the General Plan update. The original EIR studied a horizon year of 2030, consistent with the adopted General Plan at the time. However, the 2013 update changed that horizon year to 2035. The revised EIR must include traffic analysis for horizon year 2035. Without this analysis, it cannot claim that the project is consistent with the General Plan.

4-32

The 2035 General Plan includes comprehensive and extensive changes to the Mobility Element that have not been considered in the revised EIR. Perhaps most significantly, the 2035 General Plan significantly modifies Mobility Element Policy 1.2.2, including changes, additions and deletions to roadways where unacceptable levels of service are made acceptable, including the removal of Alhambra Boulevard and addition of Elvas Avenue and H Street as acceptable LOS E roadways. These changes have the potential to significantly

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affect the impacts of the proposed project on both neighborhood roadways and the regional traffic system.

The potentially significant impacts of the changes in Mobility Element Policy 1.2.2 are far reaching. They include, but are not limited to not only traffic, but also to air quality, noise and emergency services. There must be an analysis conducted to consider how much more significant the changes and additions will negatively impact air quality, as a result of increased idling, "hot spot" creation at failed intersections, and GHG emissions over many years of congested traffic. The revised EIR must consider how much more noise will result to adjacent sensitive receptors, including parks, playgrounds, schools, homes, and care facilities, as a result of stalled traffic which will be made worse by the proposed project. Similarly, the revised EIR must consider what impacts the proposed project, when added to the expanded number of failed intersections in the neighborhood, will impact response time for police, fire and ambulance services in the area. In other words, the revised EIR must consider the totality of its potential traffic impacts in light of the increased congestion generated by the changes made in the 2035 General Plan, and determine whether all the impacts of the project will be greater because of these regionally reduced levels of service.

Finally and most importantly, because the City has adopted major revisions to its General Plan which contain substantial new information and changes in policy, and because there is no certified EIR for the project at this time, the City must undertake a Supplemental EIR for the project to comply with CEQA.

Conclusion

As described above, the revised DEIR does not meet the requirements of CEQA, nor the direction provided by the Court of Appeal. The City has failed to provide, both in form and content, the analysis necessary to address the significant impacts associated with traffic as a result of the proposed project.

Sincerely,



Nicole Sauviat Criste
Principal

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Cont.

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4-36

Letter 4: Stephen R. Cook, Brown Rudnick LLP, March 3, 2017

- 4-1: The comment summarizes arguments that are later set forth in Responses to Comments 4-10 to 4-17. The commenter is referred to Responses to Comments 4-8 through 4-17 and Master Response 1.
- 4-2: The comment summarizes portions of the court's opinion in *East Sacramento Partnership for a Livable City v. City of Sacramento* (2016) 5 Cal.App.5th 281 (*ESPLC v. City*), specifically stating the Court held the EIR traffic analysis was deficient because it relied on the City's General Plan and ordered the City to remedy this deficiency.

In that case, the Court of Appeal, Third Appellate District, upheld the McKinley Village EIR with one narrow exception -- the Court held the traffic section in the EIR failed to explain or provide substantial evidence to support the conclusion that the Project would not result in significant traffic impacts to specific intersections on 28th, 29th and 30th Streets. Specifically, the Court determined the EIR failed to explain why traffic levels of service E and F are not considered significant environmental impacts. Pursuant to the Court's decision, "the City need only correct [this] deficiency in the EIR...before considering recertification of the EIR."

Aside from requiring the City to provide substantial evidence to support its LOS threshold in the Core Area, the Court did not require any additional action by the City. The City therefore prepared the Revised Draft EIR pursuant to the Court's directive to provide the evidence necessary to support the City's determination that LOS E and F are acceptable in the Core Area.

Notably, the Court upheld the remaining portions of the traffic section --- the Court did not issue any ruling with regard to Meister Way, Tivoli Way, Elvas Avenue, or C Street or any other streets mentioned in the comment letters submitted to the City. Nor did the Court order the City to prepare a new traffic study. In fact, with the one noted exception regarding the LOS policy, the Court upheld the traffic analysis in its entirety. The Court held:

- A vehicular tunnel at Alhambra Boulevard was not part of the Project and did not need to be included in the project description or analyzed in the EIR. (*ESPLC v. City, supra*, 5 Cal.App.5th at p. 292.)
- The half street closure on 28th Street, added in response to public requests for this traffic calming measure, would reduce traffic impacts on 28th Street at C Street and move the traffic to streets better able to handle the traffic; the addition

of the half street closure is a “modest change” by the City in response to traffic concerns and does not require additional analysis. (*Id.* at p. 294.)

- The City did not remove the Sutter’s Landing Parkway from the General Plan as part of the McKinley Village Project; if the City later proposes a project to amend the General Plan to remove the Parkway, such action would be subject to its own CEQA review. (*Id.* at p. 295.)
- The EIR was not required to analyze and propose mitigation for the Project’s impact on freeways because CEQA expressly allows lead agencies to streamline the traffic analysis for certain projects like McKinley Village that are consistent with the regional Sustainable Communities Strategy. (*Id.* at pp. 297-298; see also March 21, 2017 letter from SACOG – Letter 55.)
- Although the EIR did evaluate the Project’s impact on 19 roadway segments, the EIR’s traffic analysis properly focused on intersections rather than roadway segments because the roadway capacity is governed by intersections. (*Id.* at p. 298.)
- The EIR need not be recirculated to address the C Street roadway segment impact identified in the Final EIR because there was only a correction to the roadway segment’s designation, there was no change in the amount of traffic on this roadway segment. (*Id.* at p. 298.)
- The traffic study was legally adequate and the EIR was not required to analyze additional roadway segments on 29th Street, 30th Street and 33rd Street. (*Id.* at p. 298-299.)
- The mitigation measures proposed to reduce or avoid significant project level and cumulative traffic impacts are adequate. (*Id.* at p. 303.)
- The Project is consistent with the transportation policies in the General Plan. (*Id.* at pp. 305-306.)

In addition to upholding the traffic analysis as discussed above, the Court of Appeal also upheld the adequacy of the EIR in all other respects, including:

- The adequacy of the project description as it relates to the development agreement. (*Id.* at p. 291.)
- The adequacy of the project description given the rezoning for multifamily units and the overall increase in 8 units that occurred between the Draft and Final EIR. (*Id.* at p. 292.)
- The adequacy of the project description as it relates to driveway variances. (*Id.* at pp. 292-293.)

- The adequacy of the EIR with regard to potential methane migration, toxic air contaminants and health risks. (*Id.* at pp. 295-298.)
- Consistency with the General Plan land use and environmental policies. (*Id.* at p.306.)
- Consistency with the General Plan noise policies, including where to measure noise impacts. (*Id.* at p.307.)

Again, the only issue that that the Court of Appeal asked the City to address in a revised document was the use of the City's General Plan policy/threshold addressing impacts in the downtown Core Area. The Revised Draft EIR and Appendix A to the Revised Draft EIR directly respond to the Court's disposition.

The City followed the procedure required by the Court of Appeal and prepared a Revised Draft EIR pursuant to the Court's directive in order to discuss the substantial evidence supporting the City's determination that LOS E and F are acceptable in the Core Area.

On March 21, 2017, the Sacramento County Superior Court issued its Judgement and Peremptory Writ of Mandate ("Writ") directing the City to rescind and set aside its 2014 Project approvals and decertify the EIR. The Writ remanded these approvals back to the City for reconsideration upon compliance with the Writ and further ordered the City to take action necessary to bring the transportation and circulation section of the Project EIR into compliance with CEQA and the Court of Appeal's decision prior to reconsidering certification of the EIR.

The Writ does not expand on the scope of the remedy as determined by the Court of Appeal and described above. The Revised Draft EIR and Appendix A to the Revised Draft EIR directly respond to the only issue that that the Court of Appeal asked the City to address in a revised document: the use of the City's General Plan policy/threshold addressing impacts in the Downtown Core Area. Nothing more was required.

Please also see Response to Comment 4-12 regarding decertification of the EIR and Master Response 1.

- 4-3: The commenter alleges the City has failed to follow the Court of Appeal's directive to provide substantial evidence to support the EIR's conclusion that traffic impacts to specific intersections on 28th, 29th and 30th Streets are less than significant under the City's mobility policy. The commenter is incorrect.

The Court of Appeal determined the EIR failed to explain why traffic levels of service E and F are not considered significant environmental impacts. Appendix A to the Revised

Draft EIR provides the substantial evidence required by the Court. See also *McKinley Village Transportation Impact Study Supplemental Materials Explaining the City of Sacramento LOS Thresholds* (Supplemental Materials) provided by Fehr & Peers in support of this Final Revised Draft EIR (included in Appendix A).

Appendix A explains, in part:

The General Plan thus favors “developing inward” for a more compact, infill growth pattern that will lead to increased walking, bicycling and use of alternative modes of transit, and to reduced automobile use, vehicle miles traveled (VMT) and greenhouse gas emissions (GHG). (City of Sacramento 2009, p. 1-4.)

The General Plan Mobility Element contains policies to create a well-connected transportation network, help walking become more practical for short trips, support bicycling for both short- and long-distance trips, improve transit to serve key destinations, conserve energy resources, reduce GHG emissions and air pollution, and do so while continuing to accommodate auto mobility. The LOS threshold set forth in Policy M 1.2.2 embodies this theme as it allows for more traffic in the higher-density, transit-rich, downtown Core Area. Research has shown that dense, urban land use environments are associated with decreased per capita vehicle travel and increased use of alternative travel modes (Litman 2016; see also letter from Sacramento Regional Transit dated March 10, 2017 [Letter 53]; letter from SACOG dated March 21, 2017 [Letter 55]). Additionally, numerous studies have found that increasing roadway capacity leads to increased VMT, a principle called “induced travel” (Litman 2013, Handy 2015), whereas increased vehicle travel time, such as increased delay, is associated with mode shifts to transit, bicycling and walking (Litman 2013; Sacramento Regional Transit March 10, 2017 letter [Letter 53]). The City’s LOS policy allows for increased delay in order to encourage mode shifts rather than increasing roadway capacity, with accompanying physical impacts, and to encourage infill development that places homes proximate to employment, entertainment, retail and neighborhood centers, promotes walkability, biking and alternative modes of transit, and reduces the sprawl-related impacts associated with increased vehicle trips and VMT.

The City’s policy determination to allow LOS F differentiates the Core Area – where increased traffic delay is offset by walkable, transit-oriented, higher-density infill development – from other parts of the City that are less dense and less transit-rich. This differentiation addresses the concern raised by the Court regarding the EIR’s conclusion that traffic increases are acceptable in the downtown urban Core Area (where densities in the Midtown area average about 14 dwelling units per acre), but may not be

acceptable in less dense areas outside the Core Area (where densities in East Sacramento average about 7 dwelling units per acre). While traffic congestion may increase in the Core Area, the City has determined that this congestion is acceptable in downtown urban areas. Traffic delay may be an inconvenience to drivers but it is not a physical environmental impact and such inconvenience is preferable to the significant environmental impacts and adverse impacts to residences and businesses that are caused by widening roadways to accommodate increased traffic and by increased VMT.

The City's flexible LOS policy is just one example among a host of General Plan policies that promote infill development (see e.g., LU Policies 1.1.1, 1.1.4, 1.1.5; LU Policy 2.1.5), diverse compact energy efficient residential development (see e.g., LU Goal 2.6, LU Policies 2.6.1, 2.6.3; [LU Policy 4.1.10; LU Policies 4.5.1, and 4.5.2), well-connected neighborhoods (see e.g., Goal LU 2.5 and Policies LU 2.5.1 and 2.5.2), and smart growth and sustainable development concepts (see e.g., Goal LU 4.5 and Policies LU 4.5.1 through LU 4.5.6.) In addition, the 2030 General Plan Master EIR described the City's goals to promote infill development and reduce vehicle miles traveled noting, among other things, that flexible LOS standards "will permit increased densities and mix of uses to increase transit ridership, biking, and walking, which decreases auto travel, thereby reducing air pollution, energy consumption, and greenhouse gas emissions." (City of Sacramento 2009, p. 6.12-50.)

Moreover, General Plan Policy M1.2.2 addresses the Attorney General's recommendations to "create an interconnected transportation system that allows a shift in travel from private passenger vehicles to alternative modes, including public transit, ride sharing, bicycling and walking" (Office of the California Attorney General Global Warming Measures (9-26-08), p. 1) and helps achieve the GHG emissions reduction targets set forth in Assembly Bill (AB) 32. The City's goal of densifying development near and around the downtown and adjacent older neighborhoods to encourage a more compact, infill growth pattern that contributes to increased walking, bicycling and use of alternative modes of transit is also consistent with Senate Bills (SB) 375, 226, and 743, each of which promotes infill development, reduction of vehicle miles traveled, and/or multi-modal mobility for purposes of greenhouse gas reduction and other environmental benefits of more compact, urban, and transit-served development.

The western portion of the project traffic study area, including the intersections at issue in the Court of Appeal's decision, falls within the City's Core Area and is well served by existing infrastructure for walking, bicycling, and transit. In this area of the City, the connectivity of the grid street system and density and diversity of land use patterns also contribute to the viability of using alternative forms of travel. (See March 10, 2017

Letter from Sacramento Regional Transit in support of City's flexible LOS policy, pp. 2-3, Letter 53; see also March 21, 2017 letter from SACOG, Letter 55.) Therefore, allowing higher levels of vehicle delay (i.e., LOS F) in this area helps to support usage of the City's overall multimodal travel system. Conversely, designing roads to meet a higher LOS, (e.g., LOS A-D) may require the City to widen roadways and add more turning lanes which results in more environmental impacts and longer pedestrian crossing distances, and conflicts with the City's goals of a walkable, bikeable, transit-supportive urban environment.

The City has determined that increased congestion at intersections within the Core Area is acceptable and the Project's potential traffic impacts, including those in the Core Area, are less than significant. In addition, the City notes that it has many traffic calming and traffic diversion measures in residential neighborhoods throughout the City. For example, in the Midtown neighborhood there are traffic circles located at 27th/F, 26th/E, 25th/D, 25th/G, 24th/H, 24/I, and 26th/I Streets; and half-street closures at 28th/D, 28th/E, 25th/F, 27th/H, and 29th/G Streets. In addition, there are pedestrian islands, bulb outs, and speed humps, lumps and tables to slow and calm traffic throughout the City.

Whether or not the City provided the substantial evidence required by the Court of Appeal will be decided by the Superior Court after it issues its writ and reviews the adequacy of the Revised Draft EIR during a process called the return to the writ.

- 4-4: The commenter asserts the Revised Draft EIR improperly relies solely upon the mobility policies in the City's 2030 General Plan, rather than the City's 2035 General Plan and requires the City prepare a supplemental or subsequent EIR.

The commenter overlooks Appendix A to the Revised Draft EIR. Appendix A includes a discussion of the Project's traffic impact under both the 2030 General Plan Mobility Policy 1.2.2, which was in effect at the time of Project approval, and the 2035 General Plan Mobility Policy 1.2.2, which is currently in effect.

Policy M 1.2.2 as set forth in the City's 2030 General Plan states that:

"The City shall allow for flexible Level of Service (LOS) standards, which will permit increased densities and mix of uses to increase transit ridership, biking and walking, which decreases auto travel, thereby reducing air pollution, energy consumption and greenhouse gas emissions."

To implement this flexible level of service, Policy M 1.2.2, subdivision a, provides the following “Core Area Level of Service Exemption”:

“LOS F conditions are acceptable during peak hours in the Core Area bounded by C Street, the Sacramento River, 30th Street and X Street. If a Traffic Study is prepared and identifies a LOS impact that would otherwise be considered significant to a roadway or intersection that is in the Core Area, the project would not be required in that particular instance to widen roadways in order for the City to find project conformance with the General Plan. Instead, General Plan conformance could still be found if the project provides improvements to other parts of the citywide transportation system in order to improve transportation-system-wide roadway capacity, to make intersection improvements, or to enhance non-auto travel modes in furtherance of the General Plan goals.” (City of Sacramento 2009, p. 2-162.)

The City’s 2035 General Plan, adopted after the Project was approved, modified Policy M 1.2.2 to simply state “LOS F is allowed” in the Core Area, without requiring any improvements to the citywide transportation system.

Appendix A to the Revised Draft EIR explains:

Following approval of the Project, the City adopted the 2035 General Plan. In *East Sacramento Partnership for a Livable City v. City of Sacramento*, the Court of Appeal concluded that, for purposes of determining general plan consistency, adoption of the 2035 General Plan mooted claims of inconsistency with the 2030 General Plan. This ruling appears limited to the discussion of consistency with the General Plan, and the court’s analysis of traffic intersection impacts did not state that the threshold based on the 2030 General Plan was mooted by adoption of the 2035 General Plan. Instead, the information that the court deemed missing from the Draft EIR analysis, and that has been included in the Revised Draft EIR and this Appendix to the Revised Draft EIR, was to supplement the threshold of significance relied on in the Draft EIR based on the 2030 General Plan. However, in the event the court determines that the 2030 General Plan is completely moot for purposes of the Revised Draft EIR, and that the threshold should now be derived from the 2035 General Plan, the City includes the following analysis of project-related traffic impacts under a threshold of significance based on the updated 2035 General Plan Mobility Policy 1.2.2.

Under the City's current 2035 General Plan, Mobility Policy 1.2.2 has been modified to simply state "LOS F is allowed" in the Core Area. In addition, the boundary of the Core Area has expanded farther to the east to include Alhambra Boulevard. Therefore, in addition to the intersections in the Core Area that would have less than significant impacts using the threshold based on the 2030 General Plan, the Project's impacts to the H Street/Alhambra Boulevard intersection would also fall within the Core Area (rather than outside the Core Area under the 2030 General Plan) and LOS E/F would be allowed. The same would be true for the cumulative impacts at E Street/Alhambra Boulevard and H Street/Alhambra Boulevard. As such, if the Project were proposed today, the impacts to these intersections would be less than significant and no mitigation would be required.

All of the evidence showing that Policy M 1.2.2 under the 2030 General Plan promotes infill development to reduce vehicle miles traveled applies equally to that policy under the 2035 General Plan. Indeed, the 2035 General Plan Master EIR further demonstrates the City's ongoing commitment to supporting infill development through Policy M 1.2.2, stating that "by moving away from automobile-oriented congestion and travel-time standards for mobility, this policy change [to M 1.2.2] also aligns with the goals of recent state legislation, i.e., Senate Bills (SB) 375, 226, and 743, which promote infill development, reduction of VMT, and/or multi-modal mobility for purposes of GHG reduction and other environmental benefits of more compact, urban, and transit-served development." Moreover, by applying the flexible LOS standard as a threshold of significance, the 2035 General Plan Master EIR concluded that "implementation of the 2035 General Plan would not result in significant LOS impacts based on the 2035 horizon year analysis." Thus, potential adverse impacts to LOS within the General Plan policy area associated with planned future regional development were determined to be less than significant.

Please see also Response to Comment 4-15 regarding Public Resources Code section 21166 and CEQA Guidelines section 15162(a)(2) to the Revised Draft EIR and Response to Comment 4-15 that addresses why preparation of a subsequent or supplemental EIR are not required.

- 4-5: The comment summarizes its arguments that the Court of Appeal directed the City to decertify the Project EIR, prepare a supplemental or subsequent EIR that both corrects the deficiencies identified by the Court and accounts for the 2035 General Plan, and recirculate the subsequent or supplemental EIR for public review.

These comments are addressed in Responses to Comments 4-8 to 4-17.

- 4-6: The comment suggests that the City's traffic significance threshold, which authorizes LOS E and F conditions in the Core Area of the City, is necessarily flawed because the Project generates 3,500 daily vehicle trips.

The City recognizes that under certain circumstances a project that is consistent with Policy M 1.2.2 may nevertheless be found to result in a significant traffic impact because, as the Supreme Court recently explained in *Center for Biological Diversity v. Department of Fish & Wildlife* (2015) 62 Cal.4th 204, a significance threshold "only define[s] the level at which an environmental effect 'normally' is considered significant; they do not relieve the lead agency of its duty to determine the significance of an impact independently." (*Id.* at p. 231.) Here, the City has considered the implications of applying Policy M 1.2.2 to the Project and finds that the Project will not result in a potentially significant traffic impact in the Core Area of the City.

Finally, although not addressed by commenter directly, the City notes that the half-street closure at 28th Street has been implemented. As noted by the Court of Appeal, this half-street closure diverts traffic from "one local road (28th Street) to another that had less traffic (C Street) and then to a major collector road with greater capacity (29th Street)." As a result of this traffic diversion, Project generated traffic on E Street/28th Street intersection will be reduced from 71-132 trips to 3-9 trips during the AM and PM peak hours, and Project generated traffic at the H Street/28th Street intersection will be reduced from 27-42 trips to 11-18 trips during the AM and PM peak hours. Largely due to background traffic conditions, under Cumulative Plus Project conditions at E Street and 28th Street and H Street and 28th Street will continue to operate at LOS E or F during AM and PM peak hours with the 28th Street half-street closure.

The half-street closure also shifts traffic from the eastbound approach to the southbound approach at the E Street/29th Street/Capital City Freeway Off-ramp intersection and result in the addition of up to 45-66 peak hour trips at this intersection. The half-street closure does not result in an increase in traffic at the H Street/29th Street/Capital City Freeway On-ramp intersection. The addition of 45-66 peak hour trips will not result in a change in LOS as calculated in the EIR; under Cumulative Plus Project conditions, E Street and 29th will continue to operate at LOS D in the AM peak hour and LOS F in the PM peak hour, and H Street and 29th will continue to operate at LOS E during the AM peak hour and LOS D during the PM peak hour. The City finds that the 28th Street half-street closure results in a slight improvement over traffic impacts as anticipated in the EIR. Particularly in consideration of the myriad environmental benefits associated with infill development and reducing VMT, City staff and its traffic consultant find that the

additional trips associated with the half-street closure do not constitute a potentially significant environmental impact.

- 4-7: The comment provides a summary of the McKinley Village Project review and approval process that occurred in 2013 and 2014. The commenter asserts the Final EIR published in 2014 failed to address deficiencies in the Draft EIR that had been circulated in 2013; the commenter previously filed a lawsuit citing this allegation, among others, which resulted in the Court of Appeal's decision in *East Sacramento Partnerships for a Livable City v. City of Sacramento* (2016) 5 Cal.App.5th 281.

The Court of Appeal upheld the City's Final EIR, with the one narrow exception -- the Court held the traffic analysis in the EIR failed to explain or provide substantial evidence to support the conclusion that the Project would not result in significant traffic impacts to specific intersections on 28th, 29th and 30th Streets. The Revised Draft EIR and Appendix A to the Revised Draft EIR address this issue. To the extent comments are raised on the adequacy of the Final EIR approved in 2014, please see Response to Comment 4-12.

The commenter does not allege any deficiencies in the analysis or conclusions set forth in the Revised Draft EIR. No additional response is required.

- 4-8: The comment summarizes the City Council's vote on the Project in 2014 and does not allege any deficiencies in the analysis or conclusions set forth in the Revised Draft EIR. No further response is required.
- 4-9: The comment summarizes the allegations set forth in the lawsuit filed by petitioner in 2014. The commenter does not allege any deficiencies in the analysis or conclusions set forth in the Revised Draft EIR. No further response is required.
- 4-10: The comment summarizes and quotes from the Court of Appeal's decision in *East Sacramento Partnerships for a Livable City v. City of Sacramento* (2016) 5 Cal.App.5th 281. The commenter states (incorrectly) that the Court expressly directs the trial court to enter an order requiring decertification of the entire EIR, remediation of the EIR's traffic analysis and recertification of the EIR. Please see Master Response 1. The City will take action to rescind Project approvals and decertify the EIR prior to certification of the Revised EIR and re-approval of the Project.

- 4-11: The comment states that over a dozen parties filed requests to de-publish the Court of Appeal's decision, but that such requests were denied.

This commenter is correct. Pursuant to the California Rules of Court, once the Supreme Court denied the various requests for review and for de-publication, the Court of Appeal issued its remittitur to the trial court. See Response to Comment 4-12 addressing the role of the trial court.

The commenter does not allege any deficiencies in the analysis or conclusions set forth in the Revised Draft EIR. No further response is required.

- 4-12: The commenter alleges the Court of Appeal directed the Superior Court to require the City to set aside its certification of the Final EIR.

The commenter is incorrect. The Court of Appeal did not direct that the City immediately act to decertify the EIR. Rather, the Court of Appeal remanded the matter to the Superior Court with directions to enter a new judgment consistent with the Court of Appeal's opinion and with Public Resources Code section 21168.9, and to issue a writ of mandate addressing only the narrow traffic impact issue identified by the Court.

Pursuant to CEQA, the Court of Appeal does not maintain jurisdiction to issue the writ of mandate ordering the City to decertify the EIR. (*Center for Biological Diversity v. Dept. of Fish and Wildlife*, No. B245131, Slip Opn. p. 43 ["we do not have the authority to issue our own writ of mandate. Rather, our duty is to decide issues pertinent to the writ of mandate's scope, insofar as possible, and then remit the matter to the trial court"].) Thus, the commenter's suggestion that the Court of Appeal's decision required the City to immediately decertify the EIR is without merit.

The trial court issued the Writ on March 21, 2017 ordering the City to rescind and set aside the Project approvals and decertify the EIR. The City is complying with this order by considering adopting a resolution to repeal the 2014 project approvals, which will be approved prior to certification of the Revised Final EIR. Moreover, the Writ gives the City 70 days from March 21, 2017 to comply and file a return to the Writ with the trial court.

- 4-13: The commenter asserts the Revised Draft EIR provides no new evidence to support its conclusion that LOS F traffic impacts at intersections in the Core Area are less than significant.

The commenter is incorrect in stating that the City's Mobility Element Policy M 1.2.2 was developed based on "community values" that do not measure environmental impacts. See Response to Comment 4-3, which summarizes the substantial evidence supporting the City's determination that LOS E and F conditions in the Core Area do not result in significant environmental impacts relating to the City's transportation network. See also Appendix A regarding considerations that led to the City's flexible LOS policy.

- 4-14: The comment notes the City's conclusion that the mobility policy is consistent with state policies regarding the reduction of vehicle miles traveled and associated greenhouse gas emissions and suggests the Revised Draft EIR is required to quantify how the mobility policy will actually achieve these environmental benefits. The commenter further suggests that the Revised Draft EIR fails to provide substantial evidence to support using the City's significance threshold, which is based on the City's General Plan mobility policy.

The City notes that both qualitative and quantitative evidence may constitute substantial evidence for the purposes of CEQA. (See, e.g., *Eureka Citizens for Responsible Government v. City of Eureka* (2007) 147 Cal.App.4th 357, 375–376 [upholding EIR's "qualitative judgment" that playground would not have significant aesthetic impact]; *Mission Bay Alliance v. Office of Community Investment & Infrastructure* (2016) 6 Cal.App.5th 160, 198-203 [upholding agency's qualitative analysis of the significance of a project's greenhouse gas emissions]; *Center for Biological Diversity v. Dept. of Fish & Wildlife* (2015) 62 Cal.4th 204, 228-229.) Indeed, traffic impacts are commonly evaluated based on qualitative considerations. (See, e.g., *Schaeffer Land Trust v. San Jose City Council* (1989) 215 Cal.App.3d 612, 623 [level of service (LOS) constitutes a "qualitative description of an intersection's quality of operation"]; *Sunnyvale West Neighborhood Assn. v. City of Sunnyvale City Council* (2010) 190 Cal.App.4th 1351, 1361 [same], disapproved on another ground in *Neighbors for Smart Rail v. Exposition Metro Line Construction Authority* (2013) 57 Cal.4th 439, 450-451.) Here, the City has based its conclusion that the Project will not result in a potentially significant environmental impact as a result of its contribution to traffic at identified intersections operating at LOS E or F under either Existing Plus Project or Cumulative Plus Project conditions on, among other substantial evidence discussed in Appendix A, the GHG and alternative transit benefits of the Project. The City has the discretion to rely on this method of analysis. The Legislature, in fact, has directed that the evaluation of traffic impacts statewide move away from the use of a qualitative level of service methodology to other alternative approaches such as VMT. (See SACOG March 21, 2017 letter [Letter 55], quoting Pub. Resources Code, § 21099, subd. (b)(2) ["automobile delay, as described solely by level

of service or similar measures of vehicular capacity or traffic congestion shall not be considered a significant impact on the environment pursuant to [CEQA].”)

See also Appendix A, Master Response 2, and Response to Comment 4-3.

- 4-15: The comment cites to Public Resources Code section 21166 and suggests that the City was required to prepare a subsequent or supplemental EIR that analyzes the project’s traffic impacts under the 2035 General Plan and contends the Revised Draft EIR is invalid because it uses the mobility policy from the City’s 2030 General Plan.

The commenter is incorrect. First, the Court of Appeal’s decision does not require the City to prepare a supplemental or subsequent EIR. The Court of Appeal remanded the matter to the superior court with directions to enter a new judgment consistent with the Court of Appeal’s opinion and with Public Resources Code section 21168.9, and to issue a writ of mandate addressing only the narrow traffic impact issue identified by the Court. The Superior Court issued the Writ on March 21, 2017 ordering the City to rescind and set aside the Project approvals and decertify the EIR. The City is complying with this order by considering adopting a resolution to repeal the 2014 project approvals, which will be approved prior to certification of the Revised Final EIR. Moreover, the Writ gives the City 70 days from March 21, 2017 to comply and file a return to the Writ.

The Court of Appeal did not direct the City to prepare a supplemental or subsequent EIR. In fact, the Court of Appeal is not vested with authority to direct the City how to remedy the EIR; rather, the Superior Court is vested with that authority under Public Resources Code section 21168.9. The Writ issued by the Superior Court includes no such order. See Response to Comment 4-10. “[I]t is nonsensical to require an agency to prepare a subsequent or supplemental EIR unless the agency has the authority to take action that would respond to any concerns that might be raised in the updated EIR.” (*San Diego Navy Broadway Complex Coalition v. City of San Diego* (2010) 185 Cal.App.4th 924, 936.) “To hold that an agency must prepare a subsequent or supplemental EIR concerning an environmental issue over which its discretionary authority does not extend would be inconsistent with *Friends of Westwood* and its progeny, and with the statutory presumption against environmental review, as discussed in the case law interpreting section 21166.” (*Id.* at p. 938-939.)

Second, preparation of a supplemental or subsequent EIR would be improper under CEQA. The Guideline sections requiring a supplemental or subsequent EIR (CEQA Guidelines, §§ 15162, 15163) refer to preparation of documents after the certification of an EIR. These documents are prepared only when, subsequent to certification, changed

circumstances occur or when new information, which was not known and could not have been known when the original EIR was certified, becomes available. (Pub. Resources Code, § 21166; *Galante Vineyards v. Monterey Peninsula Water Management Dist.* (1997) 60 Cal.App.4th 1109, 1124-1125.) Indeed, after an initial EIR has been certified, there is a statutory presumption against environmental review. (*San Diego Navy Broadway Complex Coalition v. City of San Diego, supra*, 185 Cal.App.4th at p. 934, citing *Moss v. County of Humboldt, supra*, 162 Cal.App.4th at pp. 1049-1050 [“after a project has been subjected to environmental review, the statutory presumption flips in favor of the developer and against further review”].) “At this point, the interests of finality are favored over the policy of favoring public comment.” (*Melom v. City of Madera* (2010) 183 Cal.App.4th 41, 49.)

In this case, petitioners are challenging the certification of the original EIR. Consequently, procedures for addressing post-certification changed circumstances or new information are inappropriate. The City has no discretion to cure an inadequate EIR by means of a subsequent or supplemental EIR. Rather, the City properly prepared a Revised Draft EIR to address the Court of Appeal’s disposition. Decertification and recertification of the EIR will occur only in accordance with the writ and judgment issued by the trial court. (Pub. Resources Code, § 21168.9; *City of Santee v. County of San Diego* (1989) 214 Cal.App.3d 1438, 1457.) See also Master Response 1.

Third, the commenter suggests that the City’s adoption of its 2035 General Plan constitutes a “substantial change” with the potential to result in potentially significant environmental impacts that must be analyzed. It should be noted that the City prepared and certified a Master EIR for its 2035 General Plan. Impact 4.12-2 in the 2035 General Plan Master EIR concludes that implementation of the 2035 General Plan, including revisions to Policy M 1.2.2, will result in a less than significant “[a]dverse effects to roadway LOS within the Policy Area associated with planned future development in the region.” (2035 General Plan Master EIR, pp. 4-12-20 – 4.12-24; see also Appendix A, p. 2.) To the extent the commenter disagrees with the analysis in the 2035 General Plan Master EIR, the commenter’s objection concerns the Master EIR and not the EIR for this Project.

Furthermore, the commenter’s concern regarding the impacts of the revisions to Policy M 1.2.2 as included in the 2035 General Plan appear to be premised on the assumption that implementing the revised policy will result in more traffic in the Core Area of the City. The City disagrees with the commenter’s speculation. While Policy M 1.2.2 is intended to incentivize development within the Core Area of the City given its environmental benefits, due to market demand the City anticipates

that development in the Core Area of the City will continue to occur at a similar rate with or without the policy. In other words, Policy M 1.2.2 does not create new congestion; Policy M 1.2.2 merely establishes levels of congestion that the City finds acceptable in the City taking into account the reduction in driving and increase in transit use associated with denser infill development.

See also Response to Comment 4-4. For each of these reasons, the commenter's allegation that the Revised Draft EIR is inadequate for failing to acknowledge the 2035 General Plan is without merit.

- 4-16: The commenter cites to CEQA Guidelines section 15088.5 and alleges the City created a faulty process for circulation of the Revised Draft EIR. The commenter does not articulate how the City's process was allegedly faulty and thus no response is required. The City followed its standard noticing protocol and provided a notice of availability to all interested parties and published a notice of the document's availability on January 18, 2017, which also stated that a redlined version of the entire transportation chapter of the EIR was available upon request. The Revised Draft EIR was submitted to the Office of Planning and Research on January 18, 2017 to initiate start of a 45-day public comment period and the comment period closed on March 6, 2017.

To the extent the commenter believes that the City was required to recirculate the entire Draft EIR despite the narrow issue identified by the Court in *East Sacramento Partnership for a Livable City v. City of Sacramento* (2016) 5 Cal.App.5th, 281, the commenter is incorrect. As the California Supreme Court has reiterated, the requirement to recirculate is "limited by the scope of the revisions required. 'If the revision is limited to a few chapters or portions of the [draft] EIR, the lead agency need only recirculate the chapters or portions that have been modified.'" (*Vineyard Area Citizens for Responsible Growth, Inc. v. City of Rancho Cordova* (2007) 40 Cal.4th 412, 449, quoting CEQA Guidelines, § 15088.5, subd. (c).)

The commenter also reasserts that the City is required to prepare and recirculate a subsequent or supplemental EIR. See Response to Comment 4-15.

The commenter reasserts that the City improperly re-circulated only the traffic section of the EIR, rather than the entire EIR. See Response to Comment 4-12, explaining that CEQA permits re-circulation of a portion of the EIR. The commenter also asserts that the City improperly recirculated only select portions of the traffic section rather than the complete section 4.9 of the EIR. The commenter is incorrect.

First, CEQA Guidelines section 15088.5 states that “if the revision is limited to a few chapters or portions of the EIR, the lead agency need only recirculate the chapters or portions that have been modified.” Second, both the Revised Draft EIR and the Notice of Availability of the Revised Draft EIR, expressly stated that copies of the complete traffic chapter, as revised by the Revised EIR, were available for public review. Specifically, on page 1-3 of the Revised Draft EIR it states that copies of the complete redlined transportation chapter are available for review during normal business hours or on the City’s website. The commenter’s contrary assertion is false.

Finally, the City notes that CEQA did not require recirculation of the Draft EIR. CEQA Guidelines section 15088.5 requires lead agencies to re-circulate information in an EIR when significant new information is added to the EIR after public notice is given of the availability of the Draft EIR for review. “Significant new information” requiring re-circulation includes a disclosure showing that “changes to the project or environmental setting,” or a “new significant environmental impact” would result from the project or from a new mitigation measure proposed to be implemented. Section 15088.5 requires re-circulation of only the significant new information, rather than the entire EIR. The Revised Draft EIR and Appendix A provide the information requested by the Court and the City has determined that this additional information does not change any of the analysis or conclusions of the previously certified EIR. Pursuant to CEQA, re-circulation is not required because the revisions to the EIR do not constitute “significant new information,” but rather such revisions merely amplify or clarify the information provided in the EIR. (CEQA Guidelines section 15088.5.) Nevertheless, the City re-circulated the Revised Draft EIR in the interest of full public disclosure. See also Response to Comment 4-12, explaining that CEQA permits re-circulation of a portion of the EIR.

- 4-17: The comment re-alleges that the City is required to prepare and recirculate a supplemental or subsequent EIR that includes new analysis of the City’s 2035 General Plan. See Response to Comment 4-15.
- 4-18: The commenter states that the City was required to recirculate the entire traffic section of the EIR, not just the revised portions of the traffic section. See Response to Comment 4-16.
- 4-19: The comment re-alleges the City must prepare a subsequent or supplemental EIR that includes a traffic analysis supported by substantial evidence and recirculate for public review and comment. See Responses to Comments 4-3 and 4-15.
- 4-20: The comment re-alleges that the Revised Draft EIR does not comply with CEQA or the Court of Appeal’s decision and re-states the City must decertify the EIR, prepare a

subsequent or supplemental EIR, and recirculate the document for public review. Please see Responses to Comments 4-10, 4-12, 4-15 and 4-16, and Master Response 1.

- 4-21: The commenter asserts that the Court of Appeal's decision in *East Sacramento Partnership for a Livable City v. City of Sacramento* (2016) 5 Cal.App.5th, 281 required the City to decertify the entire EIR and further states the City improperly recirculated only revised pages of the traffic section of the EIR. See Responses to Comments 4-10 and 4-16 and Master Response 1.
- 4-22: The comment states the City was required by the Court to set aside certification of the Final EIR and the EIR should have been re-circulated in its entirety even though only changes to the transportation section were required. Please see Responses to Comments 4-12 and 4-16.
- 4-23: The commenter states that the Revised Draft EIR should have analyzed the mobility element Policy M 1.2.2 from the City's 2035 General Plan. The commenter also alleges that the City was required to prepare a supplemental or subsequent EIR to analyze the 2035 General Plan. See Responses to Comments 4-4 and 4-15.
- 4-24: The commenter states that the Revised Draft EIR provides no new information regarding the significant impacts to select intersections in the City's Core Area. The commenter further asserts that using the City's threshold, the first step is to determine if traffic generated by the Project degrades LOS from an acceptable LOS to an unacceptable LOS at certain identified intersections and, if yes, the environmental impacts at those intersections must be deemed significant and unavoidable.

Pursuant to the General Plan Mobility Policy, LOS E and F are acceptable in the Core Area of the City. As explained in the Revised Draft EIR, the City's policy was adopted to allow decreased levels of service (e.g., LOS E/F) in the urbanized Core Area of the City that supports more transportation alternatives and places residents proximate to employment, entertainment, retail and neighborhood centers and thus reduces overall vehicle miles travelled and results in environmental benefits (e.g., improved air quality and reduced GHG emissions). (See also March 10, 2017 letter from Sacramento Regional Transit [Letter 53]; March 21, 2017 letter from SACOG [Letter 55]; Appendix A; and Master Response 2.) Based on this evaluation, the City determined that LOS E and F are considered acceptable during peak hours within the Core Area, therefore, the Project-related impacts to select intersections in the Core Area were determined to be less than significant.

The commenter next asserts that Policy M 1.2.2 is “defunct” and that the Revised Draft EIR improperly relied on this outdated policy. The Revised Draft EIR analyzed the Project’s traffic impacts under the 2030 General Plan, which was in effect at the time the Project was approved in 2014, and the current 2035 General Plan, as further discussed in Response to Comment 4-4.

Finally, the commenter alleges that Policy M 1.2.2 does not measure the environmental impacts associated with the LOS degradation and that the Revised Draft EIR failed to analyze the environmental impact associated with LOS degradation. The commenter is incorrect. As explained in the Revised Draft EIR, traffic delays and driver inconvenience are not physical impacts to the environment, as acknowledged by the Court of Appeal in its opinion. (*ESPLC v. City, supra*, 5 Cal.App.5th at p. 19, fn 6, citing Pub. Resources Code, § 21099, subds. (b)(1), (b)(2); Pub. Resources Code, § 21060.5 [CEQA defines “environment” as “the physical conditions which exist within the area which will be affected by a proposed project, including land, air, water, minerals, flora, fauna, noise, objects of historic or aesthetic significance”]; Pub. Resource Code, § 21099, subd. (b)(2) [“automobile delay, as described solely by level of service or similar measures of vehicular capacity or traffic congestion shall not be considered a significant impact on the environment pursuant to [CEQA]”].) Rather, such impacts are more akin to parking deficits, which are recognized as an inconvenience to drivers not as significant physical impacts on the environment. (Pub. Resources Code § 21099, subd. (d)(1) [parking impacts of mixed use and infill development in transit-rich areas “shall not be considered significant impacts on the environment”]; see also *San Franciscans Upholding the Downtown Plan v. City and County of S.F.* (2002) 102 Cal.App.4th 656, 697.)

The EIR analyzed all transportation-related impacts and determined that the Project does not result in any transportation-related impacts to air quality, noise and safety. Specifically:

- Air quality modeling prepared for the Project evaluated emissions of reactive organic gases (ROG) and nitrogen dioxide (NO_x) associated with vehicle trips, energy-related products (natural gas combustion) and consumer products (landscaping equipment, etc.). Based on the modeling, emissions of ROG and NO_x would remain below the air district’s acceptable thresholds during long-term Project operation. The modeling accounts for project design features that increase energy efficiency, measures to support pedestrian and bicycle activity; and by its location, the Project supports use of alternative transportation. These features would serve to reduce NO_x and ROG emissions from the Project; therefore, the Project’s long term operational impact associated with ROG and NO_x emissions was found to be less than significant.

- An increase in the Project's transportation-related noise was evaluated by modeling traffic noise associated with the increase in vehicle trips in the Project's traffic study area. The Project would result in increases in traffic noise levels on roadways/intersections ranging from 0–2 dB L_{dn}. Studies have documented noise levels that are 3 dB or less are considered barely perceptible. Noise levels under 2 dB would not be a perceptible increase. Therefore, the increase in Project-related traffic noise on local roadways was found to be a less-than- significant impact.
- The Project includes pedestrian and bicycle facilities throughout the project site, including Class II and Class III bikeways as well as a new bicycle/pedestrian undercrossing of the Union Pacific Railroad (UPRR) tracks at the northern terminus of Alhambra Boulevard and associated Class I off street bicycle/pedestrian trail, if approved by UPRR (or in the alternative, alternative transportation services and improvements intended to improve access to and from the Project and connections between the Project and existing neighborhoods, with priority given to improvements and services that benefit bicyclists, pedestrian, and transit). Sidewalks are also provided on the A Street extension to 28th Street and on the connection to C Street. All roadways within the study area would be low-volume, low-speed streets conducive to safe bicycle and pedestrian travel. No safety impacts were identified.

Thus, the City's analysis complies with Public Resources Code section 21099, which provides that relying on vehicle miles traveled and vehicle miles traveled per capita as metrics to measure transportation impacts does not relieve a public agency of the requirement to analyze a project's potentially significant transportation impacts related to air quality, noise and safety. As stated in the opening explanation of the Office of Planning and Research's (OPRs) Draft Guidelines implementing SB 743, CEQA can no longer "treat vibrant communities, transit and active transportation options as adverse environmental outcomes." (Draft Guidelines, p. 1.) As a result of shifting focus away from LOS, "CEQA will no longer mandate roadways that focus on automobiles to the exclusion of every other transportation option" and "will no longer mandate excessive, and expensive, roadway capacity." (*Ibid.*)

The City's selected threshold is fully consistent with Public Resources Code section 21099 and Senate Bill 743 and, as such the City is ahead of the State mandated requirement to shift to away from LOS standards and toward VMT standards to analyze impacts to traffic. OPR released a draft of the SB 743 Guidelines on January 20, 2016. The Draft Guidelines remove consideration of automobile LOS from Appendix G of the CEQA Guidelines, which provides the basis for many agencies' significance thresholds, and instead focuses on a project's contribution to substantial additional VMT. (Draft

Guidelines, pp. 8-9.) The Technical Advisory on Evaluating Transportation Impacts in CEQA attached to the Draft Guidelines also recognizes the importance of developing projects consistent with the region's SCS, noting that development consistent with assumptions for development in an SCS is likely to be more travel efficient. (Draft Guidelines, p. 24.) While the OPR guidelines are currently in draft form, there is nothing precluding the City from adopting and implementing a traffic threshold that addresses VMT and greenhouse gas emissions in advance of OPR publishing its final guidelines requiring a VMT analysis. See also Master Response 2.

- 4-25: The commenter notes that the Project will cause delay at some intersections to increase by 5 seconds or more, and that such increases are significant under the second prong of the City's threshold. This is not accurate.

To analyze impacts to LOS, the City has developed specific policies that clearly define acceptable LOS in various areas of the City. The LOS thresholds included in City's 2030 General Plan Policy M 1.2.2 are used to evaluate whether traffic associated with the Project would result in a significant impact (as stated in the Thresholds of Significance). The analysis of LOS includes intersections within the City's Core Area. These intersections are numbered 1–9 shown on Figure 4.9-1 in the Draft EIR (DEIR, p.7) and include the following:

1. C Street/28th Street
2. D Street/28th Street
3. E Street/28th Street
4. H Street/28th Street
5. I Street/28th Street
6. E Street/29th Street/Southbound Capital City Freeway Off-ramp
7. H Street/29th Street/Southbound Capital City Freeway On-Ramp
8. E Street/30th Street/Northbound Capital City Freeway On-Ramp
9. H Street/30th Street/Northbound Capital City Freeway Off-Ramp

Intersections 1 – 9 are within the Core Area of the City and are governed by General Plan Policy M 1.2.2(a). In developing this policy, the City evaluated the benefits of allowing lower levels of service in order to promote infill development within an urbanized high density area of the city that reduces VMT and supports more transportation alternatives, including biking, walking, and transit, as compared to

requiring a higher level of service. Evidence demonstrates that in a dense urbanized area like the Core, requiring a higher LOS generally requires widening roads and leads to increased vehicle miles traveled and greenhouse gas emissions. (See Master Response 2; Appendix A.) Based on this evaluation, the City determined that LOS E and F are considered acceptable during peak hours within the Core Area, provided that the Project provides improvements to other parts of the citywide transportation system within the project site vicinity (or within the area affected by the Project's vehicular traffic impacts) to improve transportation-system-wide roadway capacity, to make intersection improvements, or to enhance non-auto travel modes in furtherance of the General Plan goals. Road widening or other improvements to road segments are not required for roads within the Core Area.

The City's LOS policy was adopted to allow decreased levels of service (e.g., LOS E and F) in the urbanized Core Area of the City that supports more transportation alternatives and places residents proximate to employment, entertainment, retail and neighborhood centers and thus reduces overall vehicle miles travelled and results in environmental benefits (e.g., improved air quality and reduced GHG emissions). (See Master Response 2; Appendix A; March 10, 2017 letter from Sacramento Regional Transit [Letter 53]; March 21, 2017 letter from SACOG [Letter 55].)

To determine impacts at intersections, the threshold of significance asks whether (i) "traffic generated by the project degrades LOS from an acceptable LOS (without the project) to an unacceptable LOS (with the project)" OR (ii) whether "[t]he LOS (without Project) is unacceptable **and** Project generated traffic increases the average vehicle delay by 5 seconds or more." Table 4.9-10 (DEIR, p.52) summarizes the Existing Plus Project intersection analysis results and indicates that the AM peak hour LOS would decrease from LOS C to E at the E Street/29th Street intersection. The impact at this intersection is less than significant under the significance threshold, pursuant to which LOS E/F are acceptable in the Core Area. The other intersections would remain at LOS D or better under Existing Plus Project conditions.

As shown in Table 4.9-20 (DEIR, p.77), under Cumulative Plus Project conditions, three intersections in the Core Area (C Street/28th Street, E Street/28th Street, and E Street/30th Street) would result in a decrease in LOS from C/D to E/F. The impacts at these intersections are less than significant under the significance threshold, pursuant to which LOS E/F are acceptable in the Core Area. Four additional intersections (H Street/28th Street, H Street/29th Street, E Street/29th Street, and H Street/30th Street) would operate at LOS E/F during the AM/PM peak hours without the Project and would continue to do so with Project traffic. The Project's potential

impacts to these intersections are less than significant under the applicable threshold because LOS E and F are acceptable in the Core Area. The five-second analysis referenced in the second prong of the threshold, and cited by the commenter, is not triggered because LOS E and F are acceptable in the Core Area.

Those intersections outside of the Core Area (intersections 10 - 32 shown on Figure 4.9-1) are in an area defined as “urban corridor” and “traditional neighborhood.” Study intersections numbered 10–12 located on Alhambra Boulevard are within a designated “urban corridor” and are governed by Policy M 1.2.2 (b). LOS A-E is to be maintained at all times; provided, LOS F may be acceptable if improvements are made to the overall transportation system and/or non-vehicular transportation and transit are promoted as part of the project or a City-initiated project.

The remainder of the study intersections, numbered 13–32, are in an area defined as a “traditional neighborhood” and are governed by Policy M 1.2.2 (c). LOS A-D is to be maintained at all times; provided, LOS E or F may be acceptable if improvements are made to the overall transportation system and/or non-vehicular transportation and transit are promoted as part of the Project or a City-initiated project.

The commenter also disagrees with the City’s significance threshold for traffic impacts in the Core Area, stating that the Project’s traffic impacts would be significant “by any standard, including the City’s own [standard] in every other area but the Core.” Whether other jurisdictions adopt different significance thresholds is irrelevant. The City of Sacramento has adopted its significance thresholds, based on mobility Policy M 1.2.2. Deference is afforded to the City’s selection of its own thresholds. (*Nat. Parks and Conservation Assn. v. County of Riverside* (1999) 71 Cal.App.4th 1341, 1358-1359; *Ebbetts Pass Forest Watch v. Cal. Dept. of Forestry & Fire Protection* (2008) 43 Cal.4th 936, 944.) The fact that the commenter would prefer a different threshold, or that other jurisdictions may apply different thresholds, does not undermine the City’s selected threshold. Upon review of a lead agency’s significance thresholds, courts are required to uphold the City’s determinations, notwithstanding that a project opponent such as the commenter might prefer a different threshold or significance conclusion. (*Laurel Heights Improvement Assn. v. Regents of Univ. of Cal.* (1988) 47 Cal.3d 376, 388, 392-393, 407; *Citizens for Responsible Equitable Environmental Development v. City of Chula Vista* (2011) 197 Cal.App.4th 327, 335-336 [rejecting petitioner’s argument that the City erred by failing to apply a different significance threshold].) “[I]n applying the substantial evidence standard, ‘the reviewing court must resolve reasonable doubts in favor of the administrative finding and decision.’” (*Silverado Modjeska Recreation and Park Dist. v. County of Orange* (2011) 197 Cal.App.4th 282, 304, quoting *Laurel Heights*

Improvement Assn. v. Regents of Univ. of Cal. (1993) 6 Cal.4th 1112, 1135.) Applying this standard, the Court must “presume[] that an agency’s decision is supported by substantial evidence.” (*Wollmer v. City of Berkeley* (2011) 193 Cal.App.4th 1329, 1338-39; *El Morro Community Assn. v. Cal. Dept. of Parks and Recreation* (2004) 122 Cal.App.4th 1341, 1349.)

The commenter also cites to the Court of Appeal’s statement that the general plan alone does not constitute substantial evidence and argues that the Revised Draft EIR is faulty for relying on the General Plan mobility policies as significance thresholds. In fact, the Court’s holding does not preclude the City from relying on its General Plan policies as significance thresholds. Rather, the Court’s opinion requires the City to provide substantial evidence to support the City’s use of the LOS threshold, based on Mobility Policy M 1.2.2, to determine that LOS E and F is acceptable in the Core. The Revised Draft EIR and Appendix A provide this evidence. (See also March 10, 2017 letter from Sacramento Regional Transit [Letter 53]; SACOG March 21, 2017 letter [Letter 55].) Moreover, the City does not rely solely on its general plan to determine traffic impacts in the Core Area. As explained in detail in the Revised Draft EIR Appendix A, and also in Master Response 2 and the Supplemental Materials provided by Fehr & Peers contained in Appendix A, the City relies also on the state and regional directives to enact policies to reduce VMT and thereby reduce greenhouse gas emissions. At the state level, the City’s LOS policy and significance threshold is supported by AB 32, SB 32, SB 743, SB 375. At the regional level, the City’s LOS policy and significance threshold is supported by SACOG, Regional Transit, the Air District, and the SCS/RTP adopted for the Sacramento region. Substantial evidence in the record supports the threshold selected by the City to assess traffic impacts in the Core Area. See also Master Response 2.

Finally, the commenter states that the City’s threshold cannot be applied in a way that would foreclose the consideration of other substantial evidence tending to show the environmental effect to which the threshold relates might be significant. But commenter does not provide any substantial evidence tending to show that the project’s traffic-related impacts are significant; the commenter states only that other jurisdictions deem LOS E and F to be significant traffic impacts – this does not constitute substantial evidence the Project’s transportation-related impacts in the Core Area are significant.

Moreover, the commenter is incorrect in its statement that virtually every other jurisdiction has adopted an LOS standard. With SB 743, the Legislature has directed that the evaluation of traffic impacts statewide move away from the use of a qualitative LOS methodology to other alternative approaches such as consideration of VMT. (Pub. Resources Code, § 21099, subd. (b)(2) [“automobile delay, as described solely by level

of service or similar measures of vehicular capacity or traffic congestion shall not be considered a significant impact on the environment pursuant to [CEQA]”).) For example, Pasadena and San Francisco have both adopted VMT standards to analyze traffic impacts. Pasadena adopted VMT metrics in November 2014 to better achieve the City’s goals for transportation and mobility, becoming the first city in California to do so.³ Pasadena also adopted additional transportation measures and associated CEQA impact thresholds, concerning vehicle trips per capita, proximity and quality of bicycle network, proximity and quality of transit network, and pedestrian accessibility.⁴ Similarly, in March 2016, San Francisco became the first county to adopt the VMT guidelines proposed by OPR to encourage public transit and promote pedestrian safety.⁵ Finally, Sacramento and Yolo Counties have defined VMT in their general plans⁶ and Yolo County has modified LOS policies to allow LOS E and F in many areas targeted for growth, while requiring LOS C in rural areas to limit growth.⁷

As explained above, the City properly exercised its discretion to select its significance thresholds. Moreover, as explained in Response to Comment 4-24, the Draft EIR analyzed all transportation-related impacts to noise, air quality and safety and determined the impacts were less than significant.

- 4-26: The comment states that the Revised Draft EIR fails to explain whether allowing LOS E and F in the Core Area results in adverse environmental impacts.

As explained in the Revised Draft EIR, a theme of the City’s 2030 General Plan is to “live lightly” to reduce the City’s carbon footprint. The General Plan thus favors “developing inward” for a more compact, infill growth pattern that will create myriad environmental benefits associated with increased walking, bicycling and use of alternative modes of transit, and reduced automobile use, VMT and GHG emissions.

The LOS threshold set forth in Policy M 1.2.2 embodies this theme as it allows for more traffic in the higher-density, transit-rich, downtown Core Area. Research has shown that dense, urban land use environments are associated with decreased per capita vehicle travel and increased use of alternative travel modes. (Master Response 2; Appendix A.)

³ https://www.opr.ca.gov/docs/City_of_Pasadena.pdf;
<http://www2.oaklandnet.com/oakca1/groups/ceda/documents/report/oak060593.pdf>

⁴ https://www.opr.ca.gov/docs/City_of_Pasadena.pdf

⁵ <http://sf-planning.org/article/san-francisco-planning-takes-lead-modernizing-environmental-review-new-development-projects>

⁶ <http://www2.oaklandnet.com/oakca1/groups/ceda/documents/report/oak060593.pdf>

⁷ <http://www2.oaklandnet.com/oakca1/groups/ceda/documents/report/oak060593.pdf>;
<http://www.yolocounty.org/home/showdocument?id=14467>

Additionally, numerous studies have found that increasing roadway capacity leads to increased VMT, a principle called “induced travel”, whereas increased vehicle travel time, such as increased delay, is associated with mode shifts to transit, bicycling and walking. (See Master Response 2.) The City’s LOS policy allows for increased delay in order to encourage mode shifts rather than increasing roadway capacity, with accompanying physical impacts, and to encourage infill development that places homes proximate to employment, entertainment, retail and neighborhood centers, promotes walkability, biking and alternative modes of transit, and reduces the adverse sprawl-related environmental impacts associated with increased vehicle trips and vehicle miles traveled. As reflected in SACOG’s “2012 Total VMT Per Capita” map that is part of the 2012 MTP/SCS, the VMT in the Core Area is significantly lower than in other parts of the City and region as a whole, evidencing the effectiveness of the City’s policy to encourage and incentivize infill development and alternative transit in the downtown area where residences are proximate to employment, neighborhood and retail centers. (See also Appendix A.)

- 4-27: The comment argues that the City must provide traffic modeling or other quantitative analysis to demonstrate the mobility element is improving the level of service in the Core Area.

The commenter’s suggestion that the City must show that its flexible LOS policy improves level of service and reduces the number of cars on the road is incorrect, and misses the point of the mobility policy altogether. Put another way, the City is not required to show that “LOS will be improved” under the City’s threshold; the City has expressly determined that LOS E and F are acceptable in the Core Area. The City developed its threshold in consideration of factors such as VMT and transit ridership, and their associated environmental benefits. This approach is consistent with the Legislative directive set forth in SB 743 to move away from using “automobile delay, as described solely by level of service or similar measures of vehicular capacity or traffic congestion” to evaluate the significance of a project’s traffic impacts. (Pub. Resources Code, § 21099, subd. (b)(2).)

By allowing LOS E and F in the Core Area, the City is encouraging higher density infill development. Increasing density will increase the number of residents in the Core Area, with a resultant reduction in overall vehicle miles traveled – if people live downtown closer to employment centers, their total vehicle miles traveled to and from work will be reduced and, as a result, GHG emissions from automobile travel will be reduced overall. In addition, the downtown Core Area is well served by transit and many residents will travel to nearby employment, retail and neighborhood centers by alternative transit, or by walking and cycling. While traffic congestion in the Core may

not necessarily decrease, and levels of service may remain at LOS E and F, the City has determined that traffic congestion is acceptable in light of the overall benefits derived from encouraging infill and discouraging road widening to facilitate more automobile travel. Traffic delay may be an inconvenience to drivers but it is not a physical environmental impact (Pub. Resources Code, § 21099, subd. (b)(2)) and such inconvenience is preferable to the significant environmental impacts and adverse impacts to residences and businesses that are caused by widening roadways to accommodate increased traffic and by increased VMT. (See Master Response 2; Appendix A; March 10, 2017 letter from Sacramento Regional Transit [Letter 53]; March 21, 2017 letter from SACOG [Letter 55].)

- 4-28: The commenter reiterates its opinion that the Revised Draft EIR is faulty for failing to quantify how the LOS policy will either improve traffic levels of serve or decrease greenhouse gas emissions.

As an initial matter, the City notes that both qualitative and quantitative evidence may constitute substantial evidence for the purposes of CEQA. (See, e.g., *Eureka Citizens for Responsible Government v. City of Eureka* (2007) 147 Cal.App.4th 357, 375–376 [upholding EIR’s “qualitative judgment” that playground would not have significant aesthetic impact]. Indeed, traffic impacts are commonly evaluated based on qualitative considerations. (See, e.g., *Schaeffer Land Trust v. San Jose City Council* (1989) 215 Cal.App.3d 612, 623 [level of service (LOS) constitutes a “qualitative description of an intersection’s quality of operation”].) Here, the City has based its conclusion that the Project will not result in a potentially significant environmental impact as a result of its contribution to traffic at identified intersections operating at LOS E or F under either Existing Plus Project or Cumulative Plus Project conditions on, among other substantial evidence discussed in Appendix A of the Revised Draft EIR, the GHG and alternative transit benefits of the Project. The Legislature, in fact, has directed that the evaluation of traffic impacts statewide move away from the use of a qualitative level of service methodology to other alternative approaches such as VMT. (Pub. Resources Code, § 21099, subd. (b)(2) [“automobile delay, as described solely by level of service or similar measures of vehicular capacity or traffic congestion shall not be considered a significant impact on the environment pursuant to [CEQA]”].) The City has acted well within its discretion to rely on its selected method of analysis.

In addition, the City’s Core LOS policy and significance threshold is not designed to reduce the number of cars on the road and thereby improve levels of service/reduce congestion at intersections. Rather, the policy and threshold are intended to encourage infill development, discourage road widening, and to thereby reduce overall vehicle miles

traveled and greenhouse gas emissions. The intent of the City's standard is to address the environmental impacts associated with driving by incentivizing development where a resident will drive less rather than focus on the social inconvenience that delay may cause. This approach complies fully with CEQA, which provides that "[e]conomic and social changes resulting from a project shall not be treated as significant effects on the environment." (CEQA Guidelines, § 15064, subd. (e).) The commenter has not identified any environmental impact associated with Project traffic that has not been fully analyzed in the Draft EIR. See Response to Comment 4-25.

The comment also states that the Revised Draft EIR fails to address the environmental threshold required under CEQA, suggesting that CEQA mandates a level of service threshold to measure traffic impacts. This is incorrect. See Response to Comment 4-25 regarding the City's discretion to select its own thresholds.

The commenter next alleges the City failed to comply with the Court's order to show how the traffic impacts at intersections will be reduced. This is also incorrect. The Court held that the EIR failed to explain why traffic levels of service E and F are not considered significant environmental impacts. In other words, the City is required to provide substantial evidence to support its conclusion that LOS E and F is allowed in the Core Area. Pursuant to the Court's decision, "the City need only correct [this] deficiency in the EIR...before considering recertification of the EIR." The Revised Draft EIR and Appendix A have been prepared pursuant to the Court's directive in order to better explain the City's determination that LOS E and F are acceptable in the Core Area. The City was not required by the Court to provide any additional traffic analysis or quantitative analysis.

Finally, the comment states the Draft EIR and Appendix A improperly rely on the 2030 General Plan rather than the 2035 General Plan. See Response to Comment 4-4.

4-29: The commenter asserts that the mobility element policy requires improvements to the "regional transportation network into and in the Core Area," and as such the Project's improvements to the citywide transit system are inadequate and do not implement the policy. The commenter is incorrect.

Policy M 1.2.2 as set forth in the City's 2030 General Plan states that:

"The City shall allow for flexible Level of Service (LOS) standards, which will permit increased densities and mix of uses to increase transit ridership, biking and walking, which decreases auto travel,

thereby reducing air pollution, energy consumption and greenhouse gas emissions.”

To implement this flexible level of service, Policy M 1.2.2, subdivision a, provides the following “Core Area Level of Service Exemption”:

“LOS F conditions are acceptable during peak hours in the Core Area bounded by C Street, the Sacramento River, 30th Street and X Street. If a Traffic Study is prepared and identifies a LOS impact that would otherwise be considered significant to a roadway or intersection that is in the Core Area, the project would not be required in that particular instance to widen roadways in order for the City to find project conformance with the General Plan. Instead, *General Plan conformance could still be found if the project provides improvements to other parts of the citywide transportation system in order to improve transportation-system-wide roadway capacity, to make intersection improvements, or to enhance non-auto travel modes in furtherance of the General Plan goals.*” (City of Sacramento 2009, p. 2-162, emphasis added.)

There is no requirement to provide improvements “related to improving the regional transportation network into and in the Core Area” as suggested by the commenter. Rather, improvements must be provided to “the citywide transportation system.”

As explained in the Revised Draft EIR, the Project applicant committed to provide numerous improvements to the citywide transportation system in order to improve system-wide roadway capacity, to make intersection improvements, or to enhance non-auto travel modes in furtherance of the General Plan goals. These improvements are set forth in the Revised Draft EIR. The Project clearly satisfied the requirements of the City’s 2030 mobility policy.

The City’s 2035 General Plan, adopted after the Project was approved, modified Policy M 1.2.2 to simply state “LOS F is allowed” in the Core Area, without requiring any improvements to the citywide transportation system. As such, under the 2035 General Plan the Project has over-mitigated its Project-related congestion impacts.

- 4-30: The comment notes that the City may not give “credit” to the Project for the Alhambra Boulevard tunnel (underpass) as a means of mitigating the Project’s traffic impacts. This is incorrect.

As explained in the EIR certified by the City in 2014, vehicular access to the project site is provided from the west via 28th and A Streets, and from the east via a roadway extending from C Street between 40th Street and Tivoli Way. Vehicular access points were also considered at Alhambra Boulevard and Lanatt Street, but both were determined to be infeasible. The EIR considered a vehicular underpass at Alhambra and determined it was infeasible. In addition, the EIR analyzed a Bicycle/Pedestrian Underpass to be constructed under the existing UPRR embankment at the north end of Alhambra Boulevard, but the underpass did not factor into the EIR's traffic count. The EIR acknowledged, however, the Bicycle/Pedestrian Underpass could not be constructed without first obtaining UPRR and Public Utilities Commission approval, and therefore its construction was uncertain. Moreover, the Bicycle/Pedestrian Underpass was not required to mitigate traffic impacts and the traffic analysis did not assume any reduction of vehicle trips due to the Bicycle/Pedestrian Underpass. Therefore, the EIR conclusions remain the same whether or not the Bicycle/Pedestrian Underpass is constructed. See also Response to Comment 3-6.

Moreover, the commenter raised this issue during litigation and the trial court and Court of Appeal both ruled against the commenter/petitioners' group, and in favor of the City, in response to commenter's argument that the EIR failed to analyze the environmental impacts of the tunnel. (*ESPLC v. City, supra*, 5 Cal.App.5th at p. 292.)

- 4-31: The comment states that the City should analyze the Project's consistency with the City's 2035 General Plan. See Response to Comment 4-4.
- 4-32: The commenter alleges that the EIR studied a horizon year of 2030 for traffic impacts, and because the 2035 General Plan uses a horizon year 2035 for its traffic analysis, the Revised Draft EIR must be updated to reflect horizon year 2035. The commenter also states that, without analyzing the 2035 horizon year, the City cannot find the Project is consistent with the General Plan.

The commenter is incorrect. The cumulative transportation analysis in the EIR assumes a horizon year 2035, consistent with the projections in SACOG's MTP/SCS 2035. The EIR *did* analyze the 2035 horizon year. Moreover, the Court of Appeal's decision expressly upheld the City's determination that the Project is consistent with the General Plan. (*East Sacramento Partnerships for a Livable City v. City of Sacramento* (2016) 5 Cal.App.5th 281, 304-308.)

- 4-33: The comment notes that the 2035 General Plan mobility element modified Policy 1.2.2, and such modifications could potentially affect the Project's traffic impacts.

The 2035 General Plan modifies Policy 1.2.2 to simply state "LOS F is allowed" in the Core Area, and no improvements to the citywide transportation system is required. In addition, the boundary of the Core Area has expanded farther to the east to include Alhambra Boulevard. Therefore, in addition to the intersections in the Core Area that would have less than significant impacts using the threshold based on the 2030 General Plan, the Project's impacts to the H Street/Alhambra Boulevard intersection would also fall within the Core Area (rather than outside the Core Area under the 2030 General Plan) and LOS E/F would be allowed. The same would be true for the cumulative impacts at E Street/Alhambra Boulevard and H Street/Alhambra Boulevard. As such, if the Project were proposed today, the impacts to these intersections would be less than significant and no mitigation would be required.

See also Response to Comment 4-4.

- 4-34: The comment suggests that revised 2035 Mobility Policy 1.2.2 may result in additional transportation related impacts to air quality, noise and emergency services.

The commenter is incorrect. The City evaluated the potential environmental impacts associated with the 2035 General Plan and concluded there were no additional impacts to air quality, noise and emergency services, among other things.

The 2035 General Plan Master EIR evaluated the potential for delayed emergency response times as a result of implementing Policy M 1.2.2, and concluded that potential impacts would be less than significant because the Master EIR also includes other policies prioritizing emergency service needs. (GP MEIR, p. 4.8-6.)

As to Air Quality, the General Plan Master EIR explained that due to updated growth projections and concentrating development along transit lines and transportation corridors, VMT and related emissions are expected to decrease compared to the 2030 General Plan assumptions and the 2035 General Plan Master EIR would not conflict with applicable air quality plans. (GP MEIR, pp. 4.2-5 to 4.2-7.)

The 2035 Master EIR evaluated noise impacts along roadways associated with increases traffic and other conditions related to implementation of the 2035 General Plan and concluded the impact would be significant and unavoidable even with mitigation. (GP MEIR, pp. 4.8-8 to 4.8-17.)

- 4-35: The comment states the City must prepare a supplemental EIR to reflect the revisions in the 2035 General Plan. See Response to Comment 4-15.
- 4-36: The commenter states the Revised Draft EIR does not meet the requirements of CEQA or the Court of Appeal. See Responses to Comments 4-21 to 4-34.

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Comment Letter 5

-----Original Message-----
From: Gary McDowell [<mailto:gar81538@comcast.net>]
Sent: Sunday, January 22, 2017 4:05 PM
To: Dana Mahaffey <DMahaffey@cityofsacramento.org>
Subject: McKinley Village

Please define LOS C, E & F, regarding McKinley Village. Do you know what city council members approved the original EIR?
I drive down McKinley, E St., etc. everyday and the original traffic study must have been done on other streets. Planning and Council should be ashamed for insulting the East Sacramento Neighborhood. Angelides and NOT the city should pay for additional traffic mitigation, or abandon a project that should never have been approved.
Gary McDowell

5-1
5-2

Sent from my iPhone

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Letter 5: Gary McDowell, January 22, 2017

- 5-1: The commenter requests a definition for LOS C, E, and F regarding the McKinley Village Project and information regarding which City Council members approved the original (McKinley Village) EIR.

LOS is a qualitative measure of traffic operating conditions whereby a letter grade, from A (the best) to F (the worst), is assigned. These grades represent the perspective of drivers and are an indication of the comfort and convenience associated with driving. In general, LOS A represents free-flow conditions with no congestion, and LOS F represents severe congestion and delay under stop-and-go conditions (DEIR, p. 4.9-21).

The McKinley Village Project was approved and the EIR certified on April 29, 2014 (Resolution no. 2014 0106). The Councilmembers voting to approve the Project included, Fong, Hansen, Pannell, Schenirer, Warren, and Mayor Johnson. Councilmembers opposed to the project were Ashby, Cohn, and McCarty.

- 5-2: The comment states the project applicant should pay for any traffic mitigation and not the City, or the Project should be abandoned.

The project applicant is responsible for paying to either fund or construct any mitigation measures that were identified in the EIR. The City is not responsible to pay for mitigation that is the Project's responsibility.

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Comment Letter 6

From: Susie Williams <susiewil@surewest.net>
Date: February 26, 2017 at 8:49:16 PM PST
To: MayorSteinberg@cityofsacramento.org
Cc: kmahaffey@cityofsacramento.org, dgonsalves@cityofsacramento.org,
eteague@cityofsacramento.org, shansen@cityofsacramento.org
Subject: McKinley Village Traffic Study Must be Redone

Dear Mayor Steinberg:

I am writing to urge you and the City of Sacramento to honor the recent State Court of Appeals ruling requiring the City to completely redo the traffic study for the McKinley Village project. As you know, the ruling was further upheld by the State Supreme Court.

6-1

At a time when the White House is denigrating our courts and making a mockery of the rule of law, it is imperative that the City of Sacramento show its citizens that the rule of law is still alive and well here. Not just when it is convenient but also when it is hard. The courts have ruled and now the City must honor their decision.

6-2

Hundreds of citizens and organizations commented on the original EIR and traffic study and noted the same serious flaws subsequently recognized by the courts. Just because the City's General Plan says that complete traffic gridlock is an acceptable Level of Service does not absolve the City and project developers from having to accurately report the traffic impacts and to either find acceptable mitigation measures or limit development. Citizens of this wonderful city deserve nothing less.

6-3

Yes, arenas and cultural attractions are important to our city's vibrancy, but the real stars of our city are it's people and it's neighborhoods. Quality of life is an illusive thing but it is certain that the road to achieving it is not one that is gridlocked. And it will never be achieved in a city that puts profits over people and ignores the rule of law.

Sincerely,

Susie Sargent Williams

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Letter 6: Susie Sargent Williams, February 26, 2017

6-1: The comment requests that the City honor the Third District Court of Appeal decision on the *East Sacramento Partnerships for a Livable City (ESPLC) v. City of Sacramento* and prepare a new traffic analysis for public review.

The commenter is referred to Response to Comment 4-10 and Master Response 1, which addresses this issue in detail.

6-2: The commenter believes that it is important that the City honor the decision of the State Court of Appeal on the *East Sacramento Partnerships for a Livable City (ESPLC) v. City of Sacramento* case.

The commenter is referred to Master Response 1, which addresses this issue in detail.

6-3: The commenter requests that the City either identify acceptable traffic impact mitigation measures for the McKinley Village Project or limit development.

The City complied with the requirements set forth under the California Environmental Quality Act (CEQA) and prepared an EIR that evaluated impacts associated with project construction and operation of the McKinley Village Project. Through this process specific mitigation measures were identified that the project applicant is required to comply with, as verified by City staff. The commenter is also referred to Master Response 1, which addresses the City's responsibilities pursuant to the Courts ruling.

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Comment Letter 7

From: Karen Jacques [mailto:threegables1819@gmail.com] On Behalf Of Karen Jacques
Sent: Sunday, February 26, 2017 10:22 PM
To: Dana Mahaffey <DMahaffey@cityofsacramento.org>
Subject: McKinley Village EIR

February 26, 2017

Dana Mahaffey
Associate Planner,
Community Development Department
Environmental Planning Services
300 Richards Blvd. Third Floor
Sacramento CA 95811

Re: City Need to Comply with Appellate Court Decision in the case of East Sacramento Partnerships for a Livable City (ESPLC) v. City of Sacramento

Dear Ms. Mahaffey,

I am writing to you as a long term resident of Sacramento who has spent years working to make the Central City (where I live) a well planned, desirable place to live. I wish to make the following comments with regard to the Revised McKinley Village EIR that you are currently circulating in response to the above referenced case.

1) The Revised EIR is not responsive to the court decision because it does not contain a new traffic analysis and new mitigation measures that would lessen the traffic impacts of the McKinley Village project.

7-1

2) Because the revised EIR is not responsive to the Appellate Court's decision, the City needs to decertify it and issue a new EIR that includes a full and independent analysis of traffic impacts and the ways that those impacts can be mitigated.

7-2

3) The serious traffic impacts that McKinley Village will cause are obvious. There is currently no bus service planned for McKinley Village and the options for people to walk or bike to destinations beyond its boundaries are very limited. McKinley Village residents will enter and leave on streets that already have heavy traffic. A full traffic analysis that can identify the best ways to mitigate traffic impacts is badly needed.

7-3

4) The Appellate Court has ruled and the Supreme Court has supported its ruling. City residents have a legal right to turn to the courts for redress when they believe that the City has made a decision that is wrong. They also have a right to expect the City to abide by what the court decides and not waste taxpayer money by forcing them to return to court yet again.

7-4

Sincerely
Karen Jacques
Central City Resident

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Letter 7: Karen Jacques, February 26, 2017

7-1: The comment expresses concern that the Revised Draft EIR is not responsive to the Appellate Court's decision due to the lack of a new traffic analysis and new mitigation measures addressing traffic impacts of the McKinley Village Project.

The commenter is referred to Response to Comment 4-10 and Master Response 1, which addresses this issue in detail.

7-2: The commenter requests that the City decertify the McKinley Village EIR and prepare a new traffic analysis and mitigation measures for traffic impacts.

The commenter is referred to Response to Comment 4-12 and Master Response 1, which addresses this issue in detail.

7-3: The commenter states that the McKinley Village Project will create serious traffic impacts and requests that a full traffic analysis be conducted. The comment also notes there is no bus service planned and options for people to walk or bike outside of the project site is limited.

The Project has been designed to include sidewalks throughout the project site as well as across the A Street Bridge and the 40th Street underpass to connect the site to the City's existing sidewalk network (DEIR, p. 2-40). In addition, the Project has been designed to provide access to the City's proposed bikeway connection located in the extreme northeast portion of the project site, as proposed under the City's Bikeway Master Plan. Figure 2-20, Site Connectivity, in the McKinley Village EIR shows the connection of the project site to the surrounding area (DEIR, p. 2-47). The 40th Street underpass provides access, particularly for walking and bicycling, to transit route (Bus Line 34). Regional Transit is currently in the process of reviewing and revising its bus routes and bus routes in East Sacramento may change. The commenter is also referred to Response to Comment 4-10 and Master Response 1, which addresses the issue of the need to prepare another traffic analysis.

7-4: The comment states that the City must comply with the Third District Court of Appeal decision on the *East Sacramento Partnerships for a Livable City (ESPLC) v. City of Sacramento*, as it is the right of citizens to expect this of the City. The commenter also states that it is right of citizens to expect that the City not waste taxpayer money.

The commenter is referred to Master Response 1, which addresses this issue in detail.

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Comment Letter 8

February 27, 2017

Dana Mahaffey, Associate Planner
City of Sacramento, Community Development Department
Environmental Planning Services
300 Richards Boulevard, Third Floor
Sacramento, CA 95811

I am opposed to the city's issue of a "Revised EIR for McKinley Village Project". This does not address the Court of Appeals ruling. There must be a traffic analysis that complies with CEQA. The city must properly analyze traffic impacts on existing neighborhoods and mitigate those impacts where necessary. I'm concerned about the increase in speeding traffic on Elvas Ave. My access is on a blind corner at C St. that will only get more dangerous as more cars use Elvas.

8-1

Please comply with the ruling by decertifying the current EIR, conducting a full, independent traffic analysis, and recirculating the EIR for additional public comment. The failure of the city to comply with the ruling will only waste more taxpayer dollars that could be used to make our city and neighborhoods more livable.

8-2

Thank you,

Kate Lenox
4823 C St.
Sacramento 95819

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Letter 8: Kate Lenox, February 27, 2017

8-1: The commenter notes their opposition to the Revised Draft EIR for the McKinley Village Project and states that the Revised Draft EIR does not address the Court of Appeal ruling. The commenter expresses concern regarding an increase in speeding traffic on Elvas Avenue and states that the city must properly analyze traffic impacts on existing neighborhoods and mitigate those impacts where necessary.

The commenter's opposition to the Revised Draft EIR is noted. The EIR prepared for the McKinley Village Project thoroughly evaluated traffic associated with construction and operation of the Project. No additional traffic study is required as explained in Response to Comment 4-10 and Master Response 1, which addresses the legal requirements.

8-2: The comment states the City must comply with the Third District Court of Appeal decision on the *East Sacramento Partnerships for a Livable City (ESPLC) v. City of Sacramento* case and decertify the McKinley Village EIR and prepare a new traffic analysis for public review. The commenter also states a concern that the failure of the City to follow the law will contribute to an increase for taxpayers.

The commenter is referred to Response to Comment 4-10 and Master Response 1, which addresses this issue in detail.

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Comment Letter 9

From: Shannon Downs [<mailto:downsfiduciary@gmail.com>]
Sent: Monday, February 27, 2017 11:34 AM
To: Dana Mahaffey <DMahaffey@cityofsacramento.org>
Subject: Fwd: McKinley Village Traffic Impact on East Sacramento Residents

Dear Ms. Mahaffey,

I'm a resident of East Sacramento and live on a street that connects with Elvas. I think our traffic is already heavy on this road and can be very dangerous when trying to pull into traffic because of the speed and high volume of cars. I'm very concerned of the safety of using this road and many others in my neighborhood once McKinley Village becomes populated and we have 300+ cars on the road.

|
| 9-1
|

I want you to REJECT the inadequate "Revised EIR" and COMPLY with the Court of Appeal's decision.

|
| 9-2
|

Thank you,

Shannon

Shannon Downs, CLPF, NGA
Downs Fiduciary Services
3626 Fair Oaks Blvd., Suite 300
Sacramento, CA 95864
[\(916\) 207-9994](tel:(916)207-9994)
www.downsfiduciary.com

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Letter 9: Shannon Downs, February 27, 2017

9-1: The commenter expresses concern that traffic hazards will only increase on Elvas Avenue and other roads once the McKinley Village Project is built out.

The comment's concern is noted and forwarded to the decision-makers for their consideration.

9-2: The comment states the City must comply with the Third District Court of Appeal decision on the *East Sacramento Partnerships for a Livable City (ESPLC) v. City of Sacramento* and decertify the McKinley Village EIR.

The commenter is referred to Master Response 1, which addresses this issue in detail.

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Comment Letter 10

From: bubbacooti@comcast.net
Subject: State Supreme Court ruling on McKinley Village EIR and traffic study
Date: February 27, 2017 at 12:17:56 PM PST
To: <MayorSteinberg@cityofsacramento.org>, <dmahaffey@cityofsacramento.org>
Cc: <jsharris@cityofsacramento.org>

Dear Mayor Steinberg:

We are writing to express our deep disappointment at the City’s handling of the whole McKinley Village subdivision story beginning with the City’s EIR and traffic study on it and extending to the City’s actions to avoid the decisions of both the State Court of Appeals and the State Supreme Court nullifying the EIR and traffic study.

10-1

We are also writing to ask you to personally ensure that the city honors those two court decisions and requires a new EIR and traffic study that accurately describe McKinley Village’s adverse environmental and neighborhood traffic impacts and requires their amelioration.

10-2

Sincerely,

Robert & Petra Sullivan
400 37th Street
Sacramento, CA 95816

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Letter 10: Robert and Petra Sullivan, February 27, 2017

10-1: The commenters are expressing their concern regarding the preparation of the McKinley Village EIR and traffic study and the City's response to the Third District Court of Appeal decision on the *East Sacramento Partnerships for a Livable City (ESPLC) v. City of Sacramento*.

The commenters are referred to Master Response 1, which addresses the Courts' ruling in detail.

10-2: The comment states the City must comply with the Third District Court of Appeal decision on the *East Sacramento Partnerships for a Livable City (ESPLC) v. City of Sacramento* case and prepare a new EIR and a new traffic analysis.

The commenter is referred to Master Response 1, which addresses this issue in detail.

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Comment Letter 11

From: Michael J Greene [<mailto:cdsconsulting@surewest.net>]
Sent: Monday, February 27, 2017 12:18 PM
To: Mayor Steinberg <MayorSteinberg@cityofsacramento.org>; Dana Mahaffey <DMahaffey@cityofsacramento.org>
Cc: Jeff S. Harris <JSHarris@cityofsacramento.org>
Subject: State Supreme Court ruling on McKinley Village EIR and traffic study

Dear Mayor Steinberg:

I am writing to express my deep disappointment at the City's handling of the whole McKinley Village subdivision story beginning with the City's EIR and traffic study on it and extending to the City's actions to avoid the decisions of both the State Court of Appeals and the State Supreme Court nullifying the EIR and traffic study.

11-1

I am also writing to ask you to personally ensure that the city honors those two court decisions and requires a new EIR and traffic study that accurately describe McKinley Village's adverse environmental and neighborhood traffic impacts and requires their amelioration.

11-2

Sincerely,

Michael Greene
CDS Consulting
3701 McKinley Blvd
Sacramento, CA 95816
cdsconsulting@surewest.net
916-849-1570 cell

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Letter 11: Michael Greene, CDS Consulting, February 27, 2017

11-1: The commenter is expressing concern regarding the preparation of the McKinley Village EIR and traffic study and the City's response to the Third District Court of Appeal decision on the *East Sacramento Partnerships for a Livable City (ESPLC) v. City of Sacramento*.

The commenter is referred to Master Response 1 for more information specific to the Court ruling.

11-2: The comment states the City must comply with the Third District Court of Appeal decision on the *East Sacramento Partnerships for a Livable City (ESPLC) v. City of Sacramento* and prepare a new EIR and a new traffic analysis.

The commenter is referred to Response to Comment 4-10 and Master Response 1, which addresses this issue in detail.

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Comment Letter 12

From: Valerie Roberts <valerienorcal@gmail.com>
Date: Mon, Feb 27, 2017 at 12:32 PM
To: kmahaffey@cityofsacramento.org, jharris@cityofsacramento.org,
JCWEST@cityofsacramento.org

Hi Dana,

I continue to have concerns about whether city cares about its citizens. We live on D Street in East Sacramento, which when we moved there, we moved there due to the walk ability of the area and we can sit on our front porch and enjoy the neighbors and the quiet street. We are lucky, as our street does not go through, but we have seen an increase in traffic since McKinley Village has been in operation.

12-1
12-2
12-3
12-4

- I oppose the “Revised EIR for the McKinley Village Project,” it does not contain a new traffic analysis, and no new mitigation that would lessen the significant traffic impacts of the project on the area neighborhoods and roadways.
- Please comply with the decision of the Court of Appeal in the case of *East Sacramento Partnerships for a Livable City (ESPLC) v. City of Sacramento, et al.* by decertifying the current EIR, conducting a full, independent traffic analysis, and recirculating the EIR for additional public comment.
- Failure to follow the law will lead to further UNNECESSARY taxpayer expense if the City must again be compelled to comply with state laws governing the environment.

Thanks for your time and commitment to the citizens of Sacramento.

Valerie Roberts
3148 D Street
Sacramento, CA 95816

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Letter 12: Valerie Roberts, February 27, 2017

12-1: The commenter is providing an observation that she has seen an increase in traffic in East Sacramento since the McKinley Village Project has opened.

The commenter's observation is noted and no response is required.

12-2: The commenter notes their opposition to the Revised Draft EIR for the McKinley Village Project due to its lack of a new traffic analysis and new mitigation measures that would reduce significant Project traffic impacts.

The commenter's opposition to the Draft EIR is noted and forwarded to the decision-makers for their consideration. The commenter is referred to Master Response 1 for more information.

12-3: The comment requests the City comply with the Third District Court of Appeal decision on the *East Sacramento Partnerships for a Livable City (ESPLC) v. City of Sacramento* and decertify the McKinley Village EIR and prepare a new traffic analysis for public review.

The commenter is referred to Master Response 1, which addresses this issue in detail.

12-4: The comment states a concern that the failure of the City to follow the law will contribute to an increase for taxpayers.

The commenter is referred to Master Response 1, which addresses this issue in detail.

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Comment Letter 13

From: Antonia Chapralis <paraskaki@sbcglobal.net>
To: "kmahaffey@cityofsacramento.org" <kmahaffey@cityofsacramento.org>
Sent: Monday, February 27, 2017 8:15 PM
Subject: McKinley Village Traffic Issues

To the City of Sacramento:

We are already experiencing the negative impact of traffic from McKinley Village. I've had close encounters w/ cars speeding down 40th St. and it's getting worse! Then the other day there was a traffic jam at the 5-way stop at McKinley Blvd. and D St. All the stop signs had from 1 to 3 cars lined up and a blind person was trying to cross the street. It took two of us to help the pedestrian, but it could have been very serious. These unmitigated traffic impacts are getting worse for those of us living in East Sacramento proper.

13-1

While sitting through the town hall meetings regarding McKinley Village, one could see that the current EIR was done poorly and hastily. Not all of the planning department were on the same page and we found it embarrassing, to say the least. Please: Conduct a full INDEPENDENT traffic analysis. Re circulate the EIR now for more public input. (Don't do it during summer vacation.) De-certify the current EIR!

13-2

Please COMPLY WITH THE DECISION OF THE COURT OF APPEALS. We are against the "Revised EIR for the McKinley Village Project."

13-3

Sincerely,
Tim & Toni Chapralis

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Letter 13: Tim and Toni Chapralis, February 27, 2017

- 13-1: The commenter notes an observation that traffic is getting worse for residents in East Sacramento with cars speeding in the neighborhood.

The commenter's observation is noted and forwarded to the decision-makers for their consideration.

- 13-2: The commenter expresses dissatisfaction regarding the Revised EIR and requests that a full independent traffic analysis be conducted and the Revised EIR be decertified. The commenter further requests that a new EIR be recirculated immediately for public input.

The commenter is referred to Response to Comment 4-12 and Master Response 1, which addresses this issue in detail.

- 13-3: The comment states the City must comply with the Third District Court of Appeal decision on the *East Sacramento Partnerships for a Livable City (ESPLC) v. City of Sacramento* case and reiterates opposition to the Revised EIR for the McKinley Village Project.

The commenter's opposition to the Revised Draft EIR is noted and the commenter is referred to Master Response 1, for more information.

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Comment Letter 14

From: rick doerr <miamilakers328@yahoo.com>
Date: 2/28/17 6:45 AM (GMT-08:00)
To: Dana Mahaffey <DMahaffey@cityofsacramento.org>
Subject: STOP McKinley Village "Please comply with the Court of Appeal's ruling and analyze traffic impacts"

Council member Dana Mahaffey,

During the months taken by the Supreme Court to reach its decision, the opinion of the Court of Appeal could not be delivered to the Superior Court for implementation. During the delay, the City of Sacramento issued its "Revised Draft EIR for McKinley Village." Yet, the Revised EIR contains no new traffic analysis. The lack of analysis in the Revised EIR does not address the Court's direction to properly analyze traffic impacts, and does not reduce those impacts in any way in our neighborhoods and in the central core. *ESPLC believes that the City's latest action violates not only the letter and spirit of CEQA, but also the express directions given by the Court of Appeal in its published decision.* The Court of Appeal's decision—as confirmed by the Supreme Court—is significant and, quite literally, precedent setting. It requires cities and developers state-wide to respect the health and well-being of the People by properly evaluating the environmental impacts of new developments before they are approved. The decision confirms that which should have been obvious: the developers—and the government at the behest of the developers—cannot paper over significant environmental impacts by simply declaring those impacts to be "acceptable" without proper study and disclosure to the people who will be impacted. Here, however, the decision will be meaningless if the City is allowed to circumvent the Court of Appeal's ruling before it takes effect. To avoid that, we need your help.

14-1
14-2

Rick & Sally Doerr
199 Tivoli Way
Sacramento CA 95819

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Letter 14: Rick and Sally Doerr, February 28, 2017

14-1: The comment expresses concern that the Revised Draft EIR is not responsive to the Appellate Court's decision due to the lack of a new traffic analysis and new mitigation measures addressing traffic impacts of the McKinley Village Project.

The commenter is referred to Master Response 1, which addresses this issue in detail.

14-2: The commenter notes that the Court of Appeal's decision on the *East Sacramento Partnerships for a Livable City (ESPLC) v. City of Sacramento* case is precedent setting and requests that the City comply with the decision.

The commenter is referred to Master Response 1, which addresses the Court's ruling and the City's responsibilities.

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Comment Letter 15

From: Patti <herb870@comcast.net>
Date: 2/28/17 7:38 AM (GMT-08:00)
To: Dana Mahaffey <DMahaffey@cityofsacramento.org>
Subject: McKinleyvillage MESS

To Dana Mahaffey, Associate Planner
City of Sacramento, Community Development Department
Environmental Planning Services
300 Richards Boulevard, Third Floor
Sacramento, CA 95811

Ms. Mahaffey,

We are *urging the City to reject the inadequate "Revised EIR," and requiring that the City comply with the Court of Appeal's decision.*

On November 7, 2016, the Court of Appeal of the State of California for the Third Appellate District, ruled in favor of **East Sacramento Partnerships for a Livable City (ESPLC)** in its lawsuit challenging the City of Sacramento and the developers of the McKinley Village project in connection with certain traffic impacts. The Court of Appeal ruled that the City of Sacramento's failure to properly analyze these traffic impacts violated the California Environmental Quality Act (CEQA).

The Court of Appeal has directed the Superior Court to issue an Order to the City requiring that it:

- decertify the existing Environmental Impact Report (EIR);
- correct deficiencies in the existing EIR;
- recirculate a CEQA-compliant EIR before recertification.

It appears that the City is attempting to circumvent the Court of Appeal's ruling by adopting a "Revised Draft EIR for McKinley Village" *before* the Superior Court can issue the Order. The Revised EIR *does not* contain the traffic analysis required by the Court of Appeal.

Express opposition to the "Revised EIR for the McKinley Village Project," noting that it does not contain a new traffic analysis, and no new mitigation that would lessen the significant traffic impacts of the project on the area neighborhoods and roadways.

- Significant traffic impacts continue to be unmitigated. Describe how you, your family, and neighbors are experiencing traffic issues even now, during construction of the Village project.



- Urge the City to comply with the decision of the Court of Appeal in the case of *East Sacramento Partnerships for a Livable City (ESPLC) v. City of Sacramento, et al.* by decertifying the current EIR, conducting a full, independent traffic analysis, and recirculating the EIR for additional public comment.
- Failure to follow the law will lead to further unnecessary taxpayer expense if the City must again be compelled to comply with state laws governing the environment.

↑ 15-2
Cont.
15-3

Some people with money feel that they can destroy neighborhoods!!!!!!!!!!!!!!!!!!!!

Patti and Don Herberger
116 Meister Way
Sacramento, Ca. 95819

Letter 15: Patti and Don Herberger, February 28, 2017

15-1: The commenter requests that the City reject the Revised Draft EIR and comply with Third District Court of Appeal decision on the *East Sacramento Partnerships for a Livable City (ESPLC) v. City of Sacramento* and decertify the McKinley Village EIR and prepare a new traffic analysis for public review.

The commenter is referred to Master Response 1, which addresses this issue in detail.

15-2: The comment appears to be including direction on how to provide comments on the Revised Draft EIR. The comment is noted and the commenter is referred to Master Response 1.

15-3: The comment states a concern that the failure of the City to follow the law will contribute to an increase for taxpayers. The commenter is referred to Master Response 1, which addresses this issue in detail.

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Comment Letter 16

Date: 2/28/17 7:46 AM (GMT-08:00)
To: Dana Mahaffey <DMahaffey@cityofsacramento.org>
Subject: Revised Draft EIR for McKinley Village

Please do not publish my email address

It came to my attention that the traffic study in the McKinley Village EIR had legal troubles. This is not surprising to those of us who live in East Sacramento, as I do. The connection of McKinley Village Way to C street has a dangerous curve to the east (multiple cars have crashed through the fence of the house at the apex) and through narrow neighborhood C street to the west. I cannot imagine any more traffic on C street between 33rd and Alhambra. There are already multiple speed bumps here, people move their mirrors to the car so that they don't get knocked off. I am sure if you checked police logs you would see multiple sideswiped cars here.

16-1

From my layperson perspective It does not make sense how this EIR could find for no traffic impacts without the connection of McKinley village directly to Alhambra. You don't need to be a traffic engineer to figure this out, just go and sit at the intersection of C and 32nd for an hour and count how many near miss traffic issues there are. Now imagine more traffic. Alhambra is designed to carry more traffic than it does. Vehicles need to be able to exit McKinley Village directly onto Alhambra. Common sense tells me that this is would be a good solution. I read in the paper that this is a great solution, and was only not done because of money. To me this does not make sense.

16-2

I believe a real traffic study that looks at the connection of McKinley Village directly to Alhambra in a vehicle sized underpass below the railroad tracks is warranted. This also seems to be what the court has ruled if I read the email below correctly. Please follow the Superior Court Order.

16-3

The traffic in this area directly effects me as I travel in between East Sacramento and Downtown. I use Elvas and C street regularly. I have not done any technical analysis for my opinions and am giving this opinion from a concerned layperson perspective who will be subject to any adverse impacts of more traffic.

16-4

Thank you,
Mike Grinstead
5301 B Street
Sacramento CA 95819

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Letter 16: Mike Grinstead, February 28, 2017

16-1: The commenter states an observation that the connection of McKinley Village Way to C Street has a dangerous curve to the east and C Street narrows heading west which creates traffic hazards and notes there have been numerous accidents. The comment is noted and forwarded to the decision-makers for their consideration.

16-2: The commenter notes that traffic issues could be eased with a direct connection between the project site and Alhambra Boulevard (via the UPRR underpass) and appears to support the underpass.

The commenter is referred to Response to Comment 3-6 for more information regarding the status of the underpass.

16-3: The commenter states a traffic study for the McKinley Village Project that examines the connection of the project site to Alhambra via an underpass is warranted and notes that this is also what the Court required in its ruling.

The commenter is referred to Master Response 1, which addresses the Court ruling and Response to Comment 3-6 that addresses the status of the underpass. It is important to note the Appellate Court decision did not require the underpass be further evaluated and indicated in their decision that a vehicular tunnel at Alhambra was not part of the Project and did not need to be included in the project description or analyzed in the EIR. (*ESPL v. City, supra*, 5 Cal.App.5th at p. 292.)

16-4: The commenter notes that his comments are only his opinion regarding traffic between East Sacramento and Downtown and along Elvas Avenue and C Street. The comment is noted and no further response is required.

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Comment Letter 17

From: twhailey@aol.com [<mailto:twhailey@aol.com>]
Sent: Tuesday, February 28, 2017 9:02 AM
To: Dana Mahaffey <DMahaffey@cityofsacramento.org>
Subject: Re: McKinley Village

To whom it may concern,

I am writing this letter to you to raise extreme concern regarding the New McKinley Village project and it's impact and anticipated future impact on traffic in my quiet East Sacramento neighborhood, Meister Terrace. I purchased my home 18 years ago, and even though I am a few houses down from Elvas/C Street, it has been relatively quiet and very easy to navigate to and from work and school in the morning and afternoon. I live on Tivoli Way. I work at the new Sutter Hospital in midtown. My simple, five minute commute has become very hazardous because of this new project. The corner of Tivoli and Elvas has certainly been ignored during the planning stages of this idiotic stop sign at the entrance of McKinley Village. This intersection was so poorly planned out! I feel that the firmly assimilated current residents on both Tivoli and 40th street were simply ignored when this intersection was conceived!

17-1

McKinley Village isn't even fully functioning yet and I have already almost been hit by a car three times in the past four months! NEVER, in the past 18 years have I suffered even one near collision while entering or exiting from Elvas to Tivoli Way! I have two grown children who travel often on this path and I have gravely concerned for their safety, as well as the safety of my fellow neighbors. Mark my words, if any of my family members suffer a fatal or life changing accident because of this intersection, I will seek legal counsel immediately! Please consider this email an urgent plea to reconsider this intersection and plan for a way to alert cars that stop at the stop signs at that intersection to use extreme caution while cars are entering from 40th street and Tivoli Way! What is happening now is that the stop sign is so far away from the entrance of our streets, that the cars stop and then blast through our intersections at 35 miles per hour ... even when seeing that we are trying to enter Elvas ... cars are not yielding or being cautious at all! They are acting as if they stopped and now they can just blast through Elvas, no matter how many cars to are attempting to enter the zone. Also, the stop sign closest to Tivoli gets backed up in the morning, to the point where nobody is yielding to a car attempting to exit Tivoli and enter the area toward the stop sign. This is very frustrating. We have to block one lane of Elvas and force ourselves into the other lane or we can not enter the intersection (hence another opportunity to get hit by oncoming traffic!). What were you guys thinking? This is only going to get 1,000 time worse when McKinley Village is in full force please make changes ... be creative, come up with a solution that takes into consideration the current homeowners, as if our lives mattered.

17-2

17-3

We have already put up with so much with the construction of this project and it is very difficulty to be a 20 year homeowner and tax payer and have our needs dismissed over profits!

Please feel free to get back to me with any questions or clarification on this traffic concern.

Dawn M. Olson

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Letter 17: Dawn M. Olson, February 28, 2017

17-1: The commenter expresses concern regarding the McKinley Village Project and its current and future traffic impacts on the Meister Terrace neighborhood in East Sacramento. The comment further emphasizes dissatisfaction with the planning of the Tivoli Way and Elvas Avenue intersection. The comment is noted and forwarded to the decision-makers for their review.

17-2: The commenter expresses concern regarding traffic hazards at the intersection of Tivoli Way and Elvas Avenue. The commenter requests reconsideration of this intersection to alert cars stopping at this intersection to use caution as cars enter from 40th street and Tivoli Way.

The comment is outside of the scope of the Revised Draft EIR. However, the commenter's concern regarding this intersection is noted and forwarded to the decision-makers for their consideration.

17-3: The commenter notes that traffic backs up at the stop sign closest to Tivoli Way and creates a hazardous condition and requests a solution be provided.

The comment is outside of the scope of the Revised Draft EIR. However, the commenter's concern regarding this intersection is noted and forwarded to the decision-makers for their consideration.

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Comment Letter 18

From: odlizzie@surewest.net [mailto:odlizzie@surewest.net]
Sent: Tuesday, February 28, 2017 9:21 AM
To: Dana Mahaffey <DMahaffey@cityofsacramento.org>
Subject: McKinley Village Traffic

I am writing to urge the City of Sacramento to **COMPLY WITH THE COURT OF APPEALS RULING in regard to McKinley Village and the EIR.**

18-1

My family and I have owned property at 922 41st street, and paid taxes since 1922; and, the City seems to not care about the traffic impacts on long time property owners in this East Sacramento location.

I am asking the city to show concern about the existing East Sacramento neighborhood by addressing the following concerns that I and my neighbors have:

1) We oppose the the "Revised EIR for the McKinley Village Project" - Because it does not contain a new traffic analysis, and no new mitigation that would lessen the significant traffic impacts of the project on the area neighborhoods and roadways.

18-2

2) Significant traffic impacts continue to be unmitigated. As you know, the current East Sacramento area, composed of 328 lots over a 65 acre area, has **16 different** vehicular connections for neighborhood occupants to utilize. The McKinley Village project has 328 lots over a 48 acre area and has **JUST TWO vehicular connections (it doesn't take a genius to determine that will lead to congestion .)**

18-3

3) If the City fails to follow the law of the Court of Appeals decision, it will lead to further unnecessary taxpayer expense for legal action to compel the City to comply with state laws governing the environment.

18-4

4) Again, we urge the City to comply with the decision of the Court of Appeal in the case of the *East Sacramento Partnership for a Livable City (ESPLC) v City of Sacramento, et al.* by decertifying the current EIR, conducting a full, independent traffic analysis, and recirculating the EIR for additional public comment.

18-5

Thank you for your thoughtful consideration of my requests.

Sincerely, Nancy E. Wolford, 922 41st Street, 916-457-3002

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Letter 18: Nancy E. Wolford, February 28, 2017

18-1: The commenter is urging the City to comply with the Third District Court of Appeal decision on the *East Sacramento Partnerships for a Livable City (ESPLC) v. City of Sacramento* with regard to McKinley Village EIR.

The commenter is referred to Master Response 1, which addresses this issue in detail.

18-2: The commenter expresses their opposition to the Revised Draft EIR for the McKinley Village Project due to the lack of a new traffic analysis and new mitigation to address traffic impacts.

The commenter is referred to Master Response 1, which addresses this issue in detail.

18-3: The commenter notes the East Sacramento neighborhood has numerous roadway connections for residents and the McKinley Village Project has only two points of access. Based on this the commenter makes the determination this will result in congestion.

It is not clear from the comment if the concern is that residents of McKinley Village will experience congestion trying to enter or exit the site, or if traffic leaving the project site either from A Street or 40th Street would contribute to congestion. The comment is noted and forwarded to the decision-makers for their consideration.

18-4: The comment states a concern that the failure of the City to follow the law will contribute to an increase for taxpayers.

The commenter is referred to Master Response 1, which addresses this issue in detail.

18-5: The comment states the City must comply with the Third District Court of Appeal decision on the *East Sacramento Partnerships for a Livable City (ESPLC) v. City of Sacramento* and decertify the McKinley Village EIR and prepare a new traffic analysis for public review.

The commenter is referred to Master Response 1, which addresses this issue in detail.

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Comment Letter 19

From: Linda Zeiszler <linda Zeiszler@icloud.com>
Date: 2/28/17 2:14 AM (GMT-08:00)
To: Dana Mahaffey <DMahaffey@cityofsacramento.org>
Subject: Court of Appeals ruling re: McKinley Village

I live on Santa Ynez Way between McKinley and 39th, just one block off of C Street. We currently have heavy traffic on Elvas/C street from the business park along that corridor. In addition, the traffic on 39th, 36th and McKinley is very heavy due to Theodore Judah School. This is before the additional traffic that residents of McKinley Village will bring to my neighborhood streets.

19-1

My understanding is that the Court of Appeals has directed the Superior Court to issue an order to the city requiring that it decertify the existing EIR, correct deficiencies in the existing EIR and recirculate a CEQA compliant EIR before recertification. I expect the city to comply with these orders and not circumvent these orders by accepting an inadequate "Revised EIR" that does not comply with the court order. It does not contain a new traffic analysis, nor new mitigation to lessen the traffic impact on my neighborhood streets.

19-2

Therefore, my expectation is that the city will comply with the court order and REJECT the "Revised EIR".

19-3

Linda Zeiszler
411 Santa Ynez Way
Sacramento, CA.
Sent from my iPhone

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Letter 19: Linda Zeiszler, February 28, 2017

19-1: The commenter states that traffic is currently very heavy on Elvas Street and C Street and 39th, 36th and McKinley Boulevard due to the nearby business park and Theodore Judah School. The commenter believes that the residents of the McKinley Village Project will add to traffic impacts in this area. The comment is noted and forwarded to the decision-makers for their consideration.

19-2: The commenter requests that the City comply with the Third District Court of Appeal decision on the *East Sacramento Partnerships for a Livable City (ESPLC) v. City of Sacramento* and decertify the McKinley Village EIR and prepare a new traffic analysis for public review.

The commenter is referred to Master Response 1, which addresses this issue in detail.

19-3: The commenter requests that the City comply with the Court order and reject the Revised Draft EIR.

The commenter is referred to Master Response 1, which addresses this issue in detail.

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Comment Letter 20

From: bthalacker@comcast.net [mailto:bthalacker@comcast.net]
Sent: Tuesday, February 28, 2017 9:59 AM
To: Dana Mahaffey <DMahaffey@cityofsacramento.org>
Subject: Draft EIR Report Violation

Dear Dina. Please enter these comments to the City Council and enter the request to decertify the current EIR and comply with the Court of Appeal decision:

- The “Revised EIR for the McKinley Village Project,” does not contain a new traffic analysis, and there is no new mitigation that would lessen the significant traffic impacts of the project on the area neighborhoods and roadways.] 20-1
 - Significant traffic impacts continue to be unmitigated. Traffic during the construction has been noisy, and constant. When the development is built up, there will be a real impact on our neighborhood. Delays at crossings and corners will be dangerous. Please comply with the decision of the Court of Appeal in the case of *East Sacramento Partnerships for a Livable City (ESPLC) v. City of Sacramento, et al.* by decertifying the current EIR, conducting a full, independent traffic analysis, and recirculating the EIR for additional public comment.] 20-2
 - Failure to follow the law will lead to further unnecessary taxpayer expense if the City must again be compelled to comply with state laws governing the environment. Also, if a third vehicle access point were added at Alhambra Blvd., this would greatly alleviate the traffic burden for Midtown and East Sacramento.] 20-3
-] 20-4

Thank You.

Barbara Thalacker and Terry Reed
2810 I Street
Sacramento, CA 95816

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Letter 20: Barbara Thalacker and Terry Reed, February 28, 2017

20-1: The commenter is stating the Revised Draft EIR does not contain a new traffic analysis or mitigation measures to address traffic impacts.

The commenter is referred to Master Response 1, which addresses this issue.

20-2: The comment states there are significant traffic impacts that are not mitigated and construction traffic has been noisy and is requesting the City comply with the Third District Court of Appeal decision on the *East Sacramento Partnerships for a Livable City (ESPLC) v. City of Sacramento* and de-certify the EIR and prepare a new traffic analysis.

The commenter is referred to Master Response 1, which addresses this issue.

20-3: The comment states a concern that the failure of the City to follow the law will contribute to an increase for taxpayers.

The commenter is referred to Master Response 1, which addresses this issue.

20-4: The comment notes adding a third vehicle access connecting to Alhambra Boulevard would help to alleviate the traffic in Midtown and East Sacramento.

Please see Response to Comment 3-6 which provides more information on the status of the underpass.

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Comment Letter 21

From: Jo Ann Pinotti [<mailto:japinotti@surewest.net>]
Sent: Tuesday, February 28, 2017 10:13 AM
To: Dana Mahaffey <DMahaffey@cityofsacramento.org>
Cc: David Gonsalves <DGonsalves@cityofsacramento.org>
Subject: McKinley Village project

To: Dana Mahaffey, Associate Planner
CC: David Gonsalves, District Director to Jeff Harris, Sacramento City Council Member, District 3
Re: McKinley Village project revised EIR

I am a resident of East Sacramento and am writing to express my opposition to the "Revised EIR for the McKinley Village project".

This report does not contain a new traffic analysis. The report also does not outline new mitigation to lessen the significant impact of this project on area neighborhoods and residential streets.

21-1

I urge the City of Sacramento to comply with the decision of the Court of Appeal by decertifying the current EIR. I also urge the City to conduct a full, independent traffic analysis and provide the EIR for public comment. Failure to follow the law will lead to further unnecessary taxpayer expenses if the City must again be compelled to comply with state environmental laws.

21-2

Sincerely,

Jo Ann Pinotti
5261 K Street
East Sacramento

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Letter 21: Jo Ann Pinotti, February 28, 2017

21-1: The commenter is stating the Revised Draft EIR does not contain a new traffic analysis or mitigation measures to address traffic impacts.

The commenter is referred to Master Response 1, which addresses this issue.

21-2: The commenter is urging the City to comply with the Third District Court of Appeal decision on the *East Sacramento Partnerships for a Livable City (ESPLC) v. City of Sacramento* and prepare a new traffic analysis. The comment also notes that the City's failure to follow the law will lead to unnecessary taxpayer expense.

The commenter is referred to Master Response 1, which addresses this issue in detail.

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Comment Letter 22

From: susan <susan_mcmillan@hotmail.com>
Sent: Tuesday, February 28, 2017 10:18 AM
To: kmahaffey@cityofsacramento.org
Subject: Comply with ruling

Please comply with the Court of Appeal's ruling and oppose the current EIR for the McKinley Village Project. A full independent traffic impact study must be implemented. Our neighborhood streets are quickly becoming more jammed up with congestion and this project will cause an enormous increase of problems.

22-1

Susan McMillan
1133 33rd st
Sacto., CA 95816

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Letter 22: Susan McMillan, February 28, 2017

22-1: The comment states the City must comply with the Third District Court of Appeal decision on the *East Sacramento Partnerships for a Livable City (ESPLC) v. City of Sacramento* and prepare a new traffic analysis.

The commenter is referred to Master Response 1, which addresses this issue in detail.

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Comment Letter 23

From: Jeannie Meagher [mailto:jeanniem64@gmail.com]
Sent: Tuesday, February 28, 2017 11:25 AM
To: Dana Mahaffey <DMahaffey@cityofsacramento.org>; Jeannie Meagher <jeanniem64@gmail.com>
Subject: Laws for McKinley Village

To Dana Mahaffey,
City of Sacramento

- I express opposition to the "Revised EIR for the McKinley Village Project," noting that it does not contain a new traffic analysis, and no new mitigation that would lessen the significant traffic impacts of the project on the area neighborhoods and roadways. 23-1
Significant traffic impacts continue to be unmitigated. I, my family and my neighbors are experiencing traffic issues even now, during construction of the Village project. It impacts our every day lives. 23-2
I urge the City to comply with the decision of the Court of Appeal in the case of East Sacramento Partnerships for a Livable City (ESPLC) v. City of Sacramento, et al. by decertifying the current EIR, conducting a full, independent traffic analysis, and recirculating the EIR for additional public comment. 23-3
Failure to follow the law will lead to further unnecessary taxpayer expense, if the City must again be compelled to comply with state laws governing the environment. 23-4
Please consider these matters seriously. They effect every day the quality of our lives, living in East Sacramento, adjacent to the McKinley Housing Project, constructed by owners, who apparently do not care about quality of life in East Sacramento. 23-5

Thank you for your consideration.

Jean Amdahl Meagher
1212 41st Street
Sacramento, CA 95819

Email:
jeanniem64@gmail.com

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Letter 23: Jean Amdahl Meagher, February 28, 2017

23-1: The commenter is expressing her opposition to the Revised Draft EIR because it does not include a new traffic analysis and no new mitigation measures.

The commenter is referred to Master Response 1, which addresses the Court's decision on the *East Sacramento Partnerships for a Livable City (ESPLC) v. City of Sacramento* case in detail.

23-2: The comment notes that she is experiencing significant traffic impacts during construction of the McKinley Village Project.

The McKinley Village EIR evaluated short-term traffic impacts associated with project construction and included mitigation that required the project applicant prepare a construction traffic and parking management plan to the satisfaction of City Traffic Engineer and subject to review by all affected agencies. The plan shall ensure that acceptable operating conditions on local roadways and freeway facilities are maintained (DEIR p. 4.6-62). This is outside of the scope of what was addressed in the Revised Draft EIR, but the City has addressed this concern in Response to Comment 3-3.

23-3: The comment is requesting that the City comply with the Third District Court of Appeal decision on the *East Sacramento Partnerships for a Livable City (ESPLC) v. City of Sacramento* and decertify the EIR and prepare a new traffic analysis for public review.

The commenter is referred to Master Response 1, which addresses this issue in detail.

23-4: The comment states a concern that the failure of the City to follow the law will contribute to an increase for taxpayers.

The commenter is referred to Master Response 1, which addresses this issue in detail.

23-5: The commenter is expressing a desire that the City consider these matters because they affect the quality of life of residents that live in East Sacramento. The comment is noted and forwarded the City's decision-makers for their consideration.

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Comment Letter 24

From: nickwkastle@yahoo.com [mailto:nickwkastle@yahoo.com]
Sent: Tuesday, February 28, 2017 2:46 PM
To: Dana Mahaffey <DMahaffey@cityofsacramento.org>
Subject: McKinley Village Traffic (Revised EIR Opposition)

Dear Ms. Mahaffey,

My name is Nick Kastle and I live at 107 Tivoli Way in East Sacramento. As you know, Tivoli way is directly in front of the McKinley Village entrance. My family and I have been watching the impact of traffic as we can see it from our front porch. I have been particularly interested in how much traffic has increased and further – how much irresponsible traffic I am seeing. This is a concern to me as I have a 2yr old and a 4yr old who enjoy living so close to their friends on Tivoli and walking to their houses (with my wife and I) as well as to Compton’s market; however, with the lack of planning and what seems to be a bribed effort to pack in houses in such a small area I am growing deeply concerned about the safety of my children as well as the added congestion and carbon impact of such a poorly planned project.

As I follow this subject I am compelled to write to you directly and say that I adamantly oppose the “Revised EIR for McKinley Village” as it fails to contain any new traffic analysis. Further, I do not see that it offers any significant changes to current traffic impacts and by extension safety for my family. Further, as there is not a true solution offered to the congestion and the fact that Cst and 40th are a virtually now unsafe for my wife and I to walk across the street because of the new traffic (drivers speeding and running stop signs) I ask you comply with the decision of the Court of Appeal in the case of East Sacramento Partnerships for a Livable City (ESPLC) v. City of Sacramento, et al. by decertifying the current EIR, conducting a full, independent traffic analysis, and recirculating the EIR for additional public comment.

I implore the City of Sacramento to adhere to the request of its citizens and not ram-rod a plan through because you have been pushed by a developer. If you love the charm of East Sac then you will avoid hurting my (and others) families further and look at this responsibly as a fellow citizen.

With Respect,
Nick Kastle
107 Tivoli Way
Sacramento CA 95819

24-1
24-2
24-3

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Letter 24: Nick Kastle, February 28, 2017

24-1: The commenter is stating his opposition to the Revised Draft EIR because it fails to provide a new traffic analysis.

The commenter is referred to Master Response 1, which addresses this issue in detail.

24-2: The comment indicates the Revised Draft EIR does not address the current traffic impacts and safety in his neighborhood and is requesting the City comply with the Third District Court of Appeal decision on the *East Sacramento Partnerships for a Livable City (ESPLC) v. City of Sacramento* and decertify the EIR, prepare a new traffic study for public review.

The commenter is referred to Master Response 1, which addresses this issue in detail.

24-3: The comment notes his desire that the City listen to the requests of its citizens. The comment is noted and forwarded the City's decision-makers for their consideration.

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Comment Letter 25

From: Mary Anne [<mailto:kellygirls227@comcast.net>]
Sent: Tuesday, February 28, 2017 3:59 PM
To: Dana Mahaffey <DMahaffey@cityofsacramento.org>
Cc: (home), Mary Anne <kellygirls227@comcast.net>
Subject: Compliance with Court of Appeal ESPLC v. City of Sac

Dear Dana Mahaffey,

I am writing to express my opposition to the "Revised EIR for the McKinley Village Project." As an East Sac resident (Tivoli Way), I have already experienced significant traffic impacts with this project not even 15 percent developed. Our two block long street serves as an exit route receiving inordinate traffic for a small city street.

25-1

In addition to the current (and future) traffic impacts), The Revised EIR does not contain a new traffic analysis or any new mitigation that would lessen the significant traffic impacts of the project on the area neighborhoods and roadways.

25-2

I am urging the City to comply with the decision of the Court of Appeal in the case of East Sacramento Partnerships for a Livable City (ESPLC) v. City of Sacramento, et al. by decertifying the current EIR, conducting a full, independent traffic analysis, and recirculating the EIR for additional public comment.

25-3

This is the least you can do as you have transformed a city neighborhood into a thoroughfare.

Sincerely,
MaryAnne Kelly
227 Tivoli Way
Sac, CA 95819

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Letter 25: MaryAnne Kelly, February 28, 2017

25-1: The commenter is expressing her opposition to the Revised Draft EIR and notes she has experienced traffic impacts in her neighborhood.

The commenter's opposition to the Revised Draft EIR is noted and forwarded to the decision-makers for their consideration.

25-2: The commenter states the Revised Draft EIR does not contain a new traffic analysis or new mitigation that would address traffic in her neighborhood.

The commenter is referred to Master Response 1, which addresses the request to prepare a new traffic analysis.

25-3: The comment is requesting that the City comply with the Third District Court of Appeal decision on the *East Sacramento Partnerships for a Livable City (ESPLC) v. City of Sacramento* and decertify the EIR and prepare a new traffic analysis for public review.

The commenter is referred to Master Response 1, which addresses this issue in detail.

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Comment Letter 26

From: Wehr, Kevin [mailto:kwehr@csus.edu]
Sent: Tuesday, February 28, 2017 6:29 PM
To: Dana Mahaffey <DMahaffey@cityofsacramento.org>
Cc: Steve Hansen <SHansen@cityofsacramento.org>; Marshall School <marshall.newera@gmail.com>; Ellen Wehr <eltrescott@hotmail.com>
Subject: Comments on the revised EIR for McKinley Village

Dear Ms. Mahaffey,
I am writing today to express my concerns about, and opposition to, the Revised EIR for the McKinley Village Project. The City is under court order to decertify the current EIR and to conduct a full and independent traffic analysis. The current revision does not do this, and does not offer any new mitigation. This is a problem.

26-1

I live on C street near 21st, and there have been two mitigation projects on C street—the roundabout at 23rd and the installation of two new stop signs. I do very much appreciate these projects. And while the revision does recognize increased traffic on 28th and 29th during commute times, this is not the whole of the matter. Because of the forced turn that was installed on 28th at C street, traffic will be heavily diverted from that intersection westward onto C street as well as onto 29th. The mitigation measures that have been installed may slow traffic down, but it will not stem the tide. The only real solution is to put another entrance into the McKinley Village development at Alhambra.

26-2

I know that this will be costly for the developer, but that is not my concern. The profits of the developer cannot and should not come at the diminution of quality of life for two established neighborhoods. Do not forget that when we talk about traffic, we aren't just speaking about noise, pollution, or the annoyance of delays (though those matter, of course). C street is also the home of two parks and the Courtyard School. The prospect of increased traffic brings with it the eventuality of one of those children being struck by a vehicle while going to or from school or the parks. I think the cost of an Alhambra entrance is well worth it for the reduction of the risk of children getting hurt. In order to move towards this, the City should decertify the old EIR, undertake a full review and traffic analysis, and allow for new public comment.

26-3

I can tell you that my experience of traffic on C street as well as 28th and 29th has already become worrisome. With the construction traffic alone, the delays have caused drivers to behave both aggressively and erratically. I have witnessed a marked increase of people driving with serious road rage, such as accelerating very quickly, roaring around turns, driving over grass medians, and expressing their rage through obscene gesticulations. I have seen near accidents by the parks as children chase after an errant soccer ball. These near misses concern me greatly, and I hate to think what this will look like when we have the added impact of new residents commuting to work and school, going to the store, and otherwise going about their daily business of life.

26-4

Thank you for the opportunity to share my thoughts on this matter. Please do not hesitate to contact me for any clarifications or questions.

Best,
Kevin

Kevin Wehr
Professor of Sociology
CSU Sacramento

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Letter 26: Kevin Wehr, February 28, 2017

26-1: The comment is expressing opposition to the Revised Draft EIR and is requesting the City decertify the EIR and prepare a new traffic analysis.

The commenter is referred to Master Response 1, which addresses this issue in detail.

26-2: The comment notes the City has installed a roundabout and stop signs on 23rd Street in Midtown and notes that due to the forced turn at the 28th/C Street intersection traffic will be diverted onto C Street and 29th Street. The comment requests a third project access be provided that connects the project site to Alhambra Boulevard.

The McKinley Village Project is required to provide two points of vehicle access to ensure adequate ingress and egress is provided in the event of an emergency. The Project includes vehicle access at the A Street Bridge over Capital City Freeway in the western portion of the site and the extension of 40th Street under the UPRR embankment in the eastern portion of the site. The traffic analysis prepared for the project did not identify the need for a third point of access, nor was an impact identified that required construction of the underpass as mitigation. Please see also Response to Comment 3-6 that provides more information on the status of the underpass.

26-3: The comment is raising a safety concern due to the increase in traffic along C Street and the presence of a school and park in the vicinity. The commenter is requesting the City decertify the EIR and prepare a new traffic analysis for public review.

The commenter is referred to Master Response 1, which addresses this issue in detail.

26-4: The commenter provides an observation that traffic on C Street, 28th and 29th Streets has increased and has contributed to an increase in unsafe driving.

The commenter's observation and concern is noted and forwarded to the decision-makers for their consideration.

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Comment Letter 27

From: Mary French [<mailto:mmmfrench@comcast.net>]
Sent: Tuesday, February 28, 2017 7:29 PM
To: Dana Mahaffey <DMahaffey@cityofsacramento.org>
Subject: Fwd: McKinley Village EIR - traffic concerns

I am a resident of East Sacramento and I am writing to request that the City of Sacramento properly address the traffic problems and inadequate analysis of traffic in the EIR for McKinley Village. The traffic from McKinley Village spills out into the surrounding area and increases traffic congestion on many streets routes such as Elvas., H, J, Alhambra, etc. This issue was never adequately addressed and the City does not appear to be handling this issue in a manner compliant with the court decision. The City should be representing its residents, including those of us who live and work in the area, and not simply working on behalf of the developer. The lack of substantial evidence in the report cannot be remedied without a traffic study.

27-1

This matter should not be rushed through without adequate analysis. Issuing a revised draft EIR at this juncture is premature as the Superior Court has not yet issued its order. I urge the City to comply with the decision of the Court of Appeal in the case of *East Sacramento Partnerships for a Livable City (ESPLC) v. City of Sacramento, et al.* by decertifying the current EIR, conducting a full, independent traffic analysis, and recirculating the EIR for additional public comment.

27-2

Sincerely,

Mary French
Sacramento

Mary French
mmmfrench@comcast.net

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Letter 27: Mary French, February 28, 2017

27-1: The commenter is requesting the City address traffic concerns on Elvas, H Street, and Alhambra Boulevard in compliance with the decision in the Third District Court of Appeal decision on the *East Sacramento Partnerships for a Livable City (ESPLC) v. City of Sacramento*.

The commenter is referred to Master Response 1, which addresses this issue.

27-2: The commenter is urging the City to comply with the Third District Court of Appeal decision on the *East Sacramento Partnerships for a Livable City (ESPLC) v. City of Sacramento* case and decertify the McKinley Village EIR and prepare a new traffic analysis for public review.

The commenter is referred to Master Response 1, which addresses this issue in detail.

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Comment Letter 28

From: Kathleen Marshll [<mailto:kathymarshall19@yahoo.com>]
Sent: Tuesday, February 28, 2017 10:42 PM
To: Mayor Steinberg <MayorSteinberg@cityofsacramento.org>
Cc: Jeff S. Harris <JSHarris@cityofsacramento.org>; Dana Mahaffey <DMahaffey@cityofsacramento.org>
Subject: State Supreme Court ruling on McKinley Village EIR and traffic study

Dear Mayor Steinberg,

As an east Sacramento home owner and proud community member I am deeply disturbed by the handling of the McKinley Village traffic study.

Please help ensure the city honors the state Supreme Court ruling and require a new EIR and traffic study that accurately reflects the environmental and traffic impact of McKinley village.

Thank you for your time and consideration,
Kathleen Marshall, MD

28-1

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Letter 28: Kathleen Marshall, MD, February 28, 2017

28-1: The commenter is requesting the City comply with the Third District Court of Appeal decision on the *East Sacramento Partnerships for a Livable City (ESPLC) v. City of Sacramento* case and decertify the McKinley Village EIR and prepare a new traffic analysis.

The commenter is referred to Master Response 1, which addresses this issue in detail.

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Comment Letter 29

From: wgreen@surewest.net
Date: 3/1/17 5:39 PM (GMT-08:00)
To: Dana Mahaffey <DMahaffey@cityofsacramento.org>
Subject: McKinley Village and the EIR process

Dear Mr. Mahaffey,

I am writing to express my concerns and deep disappointment at the City's handling of the whole McKinley Village subdivision. Beginning with the original City's EIR and traffic study on the project. We now understand that the original EIR was incomplete as concluded by the decisions of both the State Court of Appeals and the State Supreme Court nullifying the EIR and traffic study.

|
| 29-1
|

I am also writing to ask you to personally ensure that the city honors those two court decisions and require a new EIR and traffic study that accurately describe McKinley Village's adverse environmental and neighborhood traffic impacts which requires further amelioration. East Sacramento and future neighborhoods deserve good EIRs which are in compliance with CQEA guidelines.

|
| 29-2
|

Respectfully, Will Green

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Letter 29: Will Green, March 1, 2017

29-1: The commenter is stating a concern regarding how the City evaluated the McKinley Village traffic analysis and indicates that the EIR was found to be incomplete by the Third District Court of Appeal.

The commenter is referred to Master Response 1, which addresses this issue in detail.

29-2: The commenter is requesting the City comply with the Third District Court of Appeal decision on the *East Sacramento Partnerships for a Livable City (ESPLC) v. City of Sacramento* and prepare a new traffic study.

The commenter is referred to Master Response 1, which addresses this issue in detail.

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Comment Letter 30

From: Georgia Business <gfoxwatters@att.net>
Date: 3/1/17 8:50 PM (GMT-08:00)
To: Dana Mahaffey <DMahaffey@cityofsacramento.org>
Subject: McKinley Village and Revised EIR

Dear Ms. Haffey

My husband and I are property owners in East Sacramento and have lived in this area since the 80's. We understand the need for more housing and infill within the city. So, we are NOT against thoughtful development. However, the McKinley Village Development was pushed through without thoughtful and fair planning. This statement has been validated by the courts - mandating that the City of Sacramento decertify the EIR and correct the deficiencies.

30-1

We are opposed to the "Revised EIR for the McKinley Village Project," as it does not contain a new traffic analysis. It also circumvents the process and the law.

30-2

We both encourage the City to follow the direction from the courts. And, to comply with the decision of the Court of Appeal in the case of *East Sacramento Partnerships for a Livable City (ESPLC) v. City of Sacramento, et al.* by decertifying the current EIR, conducting a full, independent traffic analysis, and recirculating the EIR for additional public comment.

30-3

Thank you,
Walter Watters
Georgia FoxWatters
365 34th Street
Sacramento CA 95816

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Letter 30: Walter and Georgia Fox Watters, March 1, 2017

30-1: The commenter notes she is supportive of thoughtful development, but believes the McKinley Project was “pushed through” and not thoughtfully planned. She also notes the Courts have mandated the City decertify the EIR and correct its deficiencies.

The commenter is referred to Master Response 1, which addresses this issue in detail.

30-2: The commenter is stating opposition to the Revised Draft EIR because it does not contain a new traffic analysis. The comment also states the City did not comply with the law. The commenter’s opposition to the Revised Draft EIR is noted.

The commenter is also referred to Master Response 1, which addresses this issue in detail.

30-3: The comment encourages the City to follow with the Third District Court of Appeal decision on the *East Sacramento Partnerships for a Livable City (ESPLC) v. City of Sacramento* case and decertify the McKinley Village EIR and prepare a new traffic analysis for public review.

The commenter is referred to Master Response 1, which addresses this issue in detail.

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Comment Letter 31

March 1, 2017

Dana Mahaffey, Associate Planner
City of Sacramento, Community Development Department
Environmental Planning Services
300 Richards Boulevard, Third Floor
Sacramento, CA 95811

VIA U.S. MAIL and VIA EMAIL: dmahaffey@cityofsacramento.org

Dear Ms. Mahaffey:

I am an I Street resident in Midtown Sacramento and urge the City to comply with the Court's ruling in *East Sacramento Partnerships for a Livable City v. City of Sacramento, et al.*, by decertifying the current EIR, conducting a full and independent traffic analysis and recirculating the EIR for additional public comment. In addition, I am opposed to the Revised EIR for the McKinley Village Project because it does not contain a new traffic analysis, and there is no mitigation for the impact of traffic from McKinley Village on the surrounding neighborhoods and roadways. The City has essentially ignored the Court's ruling and abandoned its duty to see that the impact of traffic from the McKinley Village does not unfairly burden the current residents.

31-1

Recently, I notified the City about an increased difficulty exiting my driveway during commute hours. In October 2016, the City conducted a traffic study on I Street that showed 4,500 cars pass my home each weekday. The survey occurred on a non-event day at the new Golden One arena so the impact of traffic from that development was not considered. Surprisingly, I learned that there were no current traffic counts for the other Midtown Streets (A to H Streets) from which to compare the volume of traffic (4,500 daily cars) on my street with the other streets. This also means that there are no current traffic counts and studies on the other streets to compare what might happen when McKinley Village is fully completed. The City acknowledged that 4,500 cars is a significant number of cars for a residential street, and that it had insufficient information to determine if I Street was unfairly impacted by traffic compared to other streets, yet it still inexplicably takes the position that McKinley Village traffic will not impact the already overburdened traffic on I Street. There is no current data to support the City's conclusion, and it must be required to fairly evaluate the traffic impact from McKinley Village.

31-2

In addition, I Street is the only street now in the Midtown area between A and J Streets without a City imposed street closure, and I Street has the only unencumbered direct path from McKinley Village to downtown, the Golden One arena, Interstate 5 and Amtrak. Yet, without supporting evidence, the City asserts that I Street is too far from McKinley Village to be impacted by traffic even though it is highly likely that the residents of McKinley Village will seek the most direct and least restrictive route to downtown, which is I Street. The City has turned its back on mitigating traffic fairly and responsibly for all its residents, and must be required to develop current, reliable traffic information so that informed decisions can be made about how best to compare, evaluate, and mitigate traffic in Midtown from the massive increase in traffic related to the McKinley Village project.

31-3

Please decertify the current EIR and require the City to comply with the Court of Appeal decision by conducting a full and independent traffic analysis and then recirculating the EIR for additional public comment. Also, please reject the Revised EIR for the McKinley Village Project because it does not offer any mitigation or current traffic information to make any type of informed decision about the impacts of the project. Any less than decertifying the current EIR and rejecting the Revised EIR for the McKinley Village Project and the City will have ignored the Court, and ignored its responsibility to develop responsible and current information about traffic from a development that will have a direct and major impact on its current residents.

31-4

Thank you for considering my comments.

Sincerely,



Richard Clark
2619 I Street
Sacramento, CA 95816
RMC100@outlook.com

Letter 31: Richard Clark, March 1, 2017

31-1: The commenter is urging the City comply with the Third District Court of Appeal decision on the *East Sacramento Partnerships for a Livable City (ESPLC) v. City of Sacramento* and decertify the McKinley Village EIR and prepare a new traffic analysis for public review. The comment goes on to note opposition to the Revised Draft EIR because it does not contain a new traffic analysis or mitigation and believes the City has ignored direction provided by the Courts.

The commenter is referred to Master Response 1, which addresses this issue in detail.

31-2: The comment is addressing a traffic study that was conducted for I Street in Midtown and states the City has concluded Project traffic will not adversely impact I Street.

The analysis of I Street is outside of the scope of the Revised Draft EIR and the McKinley Village EIR traffic analysis fully accounts for the effect vehicles will have on Midtown streets and intersections consistent with the requirements of the City of Sacramento and CEQA. The commenter is referred to Master Response 1, which addresses why a new traffic study is not required.

31-3: The commenter states I Street will receive Project traffic because it provides the most direct access to downtown and this was not analyzed.

The analysis of I Street is outside of the scope of the Revised Draft EIR and the McKinley Village EIR traffic analysis fully accounts for the effect vehicles will have on Midtown streets and intersections consistent with the requirements of the City of Sacramento and CEQA. The commenter is referred to Master Response 1, which addresses why a new traffic study is not required.

31-4: The commenter is requesting the City comply with the Third District Court of Appeal decision on the *East Sacramento Partnerships for a Livable City (ESPLC) v. City of Sacramento* case and decertify the McKinley Village EIR and prepare a new traffic analysis for public review.

The commenter is referred to Master Response 1, which addresses this issue in detail.

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Comment Letter 32

DATE: March 2, 2017

TO: Dana Mahaffey, Associate Planner
 City of Sacramento
dmahaffey@cityofsacramento.org

CC: Hon. Darrell Steinberg, Mayor MayorSteinberg@cityofsacramento.org
 Jeff Harris, City Councilperson jcwest@cityofsacramento.org
 Steve Hansen, City Councilperson shansen@cityofsacramento.org
 915 I Street, 5th Floor, Sacramento, CA 95814

FROM: C Street and Alhambra Residents signed below (w/ 50 people)
 c/o Carl Seymour, cseymour@surewest.net
 3116 C Street, Sacramento, CA. 95816

SUB: COMMENTS ON RDEIR MCKINLEY VILLAGE

As Sacramento successfully transitions from a sleepy government town into a vibrant city we have much to be thankful for. We attract young families to our excellent schools. Our restaurant scene is thriving with farm-to-fork kitchens. Taxpayers have invested in a world-class arena and we are tackling challenges such as investing in shelters for the homeless. But the dark shadow of our maturation is the threat that increasing traffic poses to our neighborhoods. At the end of the day, it is our tree-lined, pedestrian-friendly neighborhoods that make Sacramento a cherished place for families to live and work.

We are writing because we have serious concerns with the City's plans to route additional traffic and remove speed and safety barriers in our neighborhood. Attached please find the specific proposals that we find objectionable and where we believe that the City's traffic mitigation plans are in violation of the City's General Plan or other policies and commitments. Our concern is that, if acted upon, these plans would threaten the livability of our neighborhood. We love Sacramento and we envision our neighborhood as a place where young and old can walk, bike, and play without the threat of increased, dangerous, high-speed traffic.

Particularly for those of us with children or elderly, the traffic in our neighborhood borders on extreme. For the City to push more cars travelling at higher speeds on our streets is unacceptable. Our neighborhood is already choking in traffic, and we need a little breathing room. That's why we respectfully request that no removal of current traffic mitigation devices be implemented; rather, we need additional protections from the additional traffic. Proposing to remove a variety of calming and public safety measures installed under a previous NMTP is a slap in the face to our families who use these streets and sidewalks to walk and bike to work, McKinley Park, errands, and church, and park in front of our own homes. It would appear to violate the law, and certainly violates our understanding of a trust with the City.

In more detail, our concerns on the RDEIR include but are not limited to:

32-1

C STREET/ALHAMBRA BOULEVARD RESIDENTS' COMMENTS ON MCKINLEY VILLAGE RDEIR

- 1) Modifications proposed for the intersection of Alhambra and McKinley Boulevard/E Street and Alhambra Boulevard conflict with the City's General Plan, reduce pedestrian safety, and are contrary to encouragement of non-vehicular transportation use.

The 2035 General Plan Applies. The transportation analysis in the DEIR and the RDEIR appears to rely on a threshold of significance for transportation impacts derived from the City's 2030 General Plan of intersection LOS D or better outside of the Core Area (LOS E or F are acceptable inside the Core Area when combined with multi-modal improvements). The City's 2035 General Plan, adopted in March 2015, changed the definition of the Core Area to include Alhambra Blvd. The City's currently adopted 2035 General Plan, in effect at the time the RDEIR was prepared, is the governing policy document that now applies to the project. Specifically, applying the current (2035) General Plan's definition of the Core Area results in a different impact conclusion for the intersection of E Street/McKinley Blvd and Alhambra Blvd (less than significant), where the impact was significant under the old (2030) General Plan, as noted on page A-12 of the RDEIR. Because LOS F is acceptable at the intersection of Alhambra and McKinley Blvd under the current (2035) General Plan, Mitigation Measure (MM) 4.9-6(b) is not needed. In fact, MM 4.9-6(b), is in direct conflict with General Plan Policy M.1.2.2 because the mitigation measure proposes to remove a pedestrian safety/traffic calming feature directly across the street from McKinley Park (i.e., the bulb out on the southbound Alhambra approach) to add roadway capacity in order to prioritize vehicular throughput at the expense of pedestrian safety.

This is a busy pedestrian crossing used by many children trying to access the park, the library, the public pool, athletic fields and facilities, or for walking to one of the many neighborhood schools. In addition, numerous adults walk to use these same amenities, as well as exercising on the park's busy jogging trail. Removing pedestrian safety features, rather than adding them, is in direct conflict with the City's adopted policy, with State policy put forth in Senate Bill 743 (Steinberg, 2013), and with our neighborhood's community values. MM 4.9-6(b) is not needed, and creates a conflict with the City's governing transportation policy; a potentially significant impact¹ that was not addressed in the DEIR, FEIR, or RDEIR.

In addition, there are currently dedicated class 2 bike lanes on the northbound and southbound approaches of Alhambra Blvd to McKinley Blvd. The Alhambra Blvd connection to C Street is a designated bike route. The RDEIR does not specify what would happen to these class 2 bike lanes with implementation of MM 4.9-6(b). Regardless of whether the class 2 bike lanes would be removed, converted to class 3, or restriped, MM 4.9-6(b) is not necessary. Eliminating MM 4.9-6(b) would avoid the new bike/vehicle conflict points that arise from adding dedicated right turn lanes in this location, and also avoids the potentially significant new safety impact associated with the right turn lanes called for in MM 4.9-6(b) that was not evaluated in the DEIR, FEIR, or in the RDEIR.

Per General Plan Policy M.1.2.2, the City should prioritize moving bicycles and pedestrians through intersections safely and efficiently in the Core Area, including those affected intersections along

¹ CEQA Appendix G Checklist. X. LAND USE AND PLANNING Would the project (b) Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect?

32-2

32-3

32-4

C STREET/ALHAMBRA BOULEVARD RESIDENTS' COMMENTS ON MCKINLEY VILLAGE RDEIR

Alhambra Blvd. The City should not knowingly implement unnecessary measures (MM 4.9-6(b)) that reduce the safety of bicyclists and pedestrians at these intersections.

32-4
Cont.

2) Modifications proposed to the intersection of Alhambra and McKinley/E, and Alhambra Boulevard, serve to route traffic off of a designated collector and onto designated local residential streets, which conflicts with the City's General Plan (M4A – Citywide Circulation Diagram; and Policy M 4.4.1).

The City's General Plan designates E Street/McKinley Boulevard, *in its entirety* from Seventh Street to its east terminus at Elvas Avenue, as a Collector. Most of it is designated Minor Collector, but some is designated Major Collector. This Minor/Major Collector makes logical connections to other Major Collectors and Arterials at numerous points throughout its course. It is also the first street, coming from the north in the subject area, that passes underneath Business 80. Further, it connects directly to the east/north bound on-ramp, and west/south bound off ramp, of Business 80. In its role, it is functioning logically and per provisions of the General Plan.

32-5

Whereas, per M4A, Alhambra Boulevard north of McKinley/E is designated Local Residential, as are the 3000-3200 blocks of C Street. In addition, C Street is significantly narrower than McKinley Boulevard – it was not designed to carry traffic in the way that McKinley is.

Modifications should not be made in such a way as to conflict with the General Plan by routing traffic off of designated Collectors onto Local Residential Streets. Yet the RDEIR proposes to remove bulb outs, install turn lanes, restripe, remove parking, and retime signals in such a way to do specifically that. These proposed changes conflict with the General Plan and the City's stated policies.

Removing parking during rush hours essentially turns Alhambra Boulevard into a morning and evening race track, unsafe for bicycles and pedestrians, and impacting residents and businesses in the area. This resembles the former model for Midtown, which proved to be disastrous and had to be redone at great expense.

32-6

The net effect of the proposed modifications is to encourage traffic to use northbound Alhambra from E/McKinley, and C Street, as commuter routes, rather than staying on the designated Collector, McKinley Boulevard.

32-7

The street lay-out of this area dates from nearly pre-automobile times, and the designer never envisioned, and obviously could not have planned for, thousands of vehicles weighing thousands of pounds each rushing through each day. It is important that the residential viability of these historic neighborhoods be protected, rather than sacrificed to the convenience of a high volume of speeding cars, trucks, and buses. Areas affected by traffic from McKinley Village include neighborhoods from the late 1800's through the 1940's. These are the core of Sacramento's heritage and cannot be replaced.

32-8

C STREET/ALHAMBRA BOULEVARD RESIDENTS' COMMENTS ON MCKINLEY VILLAGE RDEIR

- 3) Modifications proposed to the intersection of Alhambra and McKinley/E, and Alhambra Boulevard conflict with the City's NMTP and its stated objectives, under which a number of the features proposed for removal were installed,
and
 4) The proposed modifications conflict with mitigation developed and approved as part of allowing previous development in the neighborhood.

As of 1988, the City of Sacramento's General Plan included

- Goal C: "Create and maintain a street system which **protects residential neighborhoods from unnecessary levels of traffic**", and
- Policy 1: "Continue wherever possible to design streets and to approve development applications in such a manner as to eliminate high traffic flows and parking problems within neighborhoods".

Somewhere over the years, this has been transmogrified into essentially "let traffic get as bad as it can get" ("LOS F is acceptable").

As traffic on McKinley, Alhambra Boulevard, C, and related streets grew dramatically over the years, the City and neighborhood taxpayers felt it necessary to study the area specifically, and the broader area in general, and mitigate speeding, volume and other impacts of traffic because of its deleterious effects on safety, health, and residential viability.

As far back as 1989, the resident taxpayers and their City representatives were concerned enough to commission an extensive study by the consulting firm Deakin, Harvey, Skabardonis, published in March 1991, entitled Draft Report, Neighborhood preservation Transportation Plans for East Sacramento and Midtown, which found abundant and serious problems related to traffic, including safety, and viability of specified areas as residential, noting "If traffic increases are not minimized or directed away from residential streets, abutting properties could suffer harmful decreases in livability and amenity. ... That traffic can detract from and even destroy the amenity of residential neighborhoods has been documented in numerous studies in the U.S. and abroad".

This area has felt the impact of significant development over the past few decades: the formerly abandoned Aerojet/cannery buildings became a busy business park, which subsequently expanded, and now includes a multitude of State offices and busy medical facilities. As each of these projects was approved, mitigation was added, not removed, even when EIRs resulted in negative declarations. Still, the cumulative result of a series of negative declarations is that residents are expected to accept that 9+9=9. (Still in the works are considerations for use of the former MaryAnne's Bakery site on Alhambra between C and D; proposals previously floated would have involved significant numbers of vehicular trips.)

In 2000, a comprehensive McKinley Park Traffic Calming Study, involving numerous residents, was conducted under the City's guidance and authority. Mitigation recommendations arising from the study were subjected to a vote of taxpayer residents in the affected areas, which approved it. Adoption of the recommendations was then formally approved by the City Council at their January 30, 2001 meeting. In

C STREET/ALHAMBRA BOULEVARD RESIDENTS' COMMENTS ON MCKINLEY VILLAGE RDEIR

2008, additional mitigation was approved for the area in response to the C Street Business Park expansion.

The approved mitigation measures include some of the very features that City now proposes to remove. How is it that for previous developments, mitigation was added, yet for the current development – possibly the largest yet – **instead of adding traffic mitigation the City is removing it?** This certainly breaks any bond of trust possible between the residents and the City.

32-9

At the same time that removing traffic mitigation is proposed for this area, traffic diverting mitigation has already been installed for 28th and C. As if to add insult to injury, the underpass to McKinley Village includes electronic speed monitoring signs and rumble strips, presumably to protect the concrete and steel underpass from harm. What about protecting our residents and their children?

32-10

The City's NTMP states as a guiding principle that traffic will not be shifted from one street at the expense of another. However, the proposed modifications, which will encourage and facilitate the movement of traffic off of E/McKinley onto Alhambra and thus C, do just that.

32-11

5) The RDEIR still fails to present substantial evidence that transportation impacts would be reduced to less-than-significant levels.

The sole reason the City prepared and recirculated the RDEIR was the decision from the Third District Court of Appeals in *East Sacramento Partnership for a Livable City v. City of Sacramento*, point (4) whereby the City failed to present substantial evidence that traffic impacts at intersections operating at LOS F pursuant to General Plan Policy M.1.2.2 were less than significant. In other words, what evidence was entered into the record to support the conclusions that impacts to LOS F intersections on 28th Street were less than significant, while impacts to LOS F intersections just a few blocks away in East Sacramento were significant? The City has still not fully addressed the Court's request for this correction in the RDEIR. The Court noted that "Compliance with a General Plan policy does not conclusively establish that there is no significant environmental effect." It is the City's duty to present substantial evidence that compliance with General Plan Policy M.1.2.2 would result in a less-than-significant environmental impact in the Core Area, but would result in significant impacts on similarly situated streets just a few blocks away in East Sacramento.

32-12

6) Other concerns (a partial list only):

- The traffic analyses conducted neither determine nor consider a threshold of acceptable and healthy levels of noise, pollution from tailpipe emissions, brake dust, or other hazards and nuisances generated by traffic. To conclude that repeated increments do not sum to a total is nonsensical, and done at the expense of taxpayer residents and children - their health, safety, use of their homes and neighborhood, and their property values. Sacramento needs to be addressing this in 'world class city' manner, as other cities have successfully done, rather than taking a 'minimum required by law' approach.
- The RDEIR does not contain a new traffic analysis, or new mitigation that would protect historic neighborhoods.

32-13
32-14

C STREET/ALHAMBRA BOULEVARD RESIDENTS' COMMENTS ON MCKINLEY VILLAGE RDEIR

- The DEIR, EIR, and RDEIR fail to address truck and bus traffic using local residential streets instead of readily accessible designated minor collectors, major collectors, and arterials.
- The current process does not optimally comply with the Court of Appeal decision by decertifying the current EIR, and circulating a new EIR for additional public comment. In fact it appears to attempt to bypass requirements elements of Court of Appeal and State Supreme Court decisions, by rushing through an RDEIR while developers attempted to block publication of the Court of Appeal's decision.
- Significant existing traffic impacts continue to be insufficiently mitigated. Due to traffic, our neighborhood experiences loss of use of front yards, serious concerns for the safety of children, pets killed when they stray for just minutes, interior and backyard noise interfering with enjoyment of our homes, frequent minor collisions and damage to parked vehicles, and a host of other unacceptable consequences. The City has strayed far indeed from their 1988 General Plan goals to protect neighborhoods from problems caused by traffic.

At a minimum, the City needs to:


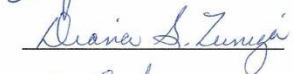

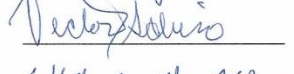


- Not remove existing traffic mitigations, or otherwise modify streets in such a way as to facilitate traffic movement rather than protect pedestrians, bicyclists, children and adult residents, residential viability, and property values.
- Conduct a proper analysis and impact study that addresses the issues enumerated in this letter, as well as relevant others that may surface during the analysis.
- Add sufficient traffic mitigation to ensure the preservation of the neighborhood and safety of its residents.

SIGNATURES

SIGNATURE:

PRINTED NAME

ADDRESS

	ROBERT P. ZUBIGA	3106 C ST.
	Diana S. Zubiga	3106 C ST
	Carl Seymour	3116 C St.
	Victor J. Serrano	3101 C St
	Stephen Matthew Helms	3100 C St,
	Rosy Shah	826 - 43rdst

C STREET/ALHAMBRA BOULEVARD RESIDENTS' COMMENTS ON MCKINLEY VILLAGE RDEIR

- The DEIR, EIR, and RDEIR fail to address truck and bus traffic using local residential streets instead of readily accessible designated minor collectors, major collectors, and arterials.
- The current process does not optimally comply with the Court of Appeal decision by decertifying the current EIR, and circulating a new EIR for additional public comment. In fact it appears to attempt to bypass requirements elements of Court of Appeal and State Supreme Court decisions, by rushing through an RDEIR while developers attempted to block publication of the Court of Appeal's decision.
- Significant existing traffic impacts continue to be insufficiently mitigated. Due to traffic, our neighborhood experiences loss of use of front yards, serious concerns for the safety of children, pets killed when they stray for just minutes, interior and backyard noise interfering with enjoyment of our homes, frequent minor collisions and damage to parked vehicles, and a host of other unacceptable consequences. The City has strayed far indeed from their 1988 General Plan goals to protect neighborhoods from problems caused by traffic.


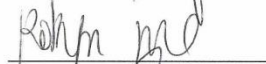

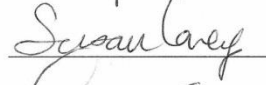



32-15
32-16
32-17

At a minimum, the City needs to:







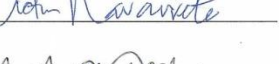







- A) Not remove existing traffic mitigations, or otherwise modify streets in such a way as to facilitate traffic movement rather than protect pedestrians, bicyclists, children and adult residents, residential viability, and property values.
- B) Conduct a proper analysis and impact study that addresses the issues enumerated in this letter, as well as relevant others that may surface during the analysis.
- C) Add sufficient traffic mitigation to ensure the preservation of the neighborhood and safety of its residents.

32-18
32-19
32-20

SIGNATURES

SIGNATURE:	PRINTED NAME	ADDRESS
	Karina Martinez	3443 C St
	Robyn Boncl	3175 C Street
	Alexa Garza	3181 C Street
	SUSAN COVEY	3189 C St
	DWAYNE COVEY	3189 C St
	Stecie Tabarez	3219 C St
	F. FLAMERTY	3219 C St

Page 6 of 7
7 11

SIGNATURE	PRINTED NAME	ADDRESS
	Beyanna Garcia	3109 C St
	Aaron Czyzewski	3109 C St
	Christina Statescu	3117 C street.
	ALARIC COLE	3117 C St
	SELENA NAVARRETE	3140 C ST.
	Victor Navarrete	3140 C street
	BUNARRETE	3140 C St
	BEN GOLDHAMMER	3132 C ST.
	LAURA GOLDHAMMER	3132 C St.
	Brian Nagy	3131 C St.
	Jessice Nagy	3131 C St.
	Alex Calvario	3137 C St.
	Jose Hernandez	3170-C-ST
	Steve Swindel	3176 C St

-8-11

SIGNATURE	PRINTED NAME	ADDRESS
	Jenny E. Nansen	3280 C St
	Theresa R. O'Neil	474 FRESA 3270 Cj
	Leslie Bossem	3248 C St
	Alberto Cano	3232 C St
	Whitney Dufresne	3224 C St.
	Ben Dufresne	3224 C St
	JOHNSON	3216 C St
	GARY VEFFREDO	3158 C
	MORIQUEA CORNEJO	411 Alhambra Blvd
	PRISCILLA ESTRADA	209 Alhambra Blvd
	EULOGIO CASTRO	411 Alhambra Blvd
	Julie Rodriguez	3135-D ST.
	Juanita Rodriguez	3135 D St.
	Lindley Pilgrim	400 Alhambra Blvd
	Larry Pilgrim	400 Alhambra Blvd

9 of 11

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Letter 32: C Street and Alhambra Residents, March 2, 2017

32-1: The comment is requesting that the City not remove any existing traffic calming measures installed as part of the City's Neighborhood Preservation and Transportation Plan.

The commenter is referred to Responses to Comments 32-2 through 32-3.

32-2: The commenter states the Revised Draft EIR should have evaluated impacts under the City's current 2035 General Plan because it would not require Mitigation Measure 4.9-6(b) identified in the McKinley Village EIR be implemented.

The commenter accurately identifies that the thresholds of significance used in the Revised Draft EIR and the McKinley Village EIR rely upon thresholds from the City's 2030 General Plan, and that subsequent to the certification of the EIR, the City Council adopted the 2035 General Plan in March, 2015. The 2035 General Plan maintained Policy M 1.2.2 that identifies variable LOS thresholds for the City, but adjusted the boundary of the "Core Area" where LOS E and F are allowed during peak hours from 30th Street one block eastward to Alhambra Boulevard. Because of this modification, the commenter asserts that Mitigation Measure 4.9-6(b) for the E Street/Alhambra Boulevard intersection is no longer needed since LOS F conditions are now allowed at this location.

Please refer to Response to Comment 4-25 for a discussion of the City's discretion to select a threshold.

The McKinley Village EIR identified a potentially significant impact to the E Street/Alhambra Boulevard intersection under Cumulative Plus Project conditions since the "proposed project would exacerbate LOS F conditions...by more than 5 seconds during the AM and PM peak hours" (DEIR, 4.9-89). The 2030 General Plan significance thresholds, which were part of the existing policy environment at the time the EIR was prepared, were used as the basis for the thresholds in the EIR. The thresholds identified in 2030 General Plan Policy M 1.2.2 do not permit LOS E or F conditions at the E Street/Alhambra Boulevard intersection since it is outside of the Core Area and not within a multimodal district. Therefore, Mitigation Measure 4.9-6(b) was identified to reduce the impact to less than significant. Mitigation Measure 4.9-6 states:

The project applicant shall contribute its fair share to the City of Sacramento Traffic Operations Center to monitor and re-time the E

Street/Alhambra Boulevard traffic signal to optimize flow, and to implement the following improvements:

- Remove the bulb-out on the southbound approach to the E Street/Alhambra Boulevard intersection and prohibit on-street parking on the west side of Alhambra Boulevard during peak periods (7–9 AM and 4–6 PM) to allow for the installation of a dedicated southbound right-turn lane.
- Restripe the northbound approach to the E Street/Alhambra Boulevard intersection to include a northbound dedicated right-turn lane.

Given that the impact occurs under cumulative conditions and that the recently updated 2035 General Plan Policy M 1.2.2 now allows LOS F at this location, this mitigation measure has not yet been implemented, and may be implemented in the future at the discretion of the City. The comment is noted and forwarded to the decision-makers for their consideration.

The commenter is also referred to Response to Comment 4-4.

32-3: The comment notes existing class 2 bike lanes on the northbound and southbound approaches of Alhambra Boulevard to McKinley Boulevard and the Revised Draft EIR does not specify what would happen to these bike lanes if Mitigation Measure 4.9-6(b) is implemented. The comment reiterates support for eliminating this mitigation measure.

The commenter is referred to Response to Comment 32-2 which notes that this mitigation measure has not yet been implemented, and may be implemented in the future at the discretion of the City.

Additionally, the McKinley Village EIR analysis accounted for the existing Class II on-street bicycle facility on Alhambra Boulevard (DEIR, p. 4.9-17) and evaluated whether the Project would “adversely affect existing or planned bicycle facilities” as part of the impact significance criteria outlined on page 4.9-46. The City’s Bicycle Master Plan identifies existing and future bicycle routes, lanes, and paths at a segment level. Implementation of Mitigation Measure 4.9-6(b) would maintain a Class II on-street bikeway on Alhambra Boulevard north and south of E Street/McKinley Boulevard, though bicycle treatments through intersections vary depending upon context. The final design of the improvements identified in Mitigation Measure 4.9-6(b) would be completed in the future at the discretion of the City, and would include consideration of

appropriate bicycle treatments for approaches to the E Street/Alhambra Boulevard, including but not limited to pavement markings and signage per City standards and subject to the approval of the City's Traffic Engineer.

- 32-4: The comment states the City needs to prioritize safe access for pedestrians and bicyclists through the core area of the City and should not implement mitigation measures that would reduce the safety of pedestrians and bicyclists.

The commenter is referred to Response to Comment 32-2.

- 32-5: The comment requests that modifications to City streets should not be implemented if they conflict with the General Plan. Specifically the comment notes removal of bulb outs, installation of turn lanes, restriping, removing parking, and retiming traffic signals.

The commenter is referred to Response to Comment 32-2 which notes that this mitigation measure has not yet been implemented, and may be implemented in the future at the discretion of the City.

Additionally, contrary to the commenter's assertion, the provision of northbound and southbound right-turn pockets at the E Street/Alhambra Boulevard intersection as part of Mitigation Measure 4.9-6(b) would facilitate the flow of traffic onto the E Street/McKinley Boulevard collector roadway by facilitating the northbound-to-eastbound and southbound-to-westbound movements, and not onto roadways classified as local. Further, the traffic signal timing adjustments identified as part of the mitigation measure would optimize flow based upon travel demand, and would not be designed to direct traffic "off of designated Collectors onto Local Residential Streets" as asserted by the commenter.

- 32-6: The comment states that removing on-street parking along Alhambra Boulevard during rush hour will encourage cars to speed and make it unsafe for pedestrians and bicyclists.

No evidence is provided in the comment to support the assertion that the implementation of Mitigation Measure 4.9-6(b) would increase vehicle speeds along Alhambra Boulevard resulting in unsafe conditions for bicyclists and pedestrians, nor is evidence provided that the mitigation measure would negatively impact nearby businesses.

The commenter is referred to Response to Comment 32-2 which notes that this mitigation measure has not yet been implemented, and may be implemented in the future at the discretion of the City.

Mitigation Measure 4.9-6(b) contained in the McKinley Village EIR would affect peak hour parking on Alhambra Boulevard adjacent to the E Street/McKinley Boulevard intersection. The project applicant would be required to contribute a fair share towards the modification of the Alhambra Boulevard approaches to this intersection. This improvement would result in the prohibition of on-street parking on the northbound and southbound Alhambra Boulevard approaches to E Street/McKinley Boulevard during peak periods (7–9 AM and 4–6 PM) and the removal of a bulb-out on the southbound approach to the E Street/Alhambra Boulevard to allow for dedicated right-turn lanes (DEIR, p. 4.9-90-91). This measure would assist in improving traffic flow through the Alhambra Boulevard/E Street intersection.

The bulb-out that would be removed as part of this mitigation measure is approximately three feet wide and one car length long, and is located in the parking lane between the curb/gutter and the on-street bicycle lane. Per City standards, the bicycle lane is dashed approaching the E Street/Alhambra intersection to allow right-turning drivers to encroach into the bicycle lane, which reduces the potential for right-hook collisions involving bicyclists. Given that drivers can legally encroach into this space, the removal of the bulb-out would not substantially increase the crossing distance of the intersection for pedestrians. With implementation of this mitigation measure, on-street parking would be allowed at this location during off-peak hours (all times outside of 7–9 AM and 4–6 PM), which would serve as an additional buffer between pedestrians and vehicles.

- 32-7: The comment states that implementing the required mitigation measure would encourage traffic to use northbound Alhambra Boulevard versus staying on McKinley Boulevard.

The commenter is referred to Response to Comment 32-5 that addresses this concern.

- 32-8: The comment provides a general observation that the streets in this area were not designed to serve large volumes of traffic and request that the residential viability of these neighborhoods be protected.

The commenter's concern is noted and forwarded to the decision-makers for their consideration.

- 32-9: The comment is referencing mitigation that was approved as part of the C Street Business Park expansion that the City is now proposing to remove.

This comment is outside of the scope of the Revised Draft EIR and not relevant to this Project. Therefore, no response is required.

32-10: The comment notes that traffic diverting mitigation has been installed at 28th/C Streets and the 40th Street entrance into the project site includes speed monitoring and rumble strips. The commenter is concerned that not enough is being done to protect residents from an increase in traffic.

The commenter's concern is noted and forwarded to the decision-makers for their consideration.

32-11: The comment refers to the City's Neighborhood Preservation and Transportation Plan and states the Project's proposed modifications will shift traffic from McKinley Boulevard to Alhambra Boulevard and C Street.

The commenter is referred to Response to Comment 32-2.

32-12: The comment states the Revised Draft EIR did not provide the required substantial evidence to support the City's finding that LOS E and F within the Core Area would result in a less-than-significant impact.

The commenter is referred to Response to Comment 4-3 and Master Response 2 that addresses the issue of substantial evidence to use the City's General Plan mobility policy as a significance threshold.

32-13: The comment states the traffic analysis did not evaluate "healthy" levels of noise, pollution, brake dust and other hazards associated with traffic.

It is not clear if the commenter is referencing the Revised Draft EIR or the McKinley Village EIR. The Revised Draft EIR only addressed the City's significance threshold identified in the McKinley Village EIR and provided evidence to explain why LOS E and F are not considered significant environmental impacts under the City's General Plan LOS Policy that allows LOS F in the Core Area. The McKinley Village EIR included an analysis of air quality and noise that specifically included hazards associated with an increase in traffic.

32-14: The comment states the Revised Draft EIR does not include a new traffic study or mitigation to protect historic neighborhoods.

The commenter is referred to Master Response 1, which addresses this issue in detail.

32-15: The comment indicates the Revised Draft EIR fails to address traffic on local residential streets.

The Revised Draft EIR only addressed the City's significance threshold in the McKinley Village EIR and provided evidence to explain why LOS E and F are not considered significant environmental impacts under the City's General Plan LOS Policy that allows LOS F in the Core Area. The McKinley Village EIR traffic analysis addressed the increase in traffic associated with construction and operation of the Project.

32-16: The commenter states the City's decision to prepare a Revised Draft EIR does not "optimally" apply to the Third District Court of Appeal decision on the *East Sacramento Partnerships for a Livable City (ESPLC) v. City of Sacramento* case and decertify the McKinley Village EIR and prepare a new traffic analysis for public review.

The commenter is referred to Master Response 1, which addresses this issue in detail.

32-17: The commenter offers an opinion that significant traffic impacts still exist and are not mitigated. This is creating safety concerns, increase in noise, and accidents.

The commenter's opinion is noted and forwarded to the decision-makers for their consideration.

32-18: The comment requests the City not remove existing traffic calming measures or street modifications to facilitate traffic at the expense of protecting pedestrians, bicyclists, residents, and property values.

The commenter is referred to Response to Comment 32-2.

32-19: The commenter is requesting the City prepare a new traffic analysis that addresses the issues raised in this letter.

The comment is noted. The commenter is referred to Master Response 1 that addresses the request to prepare a new traffic analysis.

32-20: The comment requests the City include traffic mitigation to ensure the preservation of the neighborhood and safety of residents.

The comment is noted. The commenter is referred to Master Response 1 that addresses the request to prepare a new traffic analysis.

Comment Letter 33

MURPHY
2731 G Street
Sacramento, CA 95816
916-447-8178
Michaelmmurphy4@gmail.com

March 2, 2017

VIA EMAIL

Dana Mahaffey
City of Sacramento
Community Development Department
300 Richards Boulevard, 3rd Floor
Sacramento, CA 95811

RE: McKinley Village – Comments to Draft Environmental Impact Report (“Draft EIR”) P08-086 – 2017

Dear Ms. Mahaffey:

I live in the Marshall School neighborhood at 28th and G Streets. My street is the direct access to McKinley Village. Since there are only two access points to McKinley Village, my neighborhood will be greatly impacted by the increase in traffic to and from McKinley Village. Since the construction began, my neighbors and I have repeatedly reported the McKinley Village construction personnel for not following the traffic mitigation plan that was part of the approval of the project. The impacts will only grow as people begin to move into McKinley Village.

33-1

I offer the following comments to the Draft EIR.

First, at p. 2.2, the 3rd Appellate Court Decision (Nov 16, 2016) *East Sacramento Partnerships for a Livable City (ESPLC) v. City of Sacramento* noted the following:

Under cumulative plus project conditions, several intersections on 28th, 29th, and 30th Streets are at LOS F, with significant delays. The EIR found these impacts to be less than significant based solely on the mobility element in the City’s general plan. However, the EIR finds similar changes to LOS conditions in East Sacramento, outside the core area, are significant impacts and require mitigation. Accordingly, there is evidence of a significant impact on traffic on 28th, 29th, and 30th Streets (p. 22)

33-2

At, p. 2.2, the Revised EIR fails to acknowledge or address the significant impacts to the Midtown access to McKinley Village and relies still solely on conformity with the General Plan for the finding of no significance. This is unacceptable. My neighborhood is residential and just as important as East Sacramento. We deserve the same consideration and traffic mitigation as East Sacramento.

March 2, 2017
Page 2

The 3rd Appellate Court decision states further that:

“...compliance with a general plan policy does not conclusively establish there is no significant environmental impact, and the City failed to explain why it found none in this circumstance” (p. 2)

It is the responsibility of the City to look out for the residents, not just the developer of McKinley Village. The revised EIR should include new traffic analysis and not simply repeat the language from the General Plan as its rationale for not mitigating the increased traffic in our neighborhood. We deserve better.

The traffic burden created by McKinley Village could be alleviated by creating a third vehicle access point at Alhambra Blvd. The community demanded this element be added to the McKinley Village project. Funds were dedicated to study and possible creation of the tunnel access. What happened? There has been no official announcement as to the status of the Alhambra access.

I urge the City to obey the ruling by the Court of Appeal regarding *ESPLC v. City of Sacramento, et al.*, by decertifying the current EIR. Midtown residents deserve a full, independent traffic analysis of the traffic impacts to 28th, 29th and 30th Streets, focusing on the 28th Street impacts because 28th is a residential street, similar to East Sacramento streets. Once that has been done then the EIR should be recirculated for additional public comment. Thank you.

Very truly yours,



Michael Murphy

mm

33-3

33-4

33-5

Letter 33: Michael Murphy, March 2, 2017

33-1: The commenter is noting he lives in the Marshall School neighborhood and will be impacted by the increase in traffic associated with the McKinley Village Project. The comment also notes the project contractor is not following the construction traffic plan.

The number of vehicle trips evaluated in the McKinley Village EIR traffic analysis has not changed. The traffic analysis evaluated the increase in vehicle trips on the surrounding roadway network and included mitigation measures to reduce impacts to less than significant, if feasible. The traffic analysis is included in the McKinley Village Draft and any revisions to the analysis are included in the Final EIR. Both of these documents are available on the City's website (<https://www.cityofsacramento.org/Community-Development/Planning/Environmental>); however, the comment period to provide comments on the analysis has closed. The Revised Draft EIR was prepared to only provide additional information that explains why the McKinley Village Project would not result in significant traffic impacts to specific intersections on 28th, 29th and 30th Streets.

The commenter is also referred to Response to Comment 3-3.

33-2: The comment states that the Revised Draft EIR fails to address traffic impacts in Midtown and continues to rely on the City's LOS policy to show impacts would be less than significant.

The Revised Draft EIR was prepared specifically to explain why traffic LOS E and F are not considered significant environmental impacts under the City's General Plan LOS Policy that allows LOS E and F in the Core Area. The commenter is referred to Response to Comment 4-2 and Master Response 2 that addresses this comment.

33-3: The commenter states the Revised Draft EIR should include a new traffic analysis and not continue to use the City's policy to avoid mitigating traffic impacts.

The commenter is referred to Master Response 1, which addresses this issue in detail.

33-4: The commenter is requesting a third access be provided and is asking what happened to the status of the underpass to connect the project site to Alhambra Boulevard.

The commenter is referred to Response to Comment 3-6 that addresses the status of the UPRR underpass.

33-5: The commenter is requesting the City comply with the Third District Court of Appeal decision on the *East Sacramento Partnerships for a Livable City (ESPLC) v. City of Sacramento* and decertify the EIR. The comment is also requesting a new traffic study be prepared that focuses on traffic impacts to 28th, 29th, and 30th streets and be recirculated for public review and comment.

The commenter is referred to Master Response 1, which addresses this issue in detail.

Comment Letter 34

From: Shari Beck <gsbeck@surewest.net>
Date: 3/2/17 10:30 AM (GMT-08:00)
To: Dana Mahaffey <DMahaffey@cityofsacramento.org>
Subject: "Revised Draft EIR for McKinley Village

Dana Mahaffey,

As long time residents of East Sacramento on A and 45th Streets, we implore you to comply with the Court of Appeal’s ruling.

California’s highest courts have ruled on traffic *in favor of East Sacramento Partnerships for a Livable City (ESPLC)* in its legal challenge to the City and the developers of the McKinley Village Project. Essentially, the landmark ruling means that FAILING TRAFFIC considered OK under the City’s general plan alone is NOT OK!

34-1

Please listen to the residents of this area who will be impacted as well as obey the law . The Court instructed that the McKinley Village EIR be re-circulated. This was a landmark ruling that said the traffic snarl that might have been allowable under the City’s General Plan was definitely not allowable. We live here and must be heard!

34-2

Gary and Shari Beck
131 45th Street
Sacramento, CA 95819-2111

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Letter 34: Shari Beck, March 2, 2017

34-1: The comment is requesting that the City comply with the Third District Court of Appeal decision on the *East Sacramento Partnerships for a Livable City (ESPLC) v. City of Sacramento*.

The commenter is referred to Master Response 1, which addresses this issue in detail.

34-2: The comment states the Third District Court of Appeal decision required the McKinley Village EIR be recirculated.

The commenter is referred to Master Response 1, which clarifies what the Court specifically requested be further addressed.

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Comment Letter 35

From: Michael J Greene [<mailto:cdsconsulting@surewest.net>]
Sent: Thursday, March 2, 2017 11:17 AM
To: Jeff S. Harris <JSHarris@cityofsacramento.org>
Cc: Dana Mahaffey <DMahaffey@cityofsacramento.org>
Subject: RE: McKinley Village Concerns

Jeff;

Thank you for replying to my 2/27 email about the courts' decisions regarding McKinley Village and your description of those decisions.

I opposed the project, as proposed, because it didn't include Alhambra access/egress. In my opinion, this meant that the project was premature and should have been disapproved by the Planning Commission as well as the City Council.

I did and do appreciate the public attention you brought to bear on the Alhambra issue and thank you for that too.

Please let me know if I can ever be of assistance to you in your work for east Sacramento.

Mike

Michael Greene
CDS Consulting
3701 McKinley Blvd
Sacramento, CA 95816
cdsconsulting@surewest.net
916-849-1570 cell

35-1

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Letter 35: Michael Greene, March 2, 2017

35-1: The commenter notes his opposition to the McKinley Village Project because it does not include a vehicle underpass at Alhambra Boulevard and provides his opinion that the Project should not have been approved by either the Planning Commission or the City Council.

Please see Response to Comment 3-6 that addresses the underpass at Alhambra Boulevard. The commenter's opinion is noted and forwarded to the decision-makers for their consideration.

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Comment Letter 36

From: Kathy Ullerich [<mailto:kathyullerich@comcast.net>]
Sent: Thursday, March 2, 2017 2:11 PM
To: Dana Mahaffey <DMahaffey@cityofsacramento.org>
Subject: Revised EIR for the McKinley Village Project

Dana Mahaffey, Associate Planner
City of Sacramento
Environmental Planning Services

I want to express my opposition to the "Revised EIR for the McKinley Village Project," It does not contain a new traffic analysis, and no new mitigation that would lessen the significant traffic impacts of the project on the area neighborhoods and roadways. 36-1

Significant traffic impacts continue to be unmitigated. I live at 408 Meister Way right off of McKinley Blvd and the increased traffic along this corridor has definitely changed the character of the neighborhood and created dangerous situations for the many pedestrians and cyclists traveling along McKinley Blvd. to the park and other neighborhood amenities. 36-2

Please comply with the decision of the Court of Appeal in the case of *East Sacramento Partnerships for a Livable City (ESPLC) v. City of Sacramento, et al.* by decertifying the current EIR, conducting a full, independent traffic analysis, and recirculating the EIR for additional public comment. 36-3

I am concerned that failure to follow the law will lead to further unnecessary taxpayer expense if the City must again be compelled to comply with state laws governing the environment. 36-4

Thank you for your attention to this matter.

Kathy Ullerich
408 Meister Way
Sacramento, CA 95819

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Letter 36: Kathy Ullerich, March 2, 2017

36-1: The commenter is expressing her opposition to the Revised Draft EIR because it does not include a new traffic analysis and no new mitigation measures.

The commenter is referred to Master Response 1, which addresses the Court's decision on the *East Sacramento Partnerships for a Livable City (ESPLC) v. City of Sacramento* case in detail.

36-2: The comment notes an observation that traffic along McKinley Boulevard has increased and created a dangerous situation for pedestrians and bicyclists in the area.

The comment is noted and forwarded to the decision-makers for their consideration.

36-3: The comment is requesting that the City comply with the Third District Court of Appeal decision on the *East Sacramento Partnerships for a Livable City (ESPLC) v. City of Sacramento* case.

The commenter is referred to Master Response 1, which addresses this issue in detail.

36-4: The comment states a concern that the failure of the City to follow the law will contribute to an increase for taxpayers.

The commenter is referred to Master Response 1, which addresses this issue in detail.

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Comment Letter 37

From: JAN ELLEN REIN <janny007@sbcglobal.net>
Date: 3/2/17 4:36 PM (GMT-08:00)
To: Dana Mahaffey <DMahaffey@cityofsacramento.org>
Cc: Jan Rein <janny007@sbcglobal.net>, East Sac Preservation <ellencochrane@hotmail.com>, Steve Hansen <SHansen@cityofsacramento.org>, mayor@cityofsacramento.org
Subject: OPPOSED: REVISED EIR FOR MCKINLEY VILLAGE

Dear Ms Mahaffey,

This comment is in opposition to the Revised EIR for McKinley Village.

The revised EIR contains no new traffic analysis and no new mitigation to lessen the substantial traffic impacts this private, for profit project imposes on the area neighborhoods and roadways. Significant traffic impacts are now unmitigated, causing increased air pollution, noise and inconvenience to area residents. The City of Sacramento is not above the law and must comply with the Court of Appeal's decision in Partnership for a Livable City (ESPLC) v. City of Sacramento et al. Specifically, the City must decertify the current EIR and conduct a full, independent traffic analysis to be circulated for additional public comment.

The City's continued noncompliance with the law will impose unnecessary taxpayer expense if further enforcement efforts are required due to City recalcitrance and neglect of duty. Indeed, since McKinley Village is for private personal profit, mitigation expenses should be paid by the private developer and/or the McKinley Village homeowners through an assessment.

Very truly yours,

Jan Ellen Rein
2704 E. Street
Sacramento, CA
95816

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Letter 37: Jan Ellen Rein, March 2, 2017

37-1: The commenter is stating opposition to the Revised Draft EIR because it does not contain a new traffic analysis or mitigation to address traffic impacts. The comment also states unmitigated traffic impacts are creating increased air pollution, noise and inconvenience to area residents.

The Draft EIR prepared for the McKinley Village Project included detailed analyses addressing air quality and noise associated with construction and operation of the Project. That analysis has not changed because the amount of traffic generated by the Project has not changed. The commenter is referred to Master Response 1 for more detailed information.

37-2: The comment states the City must comply with the Third District Court of Appeal decision on the *East Sacramento Partnerships for a Livable City (ESPLC) v. City of Sacramento* and decertify the McKinley Village EIR and prepare a new traffic analysis for public review.

The commenter is referred to Master Response 1, which addresses this issue in detail.

37-3: The comment states a concern that the failure of the City to follow the law will contribute to an increase for taxpayers.

The commenter is referred to Master Response 1, which addresses this issue in detail.

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Comment Letter 38

From: Michael Irwin <mirwin916@gmail.com>
Date: Thu, Mar 2, 2017 at 4:36 PM
Subject: I oppose the Revised EIR for the McKinley Village Project
To: kmahaffey@cityofsacramento.org

Dear City Council members and planners,

I have been a resident of the East Sacramento area for over fifty years. I have witnessed many changes to East Sacramento during that time. I oppose the revised EIR for the McKinley Village Project which does not contain a new traffic analysis nor mitigation measures for the increased traffic this project is going to bring. 38-1

McKinley Village has only 2 access points (vs. 16+ for East Sacramento) the main access will push hundreds of added vehicle trips into the McKinley Park neighborhood. The only mitigation to this point has been the addition of a few stop signs. Planners shrug and say it is normal to have increased traffic flows during peak traffic hours. It is foolish to believe that the McKinley Village Project is not going to have significant impact on traffic flows in the McKinley Park neighborhood. 38-2

The revised EIR should contain a NEW real world traffic analysis in addition to mitigation measures. Sacramento Regional Transit District is facing budget shortfalls and now that the Sutter Memorial Hospital has been closed RT is considering a proposal to abandon the 34 Line which serves the McKinley Park neighborhood. Shutting down the 34 line would increase the single vehicle pressure in the neighborhood. 38-3

The EIR was not done correctly (per the courts) the first time around. Take the time to do a new traffic analysis and do it right. 38-4

Thank you,

Michael Irwin
4019 McKinley Boulevard
Sacramento, CA 95819

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Letter 38: Michael Irwin, March 2, 2017

- 38-1: The comment is stating opposition to the Revised Draft EIR because it does not contain a new traffic analysis or mitigation to address traffic impacts.

The commenter is referred to Master Response 1, which addresses this issue in detail.

- 38-2: The comment states the Project has two points of access and traffic generated from the project site will add vehicles to the McKinley Park neighborhood.

The number of vehicle trips evaluated in the McKinley Village EIR traffic analysis has not changed. The traffic analysis evaluated the increase in vehicle trips on roads in the McKinley Park neighborhood and included mitigation measures to reduce impacts to less than significant, if feasible. The traffic analysis is included in the McKinley Village Draft and any revisions to the analysis are included in the Final EIR. Both of these documents are available on the City's website (<https://www.cityofsacramento.org/Community-Development/Planning/Environmental>); however, the comment period to provide comments on the analysis has closed. The Revised Draft EIR was prepared to only provide additional information that explains why the McKinley Village Project would not result in significant traffic impacts to specific intersections on 28th, 29th and 30th Streets.

- 38-3: The comment states the Revised Draft EIR should have included a new traffic analysis and mitigation measures that include potential changes to the Regional Transit routes that serve this area of the City.

The commenter is referred to Master Response 1, which addresses the requirement to prepare a new traffic analysis.

- 38-4: The commenter states the EIR was not done correctly and a new traffic analysis needs to be prepared.

The commenter is referred to Master Response 1, which addresses the requirement to prepare a new traffic analysis.

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From: Lesley Schroeder <leschroeder54@gmail.com>
Date: 3/2/17 4:38 PM (GMT-08:00)
To: Dana Mahaffey <DMahaffey@citvofsacramento.org>
Subject: re: McKinley Village

Comment Letter 39

To all members of the Sacramento City Council and other involved parties:

I am a long-time resident of East Sacramento. I am very concerned about the increase in traffic and increase in safety issues due to this increased traffic since the development of McKinley Village. I am also concerned about the long-term consequences on the quality of life of East Sac residents as well as the impact on our property values.

- I oppose the "Revised EIR for the McKinley Village Project". It does not contain a new traffic analysis, and no new mitigation that would lessen the significant traffic impacts of the project on the area neighborhoods and roadways. 39-1
- Significant traffic impacts continue to be unmitigated. I live on McKinley Blvd 3 blocks from McKinley Village. Increased traffic has already been noticed, most concerning are cars traveling at an unsafe speed in our neighborhood. I am especially concerned at the increased traffic on Elvas and the speed of cars traveling to H St. Turning right from McKinley Blvd unto Elvas is already unsafe. 39-2
- I am concerned re future emergency assess / exit from McKinley Village with it's only two ways in and out of the development. It is a set up for disaster. 39-3
- I urge the City to comply with the decision of the Court of Appeal in the case of *East Sacramento Partnerships for a Livable City (ESPLC) v. City of Sacramento, et al.* by decertifying the current EIR, conducting a full, independent traffic analysis, and recirculating the EIR for additional public comment. 39-4
- Failure to follow the law will lead to further unnecessary taxpayer expense if the City must again be compelled to comply with state laws governing the environment. 39-5

Thank you for your time and attention to this important matter.

Sincerely,

Lesley A Schroeder, MD

--
"To know when you have enough is to be rich beyond measure" Lao-Tzu

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Letter 39: Lesley Schroeder, MD, March 2, 2017

39-1: The commenter states her opposition to the Revised Draft EIR because it does not include a new traffic analysis or mitigation measures.

The commenter is referred to Master Response 1, which addresses the requirement to prepare a new traffic analysis.

39-2: The commenter indicates that traffic along McKinley Boulevard has increased and significant traffic impacts have not been mitigated, this includes cars traveling at unsafe speeds.

The number of vehicle trips evaluated in the McKinley Village EIR traffic analysis has not changed. The traffic analysis evaluated the increase in vehicle trips on the McKinley Park neighborhood and included mitigation measures to reduce impacts to less than significant, if feasible. The traffic analysis is included in the McKinley Village Draft and any revisions to the analysis are included in the Final EIR. Both of these documents are available on the City's website (<https://www.cityofsacramento.org/Community-Development/Planning/Environmental>); however, the comment period to provide comments on the analysis has closed. The Revised Draft EIR was prepared to only provide additional information that explains why the McKinley Village Project would not result in significant traffic impacts to specific intersections on 28th, 29th and 30th Streets.

39-3: The comment states concern regarding emergency access from the project site because only two access points are provided.

The comment does not address the scope of the Revised Draft EIR; therefore, no response is required. However, the McKinley Village Project includes two vehicular access points: the A Street Bridge over Capital City Freeway in the western portion of the site and the extension of 40th Street under the UPRR embankment in the eastern portion of the site. The City requires two access points be provided to ensure adequate access is provided in the event of an emergency. The Project has been reviewed by both the City's police and fire departments to ensure it meets all safety and emergency access requirements.

39-4: The comment states the City must comply with the Third District Court of Appeal decision on the *East Sacramento Partnerships for a Livable City (ESPLC) v. City of Sacramento* and decertify the McKinley Village EIR and prepare a new traffic analysis for public review.

The commenter is referred to Master Response 1, which addresses this issue in detail.

39-5: The comment states a concern that the failure of the City to follow the law will contribute to an increase for taxpayers.

The commenter is referred to Master Response 1, which addresses this issue in detail.

From: Jill and Rick <ferret1@surewest.net>
Date: 3/2/17 4:51 PM (GMT-08:00)
To: Dana Mahaffey <DMahaffey@cityofsacramento.org>
Subject: Revised EIR for the McKinley Village Project

Comment Letter 40

Dear Ms Mahaffey,

This email is to voice our household's concerns regarding the traffic issues imposed upon our neighborhood due to the building of McKinley Village. The revised EIR for McKinley Village Project does not contain a new traffic analysis nor new mitigation that would lessen the significant traffic impacts of the new development on existing neighborhoods. Significant traffic patterns are starting to emerge during the building of McKinley Village and they will only exacerbate. Our family uses Elvas Ave to move in and out of the neighborhood on a regular basis. To save money a few years ago, the City of Sacramento put more signs at the intersection of 56th and H Street instead of putting a left hand turn arrow. New drivers to the neighborhood continually slow traffic at that intersection to take time to read the signs or wait for oncoming traffic. The signage says oncoming traffic has a red light. This lack of spending a few years ago is starting to impact the traffic patterns and will only get worse with the new development residents using Elvas as a main thoroughfare. A second entrance point under the railroad at Alhambra Blvd should be addressed as promised by the city. This entrance point makes more sense than the two points already under construction. It is close to freeway access and commercial areas. Currently the C Street/40th Street entrance to McKinley Village does not have a traffic light. With a high density in-fill development such as this, a traffic light is necessary. River Park is an example of development with few entrance/exit points but it has a traffic light at H Street and Carlson. In addition, with the C Street Cannery having more tenants such as the UC Davis Medical Group we are experiencing more week day traffic on Elvas Ave. Without a traffic light at the current McKinley Village entrance we are starting to find it difficult to enter Elvas Ave because of the trickling of vehicles from the stop signs on C Street.

40-1

40-2

40-3

I look forward to the City complying with the decision of the Court of Appeal in the case of East Sacramento Partnerships for a Livable City (ESPLC) v. City of Sacramento, et al. by decertifying the current EIR, conducting a full, independent traffic analysis, and recirculating the EIR for additional public comment. Failure to do this will only waste more taxpayer money.

40-4

Thank you,

Jill and Rick Ferreter

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Letter 40: Jill and Rick Ferreter, March 2, 2017

- 40-1: The comment states a concern that the Revised Draft EIR does not include a new traffic analysis or mitigation measures to address significant traffic impacts.

The commenter is referred to Master Response 1, which addresses this issue in detail.

- 40-2: The comment states an additional access under the UP rail lines at Alhambra Boulevard should be addressed because this location makes more sense than the Project's other two access points.

The commenter is referred to Response to Comment 3-6 that addresses the status of the underpass.

- 40-3: The commenter is requesting a traffic signal be included at the entrance to the project site at C Street/40th Street. As evidence, the commenter cites the signalized access to the nearby River Park neighborhood at H Street/Carlson Drive.

Although the McKinley Village project will have the same number of vehicular access points at build-out as the River Park neighborhood (two), River Park has more than five times the number of households than the McKinley Village Project will have at build-out, in addition to multiple retail establishments and an elementary school. This substantially higher level of development results in far more trips to/from the River Park neighborhood than will ever travel to/from McKinley Village project site.

As part of the City's review of the McKinley Village Project, access to/from the project site was evaluated to determine the appropriate intersection controls at the C Street project access. This evaluation identified all-way stop control as the appropriate treatment. As documented in the Draft EIR (DEIR, p. 4.9-93), all-way stop control at this location would result in low levels of vehicular delay with LOS A during both peak hours under near-term conditions and LOS B during both peak hours under cumulative conditions. With Project build-out, the projected traffic volumes at this entrance will not satisfy the peak hour traffic signal warrant (California Manual on Uniform Traffic Control Devices, Caltrans 2014), a tool used by the City to help identify intersections that require signalization.

40-4: The comment states the City must comply with the Third District Court of Appeal decision on the *East Sacramento Partnerships for a Livable City (ESPLC) v. City of Sacramento* and decertify the McKinley Village EIR and prepare a new traffic analysis for public review.

The commenter is referred to Master Response 1, which addresses this issue in detail.

Comment Letter 41

March 3, 2017

To: Dana Mahaffey, Associate Planner
City of Sacramento, Community Development Department
Environmental Planning Services

RE: McKinley Village

Dear Ms Mahaffrey,

This letter is to express my opposition to the "Revised EIR for the McKinley Village Project as it does not contain a new traffic analysis and no new mitigation that would lessen the significant traffic impacts of the project on the area neighborhoods and streets. 41-1

Even now before many of the homes are occupied in McKinley Village, there is more traffic in the area. I drove down McKinley to the freeway last week at the time the children were riding their bikes to school and was so surprised how much traffic was on McKinley at that time and also since the children on bikes were not careful it presented a real hazard for them. I realize that is not the fault of the drivers but the more traffic the more chance of an accident. Both H, J are to be avoided at any commute time and other times also. I take alternate routes whenever possible or make sure I have a traffic light if I want to turn onto either of these streets. Alhambra is also more crowded and McKinley also. I have lived here for 31 years and these changes have become worse of late. This is my home and lovely, unusual neighborhood and I am very concerned about the quality of life changing in the area because of the traffic impact. 41-2

I urge the City to comply with the decision of the Court of Appeal in the case of East Sacramento Partnership for a Livable City v. City of Sacramento, et al. by decertifying the current EIR, conducting a full, independent traffic analysis, and recirculating the EIR for additional public comment. I know nothing of the law but when I read this it appalls me that the developers are trying to circumvent the ruling and that even though the ruling has been made they may be able to. 41-3

Failure to follow the law will lead to further unnecessary taxpayer expense if the City must again be compelled to comply with state laws governing the environment. 41-4

Please, do the right thing and help preserve the wonderful area in which we live.

Best regards,

Ann Rodgers
361 37th Street
Sacramento, CA 95816

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Letter 41: Ann Rodgers, March 3, 2017

41-1: The commenter states her opposition to the Revised Draft EIR because it does not include a new traffic analysis or mitigation measures to address traffic impacts on neighborhood streets.

The commenter is referred to Master Response 1, which addresses the requirement to prepare a new traffic analysis.

41-2: The comment notes an observation that traffic has increased in the area.

The commenter's observation is noted and forwarded to the decision-makers for their consideration.

Please see Master Response 1, which provides more details on the legal issues.

41-3: The comment states the City must comply with the Third District Court of Appeal decision on the *East Sacramento Partnerships for a Livable City (ESPLC) v. City of Sacramento* and decertify the McKinley Village EIR and prepare a new traffic analysis for public review.

The commenter is referred to Master Response 1, which addresses this issue in detail.

41-4: The comment states a concern that the failure of the City to follow the law will contribute to an increase for taxpayers.

The commenter is referred to Master Response 1, which addresses this issue in detail.

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From: Holly Longacre <hollylongacre2013@gmail.com>
Date: 3/3/17 2:47 PM (GMT-08:00)
To: Dana Mahaffey <DMahaffey@citvofsacramento.org>
Subject: Revised EIR for the McKinley Village Project

Comment Letter 42

To: Dana Mchaffey
Associate Planner
City of Sacramento

Good Afternoon Ms. Mchaffey,

As a resident of the nearby McKinley Village Project, I am opposed to the “Revised EIR for the McKinley Village Project” because it fails to include a new traffic analysis nor does it propose any new solutions to address the current traffic problems that our neighborhood experiences.

42-1

During the construction of the McKinley Village development, our neighborhood saw a dramatic increase in truck and car traffic, resulting in damaged roadways, polluted air, noise, and building material deposits such as loose gravel, dirt and concrete on our roads and in our gutters.

42-2

My family and I have resided on Elvas Avenue for almost 2 years and it is an undisputable fact that many people use the Elvas Avenue and H Street roadways as a thoroughfare to commute to and from work. While this lessens the amount of drivers on our freeways, it results in a frustrating amount of traffic congestion along Elvas Avenue. This constant and ever increasing traffic creates an unsafe environment for the Elvas Avenue neighbors, including our children and pets.

42-3

Currently, at the intersection of H Street and Elvas Avenue, near Clubhouse 56 and [Tupelo Coffee](#), this roadway widens to two lanes traveling in each direction and then narrows to one lane in each direction near F Street for an approximate distance of only 0.3 miles. This sudden widening causes those traveling East on Elvas Avenue to drive well above the 35 mph speed limit in order to “get ahead” of the car in front of them before the road narrows to only one lane. This stretch, from Elvas Avenue and H Street to the new stop sign at the McKinley Village entrance spans for a 1.7 miles of uninterrupted speedway where drivers barrel down, undermining the multiple posted speed limit signs and disregarding the safety those who live here.

42-4

This ignored problem, which has existed prior to the construction of McKinley Village, will only grow into larger issues with traffic, noise and safety concerns, once homes in the McKinley Village development begin to be inhabited.

A new, current, and detailed traffic analysis, in addition to solutions that make our streets safer is necessary if we are to avoid possible devastating consequences in the near future. What will it take for the City of Sacramento to open their eyes and address these concerns? Will it take a child being hit by a speeding car? A vehicle losing control as they try to cut off another driver thus crashing into a home or yard? Or a family being seriously injured as they try to cross a road without any crosswalks or stop signs for 1.7 miles?

42-5

I urge the City of Sacramento to reject the new “Revised EIR for the McKinley Village Project” due to its lack of any kind of investigation regarding our current traffic concerns.] 42-6

Thank you for your time and consideration in this matter.

Sincerely,

Holly Longacre
[5643 Elvas Ave](#)
[Sacramento CA 95819](#)
[916-844-8890](#)
Hollylongacre2013@gmail.com

Letter 42: Holly Longacre, March 3, 2017

42-1: The commenter states her opposition to the Revised Draft EIR because it does not include a new traffic analysis or mitigation measures to address traffic problems in her neighborhood.

The commenter is referred to Master Response 1, which addresses the requirement to prepare a new traffic analysis.

42-2: The comment states that there has been an increase in construction trucks and vehicles due to the on-going Project-related construction activities, resulting in damage to roads, increase in air emissions, noise and dirt on area roadways.

The McKinley Village Draft EIR evaluated impacts associated with Project construction activities and mitigation has been included to address significant impacts. The commenter is referred to Response to Comment 3-3 that addresses construction-related concerns.

42-3: The commenter notes that traffic along Elvas Avenue has increased resulting in an unsafe environment for residents that live along this road.

The observation provided by the commenter is noted and no further response is required. This concern is forwarded to the decision-makers for their consideration.

42-4: The comment references the intersection of H Street and Elvas Avenue and notes the change in roadway lanes and widths allows people to exceed the speed limit.

The observation provided by the commenter is noted and no further response is required. This concern is forwarded to the decision-makers for their consideration.

42-5: The commenter is requesting a new traffic analysis be prepared that addresses ways to make the neighborhood safer.

The commenter is referred to Master Response 1, which addresses the requirement to prepare a new traffic analysis.

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From: Jennifer Howell <fun4jen@icloud.com>
Date: 3/3/17 4:11 PM (GMT-08:00)
To: Dana Mahaffey <DMahaffey@citvofsacramento.org>
Subject: DO not pass EIR for McKinley Village

Comment Letter 43

Dear Dana Mahaffey,

I currently live at 4525 D ST. I'm writing to express my concern over opposition to the Revised EIR for McKinley Village. I love this neighborhood and have and have had concerns over the traffic problems McKinley Village causes our neighborhood. Please reconsider passing the Revised EIR for McKinley Village. It will impact MY neighborhood negatively.

43-1

Thank you,

Jennifer Howell
4525 D ST
Sacramento, CA
95819
916 202-0520

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Letter 43: Jennifer Howell, March 3, 2017

43-1: The commenter states her opposition to the Revised Draft EIR due to concerns regarding traffic.

The commenter is referred to Master Response 1, which addresses the requirement to prepare a new traffic analysis.

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From: Tamarin <lizzypod@hotmail.com>
Date: 3/3/17 5:17 PM (GMT-08:00)
To: Mayor Steinberg <MayorSteinberg@cityofsacramento.org>, Dana Mahaffey <DMahaffey@cityofsacramento.org>, "Jeff S. Harris" <JSHarris@cityofsacramento.org>
Subject: McKinley Village EIR and traffic study

Comment Letter 44

MayorSteinberg@cityofsacramento.org
dmahaffey@cityofsacramento.org
jsharris@cityofsacramento.org

Please consider my prior comments (pasted below) concerning traffic submitted to your office regarding the McKinley Village.

You are already aware that the McKinley Village will create unacceptable traffic in our neighborhood, creating hazards to both pedestrians and other drivers. There IS an alternative that mitigates this problem - the additional vehicle access point at Alhambra. Please adopt this as a mitigation measure as part of the project.

44-1

Thank you for your consideration.

Tamarin Austin
270 San Miguel Way
Sacramento CA 95819

Councilmembers,

Please add me to the list of the many, many local residents who ask that vehicle access at Alhambra be a condition of the McKinley Village project. Evidence in the record demonstrates that such access is feasible and at only a fraction of the cost the developer has estimated in the EIR. The inclusion of this modification allows for better traffic flow and greatly reduces the impacts of traffic on the adjacent neighborhood, including the safety of pedestrians, school children, and bicyclists.

44-2

Thank you for your consideration.

Tamarin Austin
[270 San Miguel Way](mailto:270SanMiguelWay@cityofsacramento.org)
[Sacramento, CA 95819](mailto:Sacramento,CA95819@cityofsacramento.org)

Begin forwarded message:

From: Susie Williams <susiewil@surewest.net>
Date: February 27, 2017 at 1:10:51 PM PST
To: <Susiewil@surewest.net>
Subject: Fwd: State Supreme Court ruling on McKinley Village EIR and traffic study

Here is another example of an email message sent by a neighbor. Note the recipient email addresses as they are all correct.

Sent from my iPad

Begin forwarded message:

Date: February 27, 2017 at 12:17:56 PM PST

To: <

Subject: State Supreme Court ruling on McKinley Village EIR and traffic study

Dear Mayor Steinberg;

I am writing to express my deep disappointment at the City's handling of the whole McKinley Village subdivision story beginning with the City's EIR and traffic study on it and extending to the City's actions to avoid the decisions of both the State Court of Appeals and the State Supreme Court nullifying the EIR and traffic study.

I am also writing to ask you to personally ensure that the city honors those two court decisions and requires a new EIR and traffic study that accurately describe McKinley Village's adverse environmental and neighborhood traffic impacts and requires their amelioration.

Sincerely,

44-3

Letter 44: Tamarin Austin, March 3, 2017

- 44-1: The commenter states the McKinley Village Project will create hazards to pedestrians and other drivers due to the increase in traffic and is requesting that the vehicle underpass at Alhambra Boulevard be included as a mitigation measure for the Project.

The McKinley Village Project is required to provide two points of access to ensure adequate ingress and egress is provided in the event of an emergency. The McKinley Village Project includes two vehicular access points: the A Street Bridge over Capital City Freeway in the western portion of the site and the extension of 40th Street under the UPRR embankment in the eastern portion of the site. The traffic analysis prepared for the Project did not identify the need for a third point of access, nor was an impact identified that required construction of the underpass as mitigation. Please see also Response to Comment 3-6 that provides more information on the status of the underpass.

- 44-2: The commenter is stating that providing vehicle access at Alhambra Boulevard is feasible and would allow for better traffic flow and increase safety for pedestrians, children and bicyclists.

Please see Response to Comment 44-1, which addresses this issue.

- 44-3: The commenter is expressing an opinion that they are disappointed with how the City has complied with the Court's ruling and is requesting the City prepare a new EIR and traffic study.

The commenter is referred to Master Response 1 for a detailed response to the City's responsibility in complying with the Court's ruling. The commenter's opinion is noted and forwarded to the decision-makers for their consideration.

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Comment Letter 45

From: Laura Lee Brennan <l2brennan@yahoo.com>
Date: 3/3/17 5:22 PM (GMT-08:00)
To: Mayor Steinberg <MayorSteinberg@cityofsacramento.org>, Dana Mahaffey
<DMahaffey@cityofsacramento.org>, "Jeff S. Harris" <JS Harris@cityofsacramento.org>
Subject: McKinley Village Traffic ~ unacceptable.

Dear All,

You are already aware that the McKinley Village will create unacceptable traffic in our neighborhood, creating hazards to both pedestrians and other drivers. There IS an alternative that mitigates this problem - the additional vehicle access point at Alhambra. Please adopt this as a mitigation measure as part of the project.

Laura Lee Brennan

45-1

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Letter 45: Laura Lee Brennan, March 3, 2017

45-1: The commenter states the McKinley Village Project will create hazards to pedestrians and other drivers due to the increase in traffic and is requesting that the vehicle underpass at Alhambra Boulevard be included as a mitigation measure for the project.

The McKinley Village Project is required to provide two points of access to ensure adequate ingress and egress is provided in the event of an emergency. The Project includes two vehicular access points: the A Street Bridge over Capital City Freeway in the western portion of the site and the extension of 40th Street under the UPRR embankment in the eastern portion of the site. The traffic analysis prepared for the Project did not identify the need for a third point of access, nor was an impact identified that required construction of the underpass as mitigation. Please see also Response to Comment 3-6 that provides more information on the status of the underpass.

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Comment Letter 46

From: Suzy Campbell <mscamp56@sbeglobal.net>
Date: 3/3/17 5:39 PM (GMT-08:00)
To: Dana Mahaffey <DMahaffey@cityofsacramento.org>
Subject: Mckinley village traffic

Dana Mahaffey,
Please reconsider the inadequate traffic plan for the village in consideration of neighborhood impact, safety and quality of life.

I 46-1

Thank you,

Suzy Campbell
801 Alhambra Ste 3
Sacramento CA 95816

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Letter 46: Suzy Campbell, March 3, 2017

46-1: The commenter is requesting that the traffic analysis be re-considered to address safety and quality of life.

The commenter is referred to Master Response 1, which addresses the requirement to prepare a new traffic analysis.

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Comment Letter 47

From: gabby@mycci.net
Date: 3/3/17 6:46 PM (GMT-08:00)
To: Dana Mahaffey <DMahaffey@cityofsacramento.org>
Subject: ESPLC VS the City of Sacramento

Strongly urge the city to comply with the court of appeals ruling in the case of ESPLC VS the City of Sacramento

1. Decertify current EIR
2. Conduct new traffic plan.
3. Recanter EIR

Thank you Patricia Ansell

| 47-1
|
| 47-2
|

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Letter 47: Patricia Ansell, March 3, 2017

47-1: The comment urges the City to comply with the Third District Court of Appeal decision on the *East Sacramento Partnerships for a Livable City (ESPLC) v. City of Sacramento*.

The commenter is referred to Master Response 1, which addresses this issue in detail.

47-2: The comment requests the City decertify the McKinley Village EIR and prepare a new traffic analysis.

The commenter is referred to Master Response 1, which addresses this issue in detail.

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Comment Letter 48

From: SHANNON ROSS <shannonr99@me.com>
Date: 3/3/17 7:02 PM (GMT-08:00)
To: Dana Mahaffey <DMahaffey@cityofsacramento.org>
Subject: McKinley Village

You are already aware that the McKinley Village will create unacceptable traffic in our neighborhood, creating hazards to both pedestrians and other drivers. There IS an alternative that mitigates this problem - the additional vehicle access point at Alhambra. Please adopt this as a mitigation measure as part of the project.

48-1

Thank you,
Shannon Ross
5265 I Street
C: 916-712-7704

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Letter 48: Shannon Ross, March 3, 2017

48-1: The commenter states the McKinley Village Project will create hazards to pedestrians and other drivers due to the increase in traffic and is requesting that the vehicle underpass at Alhambra Boulevard be included as a mitigation measure for the project.

The McKinley Village Project is required to provide two points of access to ensure adequate ingress and egress is provided in the event of an emergency. The Project includes two vehicular access points: the A Street Bridge over Capital City Freeway in the western portion of the site and the extension of 40th Street under the UPRR embankment in the eastern portion of the site. The traffic analysis prepared for the Project did not identify the need for a third point of access, nor was an impact identified that required construction of the underpass as mitigation. Please see also Response to Comment 3-6 that provides more information on the status of the underpass.

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Comment Letter 49

From: Ashley Conrad-Saydah <ashescs@gmail.com>
Date: 3/3/17 11:44 PM (GMT-08:00)
To: Mayor Steinberg <MayorSteinberg@cityofsacramento.org>, Dana Mahaffey <DMahaffey@cityofsacramento.org>, "Jeff S. Harris" <JS Harris@cityofsacramento.org>
Subject: McKinley Village mitigation

To my city representatives:

McKinley Village will create unacceptable traffic in our neighborhood, creating hazards to pedestrians, cyclists, and other drivers. Additional idling traffic increases air pollution as well, further exacerbating the health problems already posed by a development hemmed in by a highway and railroad. Include an additional access point at Alhambra, replete with safe, active transit routes for cyclists and pedestrians and bus stops to ensure connectivity with other city transit routes. Please adopt this as a mitigation measure as part of the project at the expense of the developer, not the city.

49-1

Thank you.

Sincerely,

Ashley Conrad-Saydah
Sacramento, CA 95819

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Letter 49: Ashley Conrad-Saydah, March 3, 2017

49-1: The commenter states the McKinley Village Project would increase traffic and create hazards to pedestrians, cyclists and other drivers as well as increase air emissions. The comment also requests the underpass connecting to Alhambra Boulevard be constructed for pedestrians, bicyclists and to allow connectivity to other transit opportunities.

The commenter is referred to Response to Comment 3-6 that addresses the status of the UPRR underpass.

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Comment Letter 50

From: Melinda Johnson <melindasanjohnson@gmail.com>
Date: 3/3/17 11:41 PM (GMT-08:00)
To: Dana Mahaffey <DMahaffey@cityofsacramento.org>
Subject: COURT RULING ON MCKINLEY VILLAGE

To Dana Mahaffey:
I am writing to let you know that McKinley Village has been a very bad neighbor to the residents of McKinley Park.

The place is flooded, has obvious water issues and attached are photos of the flooding, of Teichert employees trying to drain the place into our sewer system, erosion to the railroad overpass into McKinley Villiage and photos of the significant recent flooding on 33rd St., 34th St., 35th St. and Santa Inez Way between H street and Parkway.
I don't think this is a coincidence. This terrified our several neighbors with small kids, the water came up too fast to get to their cars. I have many more photos and can send them later.

50-1

I would also like to point out that the City did not demonstrate that the GP policy was an adequate threshold to measure the impact of traffic failure in the core and surrounding areas Also it was inappropriate to send only revised pages from the traffic section, which makes proper analysis impossible, the EIR should have been decertified, the policy no longer exists and that they should be studying the impact based on GP 2035.

50-2
50-3

I would appreciate a timely response to my letter and look forward to hearing from you.

Sincerely,
Melinda Johnson

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Letter 50: Melinda Johnson, March 3, 2017

- 50-1: The commenter is raising concerns regarding flooding in the neighborhood near the project site. The comment is providing information, so no response is required. In addition, flooding is outside of the scope of the Revised Draft EIR.
- 50-2: The commenter states that the City did not explain how the General Plan policy was an adequate threshold to evaluate traffic impacts.

The Revised Draft EIR provides more information and background that explains how the City developed this policy and why the City feels allowing a LOS E or F in the core area of the City is acceptable.

- 50-3: The comment states it was not appropriate for the Revised Draft EIR to not include the traffic section in its entirety, the EIR should be decertified and traffic should evaluate the City's 2035 General Plan policies.

A copy of the McKinley Village EIR transportation chapter was available for review both at the City as well as on the City's website. As noted on page 1-3 of the Revised Draft EIR, "copies of the Revised Draft EIR and copies of the complete redlined transportation chapter are available for review during normal business hours (Monday through Friday, 8 a.m. to 4 p.m.) or on the City's website at <http://www.cityofsacramento.org/dsd/planning/environmental.cfm>." In addition, the Revised Draft EIR includes an analysis of Project traffic under the City's 2035 General Plan starting on page A-12. The commenter is also referred to Master Response 1, for more detailed information regarding decertifying the EIR and Response to Comment 4-15.

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Comment Letter 51

From: Pamela Beedie <pbeedie@yahoo.com>
Date: 3/4/17 6:21 AM (GMT-08:00)
To: Mayor Steinberg <MayorSteinberg@cityofsacramento.org>, Dana Mahaffey
<DMahaffey@cityofsacramento.org>, "Jeff S. Harris" <JSHarris@cityofsacramento.org>
Subject: McKinley Village Traffic

You are already aware that the McKinley Village will create unacceptable traffic in our neighborhood, creating hazards to both pedestrians and other drivers. There IS an alternative that mitigates this problem - the additional vehicle access point at Alhambra. Please adopt this as a mitigation measure as part of the project.

Pam Beedie
35th Street

51-1

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Letter 51: Pamela Beedie, March 4, 2017

51-2: The commenter states the McKinley Village Project will create hazards to pedestrians and other drivers due to the increase in traffic and is requesting that the vehicle underpass at Alhambra Boulevard be included as a mitigation measure for the project.

The McKinley Village Project is required to provide two points of access to ensure adequate ingress and egress is provided in the event of an emergency. The Project includes two vehicular access points: the A Street Bridge over Capital City Freeway in the western portion of the site and the extension of 40th Street under the UPRR embankment in the eastern portion of the site. The traffic analysis prepared for the Project did not identify the need for a third point of access, nor was an impact identified that required construction of the underpass as mitigation. Please see also Response to Comment 3-6 that provides more information on the status of the underpass.

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Comment Letter 52

From: Susan Norris [<mailto:sunorrisrealestate@gmail.com>]
Sent: Tuesday, March 7, 2017 3:00 PM
To: Dana Mahaffey <DMahaffey@cityofsacramento.org>
Subject: mckinley village

i am sorry this email is coming so late, but i have been on vacation. Please make the developers comply with the court ruling for McKinley Village. The whole process of McKinley Village has been a joke. Is this really what the City Council and the Sacramento Planners are about? Do the right thing.....

Susan Norris, Realtor, Lic #01328937
Real Estate Source Inc.
Cell: (916) 849-6421
sunorrisrealestate@gmail.com

52-1

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Letter 52: Susan Norris, March 7, 2017

52-1: The commenter is requesting that the City comply with the Third District Court of Appeal decision on the *East Sacramento Partnerships for a Livable City (ESPLC) v. City of Sacramento*.

The commenter is referred to Master Response 1, which addresses this issue in detail.

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Regional Transit

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916-321-2800

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Public Transit Since 1973

Comment Letter 53

March 10, 2017

Ms. Dana Mahaffey, Associate Planner
City of Sacramento, Community Development Department
Environmental Planning Services
300 Richards Boulevard, Third Floor
Sacramento, CA 95811

Sent via E-Mail: dmahaffey@cityofsacramento.org

RE: McKinley Village Revised Draft EIR Comments and Concurrence on City of Sacramento Flexible LOS Standard

Dear Ms. Mahaffey:

Thank you for providing Sacramento Regional Transit (RT) an opportunity to review the City's proposed Revised Draft Environmental Impact Report (EIR) for the McKinley Village project. RT agrees with the evidence and analysis included in the Revised Draft EIR. Although infill development may result in additional congestion in the Core Area, it will also benefit transit ridership and reduce citywide VMT. As a result, RT finds that infill development, such as the McKinley Village Project, benefits the City's transportation network and the environment.

53-1

Specifically, RT supports the City's flexible level of service (LOS) standard for evaluating transportation impacts associated with infill projects in the Core Area of the City of Sacramento (City). For well over two decades, RT's Long Range Development Plan has encouraged increased residential and employment development around existing transit services, particularly in the Core Area of the City. As early as 1992, RT's Regional Transportation Plan directly addressed the relationship between intensifying Central City employment and residential development and an increased use of public transit and corresponding reduction in the use of single-occupant vehicles (SOVs). (See RT's 1992 Regional Transportation Plan, Mobility Option 4.) However, the region has historically struggled to bring substantial amounts of additional residential development to the Core Area of the City.

53-2

As explained in RT's current Transit Master Plan (TranistAction Plan), "over the last 50 years growth in the area has been relatively low-density and suburban in nature. Employment and other opportunities have also tended to disperse, moving away from a conventional downtown/suburban growth pattern to a polycentric land use pattern with employment, retail and other services found in several locations across the region. Many of these issues work against the delivery of an efficient transit network." (TranistAction Plan,

53-3

p. 7.) Incentivizing infill development is critical to shifting away from these historic land use development decisions to a denser urban model in the Sacramento region that will assist RT in expanding ridership and transit efficiency.

Infill development is particularly critical in areas proximate to employment centers because “[e]mployment is a key driver for transit use and locations with large employment bases are key opportunities for attracting transit ridership.” (TranistAction Plan, p. 43.) As Sacramento’s downtown core contains a significant number of the largest employers in the region (*ibid*), RT views infill development within the Core Area of the City as an important strategy to get people out of cars and into alternative modes of transportation. (*Id.* at p. 112 [noting that the Core Area’s densities are supportive of transit and the area’s residents generally have the highest transit use in the region].) Because Downtown is built-out and its roadways are already commonly impacted by congestion, RT understands that continued infill development in the Core Area of the City will typically contribute trips to existing congested roadways. However, as discussed below, RT agrees with the City that congestion in the Core Area of the City does not constitute a potentially significant environmental impact as defined under an LOS threshold; rather, in many ways RT believes it could be viewed as environmentally beneficial.

53-3
Cont.

Consistent with the City’s General Plan Policy to “work with all local transit providers ... on transportation planning” issues within the region (now 2035 General Plan Policy M 1.3.7), the City worked with RT in developing its current flexible level of service (LOS) standard allowing LOS E and F in the Core Area of the City. RT supported the standard when it was initially adopted by the City and continues to support it today. Whether congestion is an appropriate proxy for evaluating the environmental significance of a project’s transportation impacts, must be determined in the context of where a project is located. For the Core Area, congestion results in many environmentally beneficial impacts on the City’s transportation network.

53-4

As explained in SACOG’s 2016 MTP/SCS EIR:

Urban economists recognize congestion as a cost of proximity and density as more people and activities locate closer together to improve accessibility, vehicle travel speeds tend to decline. They recognize that traffic congestion tends to maintain equilibrium: it increases to the point that delays discourage additional peak-period vehicle trips. From this perspective, traffic congestion is a modest problem, provided that overall accessibility is optimized through local transport options (good walking, cycling, public transit, delivery services, etc.), transport network connectivity, land use proximity, and efficient pricing.

(SACOG MTP/SCS Draft EIR, p. 16-23.)

When the Core Area’s accessibility is considered, the evidence demonstrates that congestion in the Core Area should be viewed as a modest problem and does not constitute a significant environmental impact as defined by CEQA. Specifically, the

Core Area of the City has extensive sidewalks, bicycle facilities, more transit options than any other area in the Sacramento region, and extensive delivery service options. The Core Area is also tightly connected to the regional transportation network for all modes of transportation (i.e. close proximity to the region's major highways, all light rail lines, capital corridor rail, and regional bike trails). Furthermore, as an employment center as well as a cultural hub of the region, the Core Area's land use proximity between residents and resources exceeds any other area in the region. Finally, particularly given the costs of parking in the Core Area of the City, alternative modes of transportation are efficiently priced as compared to driving for Core Area residents.

53-4
Cont.

For the reasons stated above, while infill development in the Core Area may increase congestion in the Core Area, the evidence demonstrates that it will also:

1. Reduce VMT and transportation related-GHG emissions of residents as compared to the citywide and regional average(s); and
2. Increase transit use as well as the use of other alternative modes of transportation.

53-5

Considered in this context, the evidence supports the City's decision to utilize a flexible level of service standard that allows LOS E and F in the Core Area of the City as a means for improving mobility options and usage and not as a negative impact.

RT thanks the City for continuing to develop and implement strategies, such as the City's flexible level of service standard, to incentivize infill development, increase use alternative transportation modes, and achieve concurrent environmental benefits associated with denser development and reduced VMT.

53-6

Sincerely,



Henry Li
General Manager/CEO

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Letter 53: Henry Li, Regional Transit, March 10, 2017

53-1: The comment agrees with the evidence and analysis provided in the Revised Draft EIR and reiterates that although development may result in additional congestion in the core area of the City, it will also benefit transit ridership and help reduce City-wide VMT.

The comment is noted and forwarded to the decision-makers for their consideration.

53-2: The comment indicates support for the City's flexible LOS standard for evaluating traffic impacts and notes that RT has advocated for intensifying employment and residential development in the Central City to increase transit ridership.

The comment is noted and forwarded to the decision-makers for their consideration.

53-3: The comment reiterates the importance of infill development in the Central City to increase support for alternative modes of transportation. The comment also agrees with the City that traffic congestion in the core area of the City does not constitute a potentially significant impact as defined under the City's LOS threshold.

The comment is noted and forwarded to the decision-makers for their consideration.

53-4: The comment clarifies that RT worked with the City in developing its flexible LOS policy (as part of the 2030 and 2035 General Plans) and notes that the core area of the City has extensive alternative transportation options that encourage people to walk, bike or take transit.

The comment is noted and forwarded to the decision-makers for their consideration.

53-5: The comment notes that infill development in the core area of the City may increase traffic congestion but also reduces VMT and increases the use of alternative transportation modes. The comment goes on to state the evidence supports the City's use of a flexible LOS as a means for improving mobility options.

The comment is noted and forwarded to the decision-makers for their consideration.

53-6: In summation, the comment reiterates support of the City's flexible LOS policy to help incentivize infill development, increase alternative transportation modes, and reduce VMT.

The comment is noted and forwarded to the decision-makers for their consideration.

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MIWOK United Auburn Indian Community
MAIDU of the Auburn Rancheria

Comment Letter 54

Gene Whitehouse
Chairman

John L. Williams
Vice Chairman

Calvin Moman
Secretary

Jason Camp
Treasurer

Gabe Cayton
Council Member

March 2, 2017

Dana Mahaffey
City of Sacramento
300 Richards Blvd. 3rd Floor
Sacramento, CA 95811

Subject: Notice of Availability - Revised Draft Environmental Impact Report for the McKinley Village Project (P08-086)

Dear Dana Mahaffey,

Thank you for requesting information regarding the above referenced project. The United Auburn Indian Community (UAIC) of the Auburn Rancheria is comprised of Miwok and Southern Maidu (Nisenan) people whose tribal lands are within Placer County and whose service area includes El Dorado, Nevada, Placer, Sacramento, Sutter, and Yuba counties. The UAIC is concerned about development within its aboriginal territory that has potential to impact the lifeways, cultural sites, and landscapes that may be of sacred or ceremonial significance. We appreciate the opportunity to comment on this and other projects. The UAIC would like to consult on this project.

In order to ascertain whether the project could affect cultural resources that may be of importance to the UAIC, we would like to receive copies of any archaeological reports that are completed for the project. We also request copies of environmental documents for the proposed project so that we have the opportunity to comment on appropriate identification, assessment and mitigation related to cultural resources. We recommend UAIC tribal representatives observe and participate in all cultural resource surveys. If you are interested, the UAIC's preservation department offers a mapping, records and literature search services program that has been shown to assist project proponents in complying with the necessary resource laws and choosing the appropriate mitigation measures or form of environmental documentation during the planning process.

The UAIC's preservation committee would like to set up a meeting or site visit, and begin consulting on the proposed project. Based on the preservation committee's identification of cultural resources in and around your project area, UAIC recommends that a tribal monitor be present during any ground disturbing activities. Thank you again for taking these matters into consideration, and for involving the UAIC early in the planning process. We look forward to reviewing the documents requested above and consulting on your project. Please contact Marcos Guerrero, Cultural Resources Manager, at (530) 883-2364 or by email at mguerrero@auburnrancheria.com if you have any questions.

Sincerely,

Gene Whitehouse,
Chairman

CC: Marcos Guerrero, CRM

Tribal Office 10720 Indian Hill Road Auburn, CA 95603 (530) 883-2390 FAX (530) 883-2380

54-1

MIWOK
MAIDU
United Auburn Indian Community
of the Auburn Rancheria
Tribal Office
10720 Indian Hill Road
Auburn, CA 95603

COMMUNITY DEVELOPMENT
DEPARTMENT
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Letter 54: Gene Whitehouse, Chairman, United Auburn Indian Community of the Auburn Rancheria, March 21, 2017

54-1: The United Auburn Indian Community (UAIC) indicates it wishes to consult on the McKinley Village Project. The purpose for the Revised Draft EIR release is in response to a court action. The McKinley Village Project was approved and the EIR certified on April 29, 2014 (Resolution no. 2014 0106). In *East Sacramento Partnership for a Livable City v. City of Sacramento*, the Court of Appeal, Third Appellate District, upheld the McKinley Village EIR (certified in 2014) with one narrow exception -- the Court held the traffic analysis in the EIR failed to explain or provide substantial evidence to support the conclusion that the McKinley Village Project would not result in significant traffic impacts to specific intersections on 28th, 29th and 30th Streets. Specifically, the Court determined the EIR failed to explain why traffic levels of service (LOS) E and F are not considered significant environmental impacts under the City's General Plan LOS Policy that allows LOS F in the Core Area.

Pursuant to the Court's decision, "the City need only correct [this] deficiency in the EIR...before considering recertification of the EIR." This limited and defined the scope of the EIR, making the notice of preparation process superfluous. To address the Court's decision the City prepared the Revised Draft EIR pursuant to the Court's directive in order to better explain the City's determination that LOS F is acceptable in the Core Area. The City Council will review the Revised EIR to ensure it adequately addresses the concerns raised in the Appellate Court's decision. The action the City Council will take on this project will be to rescind the prior approval of the McKinley Village Project and certification of the EIR. The City Council will then consider whether to re-certify the EIR and re-approve the project.

The Revised Draft EIR does not affect the previously analyzed cultural resources for the project site.

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Sacramento Area Council of Governments

1415 L Street, Suite 300 Sacramento, CA 95814

tel: 916.321.9000 fax: 916.321.9551 tdd: 916.321.9550 www.sacog.org



Comment Letter 55

March 21, 2017

Dana Mahaffey, Associate Planner City of Sacramento, Community Development Department Environmental Planning Services 300 Richards Boulevard, Third Floor Sacramento, CA 95811

Re: McKinley Village Final EIR

Dear Ms. Mahaffey:

This letter is in response to the City of Sacramento’s request for SACOG to review the City’s proposed Revised Draft Environmental Impact Report (EIR) for the McKinley Village project. The basis for our comments is the 2016 Metropolitan Transportation Plan/Sustainable Communities Strategy (MTP/SCS), and the specific legislative intent of recent state legislation including SB 375, AB 32, SB 32, and SB 743 which were each adopted by the Legislature in an effort to incentivize infill development, reduce vehicle miles travelled (VMT), and reduce greenhouse gas (GHG) emissions. One of SACOG’s primary responsibilities is developing and implementing the MTP/SCS, a document that establishes transportation spending priorities throughout the region. The MTP/SCS must be based on the most likely land use pattern to be built over a 20+ year planning period, and it must conform with federal and state air quality regulations.

- Auburn Citrus Heights Colfax Davis El Dorado County Elk Grove Folsom Galt Izleton Lincoln Live Oak Loomis Marysville Placer County Placerville Rancho Cordova Rocklin Roseville Sacramento Sacramento County Sutter County West Sacramento Wheatland Winters Woodland Yolo County Yuba City Yuba County

It should be noted that on October 13, 2013, at the request of the City, SACOG submitted a letter confirming that the McKinley Village project is consistent with SACOG’s 2012 MTP/SCS. Consistency with the MTP/SCS is discussed in the Draft and Final EIR for the project (see, e.g., Final EIR, Appendix P) and SACOG’s consistency letter was included as Appendix N to the Draft EIR. SACOG is required by federal law to update and adopt the MTP/SCS on a four-year cycle. On February 18, 2016, SACOG adopted an updated 2016 MTP/SCS. SACOG has reviewed its prior, October 13, 2013, consistency letter, and concludes that the project is consistent with the 2016 MTP/SCS for the same reasons addressed in its letter concerning the prior MTP/SCS. Moreover, the Court of Appeal noted that “[t]he Project is consistent with SACOG’s SCS and Metropolitan Transportation Plan (MTP)” and, as a result, “the EIR is not required to reference, describe, or discuss project or cumulative effects on the regional transportation network...” (East Sacramento Partnerships for a Livable City v. City of Sacramento (2016) 5 Cal.App.5th 281, 297, citing Pub. Resources Code, § 21159.28, subd. (a).)

55-1 55-2

SACOG understands that the City’s determination that greater levels of congestion are acceptable in the Core Area as compared to the majority of roadways in the City – including the adjacent East Sacramento area – may, initially, appear difficult to

Ms. Dana Mahaffey
March 21, 2017
Page 2

reconcile. However, SACOG believes there are numerous justifications for the City’s approach. While the Core Area and East Sacramento are both proximate to transit resources, the Core Area has substantially more transit options than East Sacramento or any other area in the Sacramento region. The Core Area is also the City’s largest employment center and, as a result, alternative transportation modes such as walking, biking, and use of public transit in the Core Area are often convenient alternatives for residents to use to get from home to work. Ultimately, in adopting a flexible LOS standard, a lead agency must necessarily decide where higher LOS and congestion is acceptable to incentivize these types of alternative mode choices. In consideration of its status as the City’s largest employment center, its pedestrian- and bike- friendly infrastructure, and its proximity to transit options, SACOG concurs with the City’s decision to allow LOS E and LOS F within the Core Area is reasonable and will lead to mode-choice decisions that benefit the environment.

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55-2
Cont.

For the purposes of the California Environmental Quality Act (CEQA), a lead agency is charged with developing significance thresholds to evaluate whether a project’s transportation impacts will have a significant impact on the environment. (See CEQA Guidelines, § 15064.7.) Understanding CEQA’s focus on environmental impacts, rather than inconvenience created by traffic delay, SACOG notes that an over emphasis on LOS, particularly in an employment- and transit- rich area like the City’s Core Area, results in an increase rather than decrease in environmental impacts associated with the City’s transportation network, in part, because improving LOS generally means building or expanding roads. Many credible research studies show a correlation between the expansion of roadways and increasing rates of vehicle travel¹. The results of these studies are among the reasons the Legislature has directed the Office of Planning and Research to adopt new guidelines that will establish, with limited exceptions, that “automobile delay, as described solely by level of service or similar measures of vehicular capacity or traffic congestion shall not be considered a significant impact on the environment pursuant to [CEQA].” (Pub. Resource Code, § 21099(b)(2).)

55-3

Because the new guidelines have not yet been adopted by the Office of Planning and Research, section 21099(b)(2) is not yet in effect. Nevertheless, evidence supports the conclusion that an LOS threshold is not always an appropriate tool to determine whether a project’s transportation impacts will result in a significant environmental impact. For example, widening roads can, by reducing congestion, induce faster speeds and increase vehicle miles traveled rather than encourage use of alternative modes of transportation. Wider roads also increase the physical distance and time required to cross streets, and spread out land uses, both of which can make walking and biking less attractive options.

55-4

Furthermore, in densely populated areas like the City’s Core Area, roadway expansion is extremely expensive and frequently impractical as it typically requires use of eminent domain to

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¹ See https://www.arb.ca.gov/cc/sb375/policies/hwvcapacity/highway_capacity_brief-4-21-14.pdf for a research synthesis

Ms. Dana Mahaffey
March 21, 2017
Page 3

expand existing roadways onto adjacent built-out properties. In addition to the significant environmental impacts associated with these types of roadway construction projects, the economic costs of such projects would impose a significant burden on infill development projects, which are already substantially more expensive to construct than greenfield development projects. A standard that economically disadvantages infill development could have the potential to discourage infill development and drive development to the urban edges, which would increase regional VMT and associated greenhouse gas emissions and, as a result, directly conflict with the objectives of SACOG’s MTP/SCS to reduce VMT, reduce GHG emissions, and incentivize infill development. (See Attachment A, SACOG’s 2036 Greenhouse Gas Emissions Per Capita from On-Road Sources.)

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55-5
Cont.

For all of these reasons, SACOG believes the City’s decision to use a flexible LOS standard that allows greater congestion in the City’s Core Area than in other areas of the City is an appropriate method for evaluating the environmental significance of an infill project’s transportation impacts.

55-6

Finally, the McKinley Village project is entitled to the CEQA streamlining options provided by Senate Bill 375 (SB 375) because it is a residential mixed-use project consistent with the MTP/SCS. Projects utilizing this streamlining are “not required to reference, describe, or discuss... any project specific or cumulative impacts from cars and light-duty truck trips generated by the project on global warming or the regional transportation network.” (Public Resources Code, § 21159.28, subd. (a).) As defined in Public Resources Code section 21159.28, the “regional transportation network” includes “all existing and proposed transportation system improvements, including the state transportation system, that were included in the transportation and air quality conformity modeling, including congestion modeling, for the final regional transportation plan adopted by the metropolitan planning organization, but shall not include local streets and roads.” (Public Resources Code, § 21159.28, subd. (c).) The attached SACOG map illustrates the street segments in the McKinley Village study area that are included in the regional transportation network. (See Attachment B, SACOG’s Regional Transportation Network Map for the Central Core Area of the City.)

55-7

The City of Sacramento has designated some of the roads included in the regional transportation network as local streets. The City’s 2035 General Plan includes the following definition of a “local” street: “Local: A two-lane street that provides direct access to abutting land uses. Local streets serve the interior of a neighborhood. These streets carry low vehicular movement, low-to-heavy pedestrian movement, and low-to-moderate bicycle movement.” (City of Sacramento’s 2035 General Plan, page 2-198.) With the exemption of local streets, SB 375, provides that the City was not required to reference, describe, or discuss impacts on roadways included within the regional transportation network. Therefore, based on the attached SACOG map (identifying roads included in the regional transportation network in the McKinley Village study area) and Figure M4A from the 2035 General Plan (identifying local roads in the McKinley Village study

55-8
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Ms. Dana Mahaffey
March 21, 2017
Page 4

area), CEQA does not require the City to reference, describe, or discuss transportation impacts on the following streets: Alhambra Boulevard from E Street to Y Street, 30th Street from E Street to T Street, 29th Street from E Street to T Street, J Street from 30th Street to the I Street Bridge, and E Street from Alhambra Boulevard and 9th Street.

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Cont.

In consideration of SB 375, the McKinley Village EIR appears to exceed the requirements of CEQA by analyzing and mitigating potential traffic impacts on numerous intersections included within the regional transportation network. While this analysis is not required by law, SACOG applauds the City for preparing an exhaustive traffic analysis to inform the public and decision-makers regarding potential transportation impacts associated with the McKinley Village Project.

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55-9

Thank you for requesting SACOG to review and comment on revised McKinley Village Final EIR, and for the City's continued effort to encourage development within the City that is consistent with SACOG's MTP/SCS.

Sincerely,

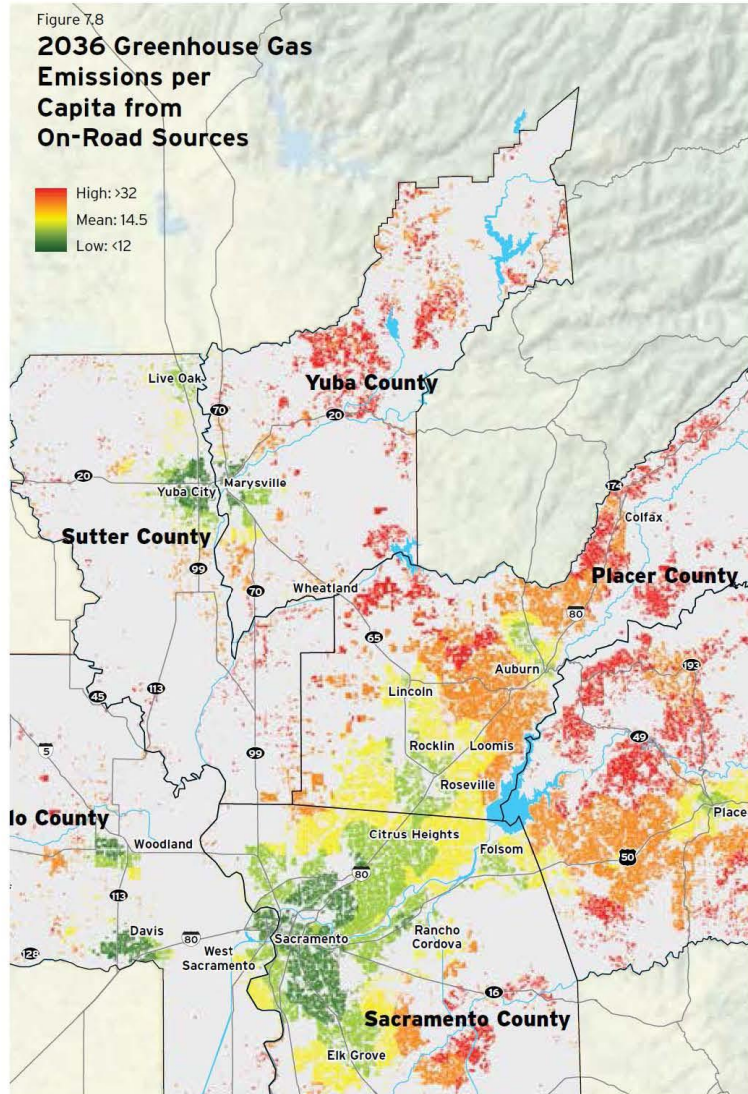


Kirk E. Trost
Interim Chief Executive Officer

KET:le

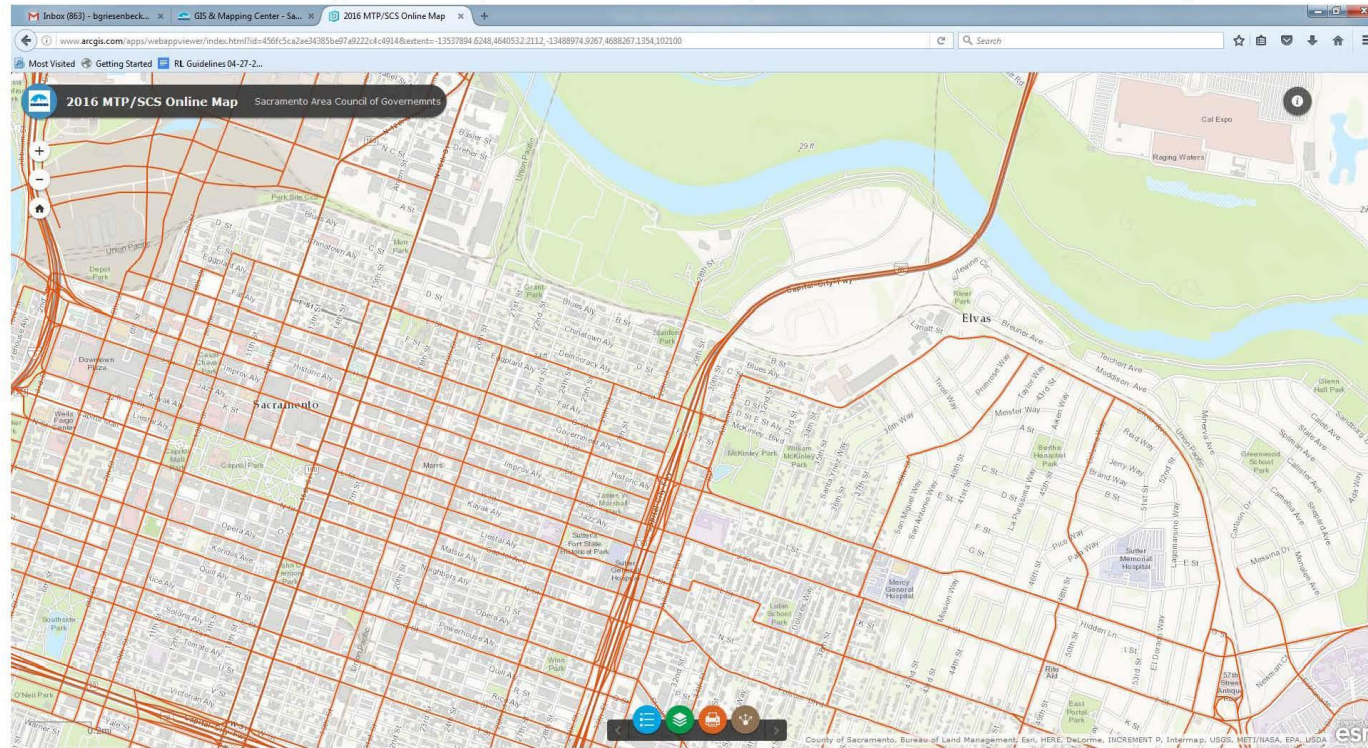
Enclosures

Attachment A: SACOG's 2036 Greenhouse Gas Emissions Per Capita from On-Road Sources



Source: SACOG, 2016 Metropolitan Transportation Plan / Sustainable Community Strategy, p. 174.

Attachment B: SACOG's Regional Transportation Network Map for the Central Core Area of the City



Source: SACOG, 2017.

Letter 55: Kirk E. Trost, Interim Chief Executive Officer, Sacramento Area Council of Governments, March 21, 2017

55-1: The comment notes that SACOG provided a letter confirming that the McKinley Village Project is consistent with SACOG's 2012 MTP/SCS (which was the adopted document at the time the Project was under review) which was included as Appendix P in the Final EIR. SACOG has also confirmed the Project is also consistent with the 2016 MTP/SCS. The comment also reaffirms that because the Project is consistent with the MTP/SCS the "EIR is not required to reference, describe, or discuss project or cumulative effects on the regional transportation network."

The comment is noted and no further response is required.

55-2: The comment supports the City's determination that increased traffic congestion is acceptable in the Core Area of the City because the Core Area has more transit options and is the largest employment center compared to other areas in the City. SACOG supports the City's decision to allow LOS E and F in the Core Area and believes this is reasonable given the access and availability of various modes of transportation.

The comment is noted and no further response is required.

55-3: The comment notes that CEQA is focused on addressing environmental impacts instead of the inconvenience associated with traffic delays and that an over emphasis on evaluating LOS contributes to an increase in environmental impacts because improving LOS generally requires building or expanding roads. In addition, the comment goes on to state studies have shown a correlation between expanding roads and an increase in vehicle speeds. The addition of VMT as a traffic metric in lieu of LOS will shift the focus away from evaluating vehicle capacity or traffic congestion as significant impacts.

The comment is noted and no further response is required.

55-4: The comment reiterates an earlier comment that widening roads can contribute to higher speeds, decrease in safety for pedestrians and bicyclists, and an increase in VMT rather than encouraging the use of alternate modes of transportation.

The comment is noted and no further response is required.

55-5: The comment indicates that expanding roads in populated areas is very expensive and often infeasible due to the need to remove buildings. In addition, the comment notes this would add considerable costs to infill development and could potentially discourage infill development and conflict with the objectives of the MTP/SCS to reduce GHGs, VMT and incentivize infill.

The comment is noted and no further response is required.

55-6: The comment reiterates support for the City's flexible LOS standard that allows greater congestion in the Core Area.

The comment is noted and no further response is required.

55-7: The comment states the McKinley Village Project is consistent with the intent of SB 743 and can use the streamlining provisions and goes on to list the various relevant code sections.

The comment is noted and no further response is required.

55-8: The comment indicates that consistent with SB 375 only local streets need to be evaluated and under the City's 2035 General Plan that would exclude various roads within the Project vicinity, which would fall under the definition of a regional transportation network.

The comment is noted and no further response is required.

55-9: The comment makes the observation that the McKinley Village EIR appears to go beyond what is required to be addressed for projects consistent with SB 375 and evaluates traffic impacts on numerous intersections included within the regional transportation network. The comment goes on to recognize that the City's traffic analysis was exhaustive to inform the public and the City's decision-makers regarding potential traffic impacts and, in some instances, exceeded the requirements of CEQA.

The comment is noted and no further response is required.

CHAPTER 4 REFERENCES

- Integrating Infill Planning in California's General Plans: A Policy Roadmap Based on Best-Practice Communities, California Governor's Office of Planning and Research and the Center for Law, Energy and the Environment at the University of California, Berkeley School of Law, September 2014, available at: https://www.law.berkeley.edu/files/CLEE/Infill_Template_--_September_2014.pdf
- California Air Resources Board (CARB). 2014. Climate Change Scoping Plan First Update. May 15, 2014
- CARB. 2017. Draft 2017 Climate Change Scoping Plan Update. January 20, 2017.
- City of Sacramento. 2009. 2030 General Plan and Master EIR. March 3, 2009.
- City of Sacramento. 2015. 2035 General Plan and Master EIR. March 9, 2015.
- City of Pasadena. 2014. Comments on the Preliminary Evaluation of Alternative Methods of Transportation Analysis. February 14, 2014.
- City of Pasadena. 2014. *Comments on the Preliminary Discussion Draft of Updates to the CEQA Guidelines Implementing SB 743*. November 20, 2014.
- City of San Francisco. 2016. *San Francisco Planning Takes Lead in Modernizing Environmental Review for New Development Projects*. March 3, 2016. Available at <http://sf-planning.org/article/san-francisco-planning-takes-lead-modernizing-environmental-review-new-development-projects>
- County of Yolo. 2009. County of Yolo 2030 Countywide General Plan, Circulation Element. November 10, 2009.
- Office of Planning and Research. 2017. Draft SB 743 Guidelines. January 20, 2017.
- Nelson/Nygaard. 2015. *Summary of Best Practices*, Memorandum to City of Oakland. November 13, 2015.
- Sacramento Area Council of Governments. 2016. Metropolitan Transportation Plan/Sustainable Communities Strategy and EIR. February 18, 2016.
- Duraton and Turner. 2011. *The Fundamental Law of Road Congestion: Evidence from U.S. Cities*. October 2011.

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APPENDIX A

*McKinley Village Transportation Impact Study
Supplemental Materials Explaining the City of
Sacramento LOS Thresholds*

MCKINLEY VILLAGE TRANSPORTATION IMPACT STUDY

SUPPLEMENTAL MATERIALS EXPLAINING THE CITY OF SACRAMENTO

LOS THRESHOLDS

This narrative:

- Provides an overview of considerations that led to City of Sacramento General Plan LOS policy.
- Describes the role of the City's LOS policy in helping to achieve regional greenhouse gas emissions targets.
- Describes how the LOS Policy applies to the McKinley Village study area and impact analysis.

LOS Policy

As part of the City's General Plan update process starting in mid-2000, the City assessed expectations about transportation system performance to help guide future network modifications. The process considered the City's objectives related to transportation accessibility (ability to complete desired personal or economic transactions) and mobility (where you can travel, when, and how fast), while also recognizing environmental impacts. The City's General Plan objectives to create an efficient multi-modal network that connects people and places (i.e., homes, work, school, shopping, recreation, etc.) while providing a high degree of personal mobility. The City also sought to reduce vehicle miles traveled and resultant greenhouse gas emissions. This envisioned transit and transportation network increases travel choices and supports other goals related to economic development and growth.

To fulfill the City's vision, the 2030 General Plan established clear goals and policies about how the transportation network will be operated and managed and if/when expansion of the network would be required. For the roadway network, these expectations are defined by Policy M 1.2.2, which contains specific level of service (LOS) thresholds. According to the *Highway Capacity Manual (HCM)* developed by the Transportation Research Board (TRB), LOS is a qualitative evaluation measure that is used to describe how well a transportation facility or service operates from the traveler's perspective. For roadways, LOS ratings range from A to F similar to a report card. LOS A suggests the best performance from the user's perspective while LOS F is an indication that performance is less satisfactory. An important aspect of LOS as noted by the HCM is that roadways are not designed to provide the best operating conditions (e.g., LOS A), but instead are designed to provide a lower LOS due to costs, environmental impacts, and other societal desires.

Many competing interests influenced the City of Sacramento LOS policy and its associated thresholds during the development of the *Sacramento 2030 General Plan*, (City of Sacramento, March 2009).

Preparing the General Plan required weighing various specific objectives, addressing environmental constraints, and developing expectations for the City's envisioned future. The recent update to the General Plan (Sacramento 2035 General Plan, March 3, 2015) relies on a flexible set of LOS thresholds. The updated policy continues to allow LOS F in the Core Area of the City, and expanded the boundary of the Core Area to the north and east. Within the McKinley Village study area, this expansion extended the Core Area one block eastward to incorporate the Alhambra Boulevard corridor. Therefore, the impact findings contained in the McKinley Village EIR related to facilities along 28th, 29th, and 30th Streets are not affected by the recent modification to Policy M 1.2.2 that altered the boundary of the Core Area, and the significance of potential impacts along Alhambra Boulevard would be less than reported in the EIR.

General Plan objectives often involve tradeoffs, depending on what the City is trying to create, avoid, or protect when crafting a long-range plan to accommodate future development. In compliance with section 65302(b) and associated court decisions, the General Plan examined the following factors in developing Policy M 1.2.2, which contains the LOS thresholds for City roadways.

- Consistency and correlation with other elements
- Land use context
- Financial constraints
- Multiple travel modes including driving, transit, bicycling, and walking
- Environmental resource protection especially for air quality and greenhouse gases

LOS as used in the General Plan largely determines the functional classification (i.e., intended use) and number of travel lanes for City roadways. As noted in Policy M 1.2.2, the City allows flexible LOS standards to, *"...permit increased densities and mix of uses to increase transit ridership, biking, and walking, which decreases auto travel, thereby reducing air pollution, energy consumption, and greenhouse gas emissions."* This flexibility is important to achieve the multiple objectives of the General Plan and to assure internal consistency. Accommodating automobile and truck travel has to be reasonably balanced against the objectives to encourage transit use, walking, bicycling while also reducing driving generated emissions of air pollutants and greenhouse gases (GHGs).

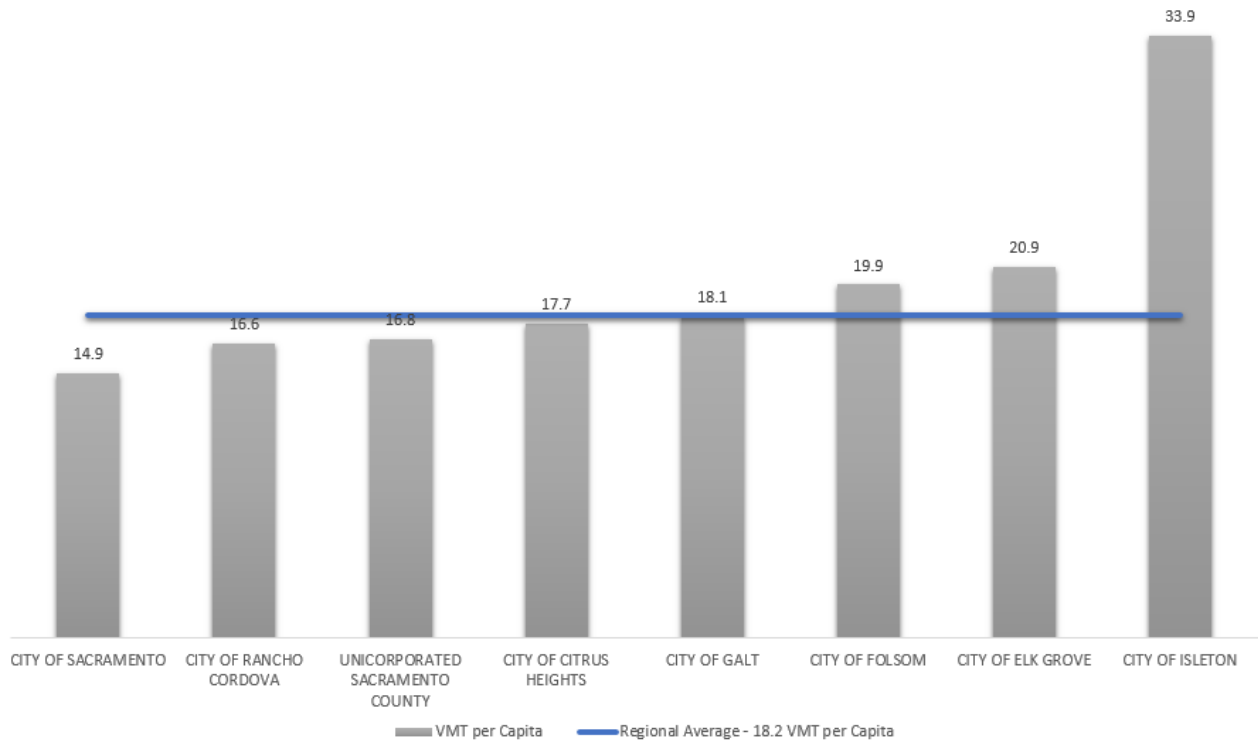
Determining the appropriate LOS thresholds across the various communities within the City of Sacramento required consideration of the land use context (existing density) and diversity of travel options, plus consistency with the rest of the General Plan goals and policies. As such, Policy M 1.2.2 established LOS D or better as the base LOS for those parts of the City *outside* the downtown Core Area and areas without the frequent transit service found in multimodal districts. The LOS threshold was lowered to LOS E or better in the multimodal districts in part due to the multiple travel choices available.

In the downtown Core Area bounded by C Street, the Sacramento River, 30th Street, and X Street¹, LOS F was allowed during peak hours recognizing that employment and entertainment destinations are highly concentrated and effectively connected through multiple modes with the greatest level of transit service. The high levels of connectivity for all travel modes is due in part to the urban street grid that provides access to the dense and diverse mix of land uses found within this area. Also, the City considered that LOS only measures traffic operations from the driver's perspective and that the lower quality of service associated with LOS F for driving does not mean that destinations in the Core Area are not accessible by the other modes. In fact, transit or bicycling during peak hours in the Core Area may offer a superior experience for travelers with greater speed and reliability than driving plus the added benefit of generating less emissions of air pollutants and GHGs.

Reducing emissions is particularly important because the size and extent of the roadway network directly affects the amount of driving not just in the City but also regionally. The City's flexible LOS thresholds have been developed over time in coordination with regional efforts directly focused on achieving sustainable reductions in air pollutants and GHGs. By allowing higher delays in areas such as the downtown core and providing other travel options such as transit, bicycling, and walking, the City has some of the lowest levels of vehicle miles traveled in the region and is projected to continue leading the region. As evidence of these statements, the graph below shows 2012 household generated VMT (Vehicle Miles Traveled) per capita estimates for cities within Sacramento County. The data shows the City of Sacramento having the lowest VMT in the County and performing better than the regional average.

¹ Core Area as defined in the 2030 General Plan. As discussed previously, the 2035 General Plan subsequently expanded the boundaries of the Core Area.

2012 Sacramento County Household Generated VMT per Capita



Source: 2012 SACSIM Model developed for the 2016 MTP/SCS, SACOG, 2016 as applied by Fehr & Peers.

Within the City of Sacramento, Table 1 below reveals that household generated VMT per capita is lowest within the downtown core and lower than the regional average of 18.2 in most parts of the City.

Table 1 City of Sacramento Household VMT

Regional Analysis District	2012 Household Generated VMT per Capita
Downtown	11.3
North Sacramento	12.1
South Sacramento	12.7
East Sacramento	13.5
Arden Arcade	15.1
South Natomas	15.6
Land Park-Pocket-Meadowview	16.5
North Natomas	19.7

Source: 2012 SACSIM Model developed for the 2016 MTP/SCS, SACOG, 2016 as applied by Fehr & Peers.

As noted, the source of the data for the graph and table above was the 2012 SACSIM Model developed for the 2016 MTP/SCS, SACOG, 2016. The 2016 MTP/SCS also includes a 2036 horizon year version of the SACSIM model. The planning efforts of the City and the region are expected to continue reducing household generated VMT per capita as displayed in the map below (Figure 1). The flexible LOS thresholds established by the City are part of the long-term regional solution for reducing VMT and emissions by allowing more infill development within the urban core and supporting that development with a balanced transit/transportation system. The balancing does require that LOS for vehicles will be lower especially in the Core Area, but that is a tradeoff for reducing long-term air pollution and GHG emissions.

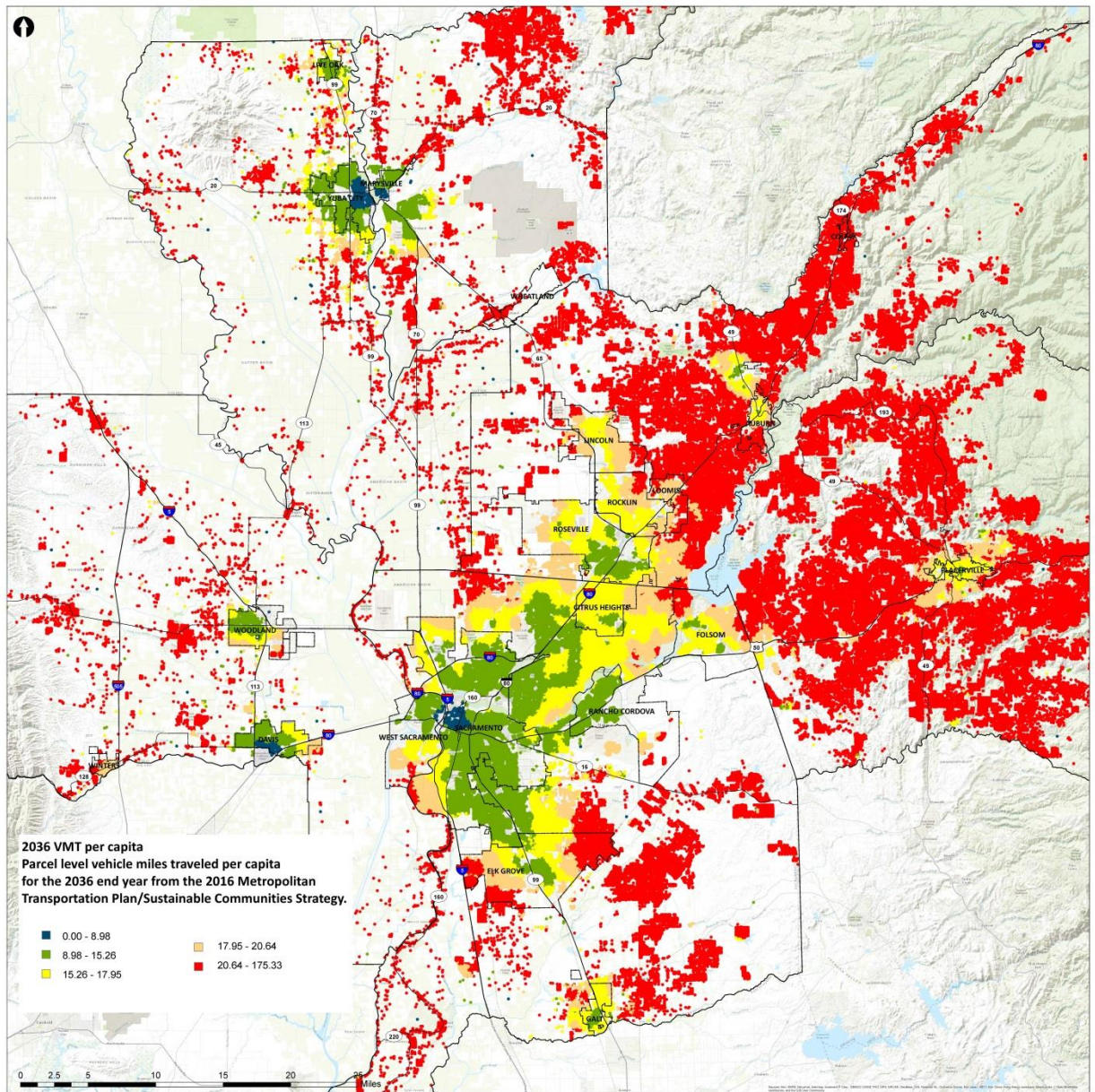


Figure 1

Source: http://www.sacog.org/sites/main/files/file-attachments/2036_vmt_per_capita.jpg

THE MCKINLEY VILLAGE LOS IMPACT ANALYSIS

The McKinley Village EIR relied on the LOS thresholds established in Policy M 1.2.2 of the 2030 General Plan. As explained above, these thresholds were based on many considerations including impacts on other elements of the environment. The General Plan is the basis for setting expectations about transportation network performance and what thresholds are appropriate to size the network necessary to support planned land use development. To ensure consistency with the General Plan expectations, the City of Sacramento relied on the same LOS thresholds in Policy M 1.2.2 to evaluate individual development projects. Absent federal or state laws to require otherwise, the City has extended the policy expectations of the General Plan into CEQA review and applied the same LOS thresholds as impact significance criteria. By doing so, CEQA review reinforces the General Plan expectations with regards to the adequacy of the transportation network as allowed by sections 15064(b) and 15064.7 of the CEQA Guidelines while also ensuring that long-term local and regional objectives for land use, air quality, and GHG reduction are achieved.

Using the General Plan LOS thresholds in the McKinley Village EIR resulted in different impact findings for intersections along 28th, 29th, and 30th Streets than for intersections located east of 30th Street because the thresholds are sensitive to land use context and other factors such as promoting infill and reducing both VMT and GHG impacts

The allowed level of change from baseline conditions (or cumulative no project conditions) when it comes to LOS considers the full range of General Plan objectives and effects on other elements of the environment. Protecting the baseline LOS or using a fixed LOS value for an entire city would ignore the relationship of air quality and GHG emission reduction goals to intensification of urban infill development, which reduces the need for driving.

Another important consideration is that the Downtown Core Area is part of the City's and region's solution for reducing VMT. Residents living in this area have some of the lowest VMT generation rates anywhere in the region (i.e., 11.3 VMT generated per capita compared to 18.2 for the region). Areas of the City where LOS D or better expectations apply across large areas (i.e., outside the Downtown core), generate higher levels of VMT, as shown in Table 2 below. These areas have correspondingly higher contributions to regional air pollution and GHGs.

Table 2 City of Sacramento Regional VMT and Roadway LOS

Regional Analysis District	2012 Household Generated VMT per Capita	Generally Applicable LOS Threshold
Downtown (core area)	11.3	F
South Natomas	15.6	D
Land Park-Pocket-Meadowview	16.5	D
North Natomas	19.7	D

Source: Fehr & Peers 2017.

CONCLUSION

City of Sacramento 2030 General Plan Policy M 1.2.2, which sets forth a variable LOS policy, appropriately identifies a different LOS threshold for the highly urbanized Core Area relative to other portions of the City. As applied to the McKinley Village study area, 30th Street serves as the eastern boundary of the Core Area and all study intersections located on 30th Street or to the west fall within the Core Area where LOS E and LOS F conditions during peak hours are allowed per Policy M 1.2.2. The difference in LOS threshold between the eastern and western portions of the study area is in recognition of the fact that the characteristics of these areas differ. When compared to the eastern portion of the study area, the area west of 30th Street has a denser and more diverse mix of land uses, has a higher level of connectivity for all travel modes with an urbanized street grid, and has higher levels of transit service. With these characteristics in place, allowing higher levels of automobile delay helps to encourage the selection of other travel modes, including walking, bicycling, and transit; this in turn results in more efficient usage of the overall multimodal travel system and lower levels of VMT per capita. In contrast, designing the roadway system in this area to achieve LOS D or better during peak hours would result in wider roadways, less room for pedestrian and bicycle infrastructure, more turn lanes at intersections, longer pedestrian crossing distances, longer traffic signal cycle lengths with increased wait times for pedestrians, all of which are directly in conflict with the City’s goals of a walkable, bikeable, transit-supportive urban environment that achieves City and regional VMT targets. Application of context specific LOS thresholds in the City’s General Plan and any other project, represents a sensible and appropriate strategy for achieving a balanced transportation system that safely serves the traveling public and reduces environmental impacts, in particular GHG.



David Carter, AICP

Senior Associate

Education

Master of City and Regional Planning with Specialization in Transportation, Georgia Institute of Technology, 2008

B.S., International Affairs,

Georgia Institute of Technology, 2003

Registrations

American Institute of Certified Planners (025742)

Professional Affiliations

American Planning Association (APA)

Urban Land Institute (ULI)

Expertise

- Transportation Planning
- Bicycle and Pedestrian Planning
- Transit Planning
- Multimodal Transportation Impact Analysis
- Traffic Operations
- Environmental Impact Reports/Studies

About

David Carter is a Senior Associate in the Sacramento office of Fehr & Peers with extensive transportation planning and project management experience. David has been with the firm for eight years, and holds a Master of City and Regional Planning degree from the Georgia Institute of Technology. His experience includes project management roles on a wide variety of multi-modal transportation planning, policy development, travel forecasting, and operations analysis projects. His recent and ongoing work includes the Downtown Sacramento Transportation Study/"Grid 3.0", Downtown Sacramento Specific Plan, Regional Transit Green Line Extension Project, Broadway Bridge Feasibility Study, Sacramento Bicycle Master Plan Update, and the Downtown/Riverfront Streetcar Project. His broad experience provides him with keen insight into how to effectively integrate multiple travel modes within urban and suburban environments. David has served as project manager on more than 40 projects in the Sacramento region, and has developed a solid reputation for meeting his client's needs by delivering high-quality, innovative projects on schedule and within budget.

Project Experience

Transportation Planning

Managed projects or served as lead transportation analyst on planning studies that assess transportation system improvements.

- Downtown Transportation Study/"Grid 3.0", Sacramento, CA
- City of Sacramento General Plan, Sacramento, CA
- Vision Zero Sacramento, CA
- Washington Transportation Study, West Sacramento, CA
- American River Crossing Alternatives Study, Sacramento, CA
- Sacramento Entertainment & Sports Complex, Sacramento, CA
- Old Sacramento State Historic Park General Plan, Sacramento, CA
- California Indian Heritage Center General Plan, West Sacramento, CA
- Freeport Boulevard Complete Street, Sacramento, CA
- Florin Road Redevelopment Access Study, Sacramento, CA
- Florin Road Corridor Plan, Sacramento, CA
- West Jackson Highway Master Plan, Sacramento County, CA
- Folsom Plan Area Transportation Studies, Folsom, CA
- Yuba County General Plan, CA
- City of Lompoc General Plan, Lompoc, CA
- Fresno Interchange Fee Program, Fresno, CA
- SR 89/Alpine Meadows Road, Placer County, CA

Transit Planning

Managed projects or served as the lead transportation analyst evaluating the potential of future transit routes to meet various traffic operations, ridership, cost, and operational goals:

- Regional Transit Green Line Extension, Sacramento, CA
- Downtown/Riverfront Streetcar, West Sacramento/Sacramento, CA
- Sacramento Streetcar Planning Study, Sacramento, CA
- Downtown Sacramento Transit Circulation and Facilities Plan, Sacramento, CA
- Florin Road Corridor Study BRT Assessment, Sacramento, CA
- Aspen/Rock Creek Transit Study – Streetcar & Shuttle Assessment, Sacramento, CA
- Placer Vineyards Transit Master Plan, Placer County, CA

Multi-Modal Impact Analysis

Managed projects or served as the lead project analyst examining multimodal transportation impacts, and assisted in preparing the transportation chapter of the Environmental Impact Report for the following projects:

- Downtown/Riverfront Streetcar, West Sacramento/Sacramento, CA
- Downtown Sacramento Courthouse, Sacramento, CA
- 2025 L Street/2101 Capitol Avenue Mixed-Use Project, Sacramento, CA
- McKinley Village, Sacramento, CA
- Northwest Land Park, Sacramento, CA
- Theodore Judah Elementary School Expansion, Sacramento, CA
- Jesuit High School Expansion, Carmichael, CA
- Cannery Park, Davis, CA
- Westland/Eagle, Folsom, CA
- Arboretum EIR Update, Rancho Cordova, CA

Traffic Operations

Managed projects or served as the lead project analyst studying the operations of freeways, interchanges, and state highway corridors to evaluate planned improvement projects. Projects include:

- I-5/Metro Air Parkway Interchange, Sacramento, CA
- SR-16 (Jackson Road) Corridor Study, Sacramento, CA
- SR-65 / Whitney Ranch Interchange, Rocklin, CA
- SR-99 / Southgate Avenue Interchange, Chico, CA
- SR-4 West PA/ED, Stockton, CA
- SR-99 Widening Project, Manteca, CA
- SR-12/88 Improvements Project, Lockeford, CA
- SR-120 / McKinley Avenue Interchange, Manteca, CA
- 7th Street Bridge Replacement, Modesto, CA

Bicycle and Pedestrian Planning

Projects include:

- Sacramento Bicycle Master Plan Update, CA
- Yuba County Bikeway Master Plan, CA
- SR-113/Hutchison Drive Interchange Multimodal Study, Davis, CA
- Fresno Bicycle Friendly Community Application, Fresno, CA
- Folsom Boulevard Transit Area Enhancements, Sacramento, CA



Ronald T. Milam, PTP, AICP

Principal

Education

B.S. with Highest Honors,
Environmental Policy Analysis and
Planning (Emphasis on Land Use and
Transportation Planning),
University of California at Davis

Registrations

American Institute of Certified
Planners (011595)

TCPB, Professional Transportation
Planner (52)

Professional Affiliations

- Transportation Research Board (TRB)
- Institute of Transportation Engineers (ITE)
- American Planning Association (APA)

Expertise

- Expert Witness Testimony
- Professional Instructor
- Expert Panels
- Travel Demand Modeling
- Land use and Transportation Planning Studies
- Project Development Studies
- Environmental Impact Analysis
- Rail Studies
- Multi-Modal Station Siting and Design Studies
- Bikeway Planning and Design

About

Ronald T. Milam, AICP, PTP is a Principal with Fehr & Peers located in the Roseville, California office. He is actively involved in a wide variety of project work but also finds time to co-lead the firm's research and development efforts and teach transportation and land use planning courses for UC Berkeley and UC Davis. Ron has an extensive background in travel demand model development and applications, transportation impact fee programs, traffic operations analysis, micro-simulation modeling, and transportation impact studies involving NEPA and CEQA. He has also published papers on a wide variety of transportation planning and traffic engineering topics and received recognition for his work that includes the Institute of Transportation Engineer's (ITE) National Past President's Award and best paper honors at the Transportation Research Board (TRB) Conference on Planning Applications. He is currently developing new forecasting and operations models that rely on cell phone origin-destination (OD) data and GPS speed data.

Publications and Presentations

Traffic Characteristics of Distribution Centers, ITE District 6 Annual Meeting, Steven J. Brown and Alan Telford

Can We Still Predict Level of Service?, ITE District 6 Annual Meeting, Gerald Walters and Alan Telford

Traffic Characteristics and Management of a Large Event Facility, ITE District 6 Annual Meeting

Implementing Bicycles Facilities on Older Streets, ITE Conference Paper

Project Experience

Professional Instructor

Instructor for training course involving transportation, planning, travel demand forecasting, GIS, traffic simulation, and land use/transportation interactions.

- UC Berkeley Institute of Transportation Studies - Managing Transportation and Land Use Interactions - July, 2002
- APA Advanced Transportation Planning Workshop - Choices and Tradeoffs, APA National Conference 2012

Lecturer

Ron has lectured on topics such as transportation impact analysis for CEQA/NEPA projects, travel demand forecasting, greenhouse gas analysis, and traffic simulation modeling since 2000 at the University of California at Davis, California Polytechnic State University at San Luis Obispo, California State University (CSU) at Chico, and CSU at Sacramento.

Expert Panels

Participated in expert panels related to travel demand forecasting, traffic simulation, and smart growth planning.

- White House Area Transportation Study, FHWA -Member of Transportation Working Group (2006-2007)

- Assessment of Local Models and Tools for Analyzing Smart Growth - Caltrans - Member of Technical Advisory Committee (2007)
- California RTP Guidelines Update for Compliance with Green House Gas Analysis Requirements of AB32 - Caltrans - Member of Regional Transportation Plan Modeling Sub-Work Group (2007-2008)
- California RTP Guidelines Update for Compliance with SB 375 - California Transportation Commission - Member of Regional Transportation Plan Guidelines subcommittee and Modeling subcommittee (2009-2010)
- SACOG DaySim-TRANSIMS Peer Review - FHWA - (2009)
- Performance Measures for Sustainable Streets, NACTO Designing Cities Conference (2012)
- Northbound I-680 Express Lanes & BATA Conversion of HOV Lanes to Express Lanes, TRB Annual Meeting (2013)
- Innovative Urban Mobility Services Meeting – National Academy of Sciences/TRB (2014)

Environmental Impact Analysis

Responsibilities included project manager for the preparation of transportation impact studies for land use development and transportation infrastructure projects.

- Jepson Parkway EIR/EIS, Solano County, CA
- Village at Squaw Valley EIR, CA
- Manzanita Avenue Widening Project EIR/EA, Chico, CA
- Promontory Specific Plan EIR, El Dorado County, CA
- Carson Creek Specific Plan EIR, El Dorado County, CA
- Wal-Mart EIR, El Dorado County, CA
- Elk Grove Automall EIR, Sacramento County, CA
- El Dorado County General Plan EIR, CA
- Yuba City General Plan EIR, CA
- Legacy Parkway SEIS

Land Use and Transportation Planning Studies

Responsibilities have included policy development, technical analysis, impact assessments, nexus studies, and the development and execution of travel demand models.

- Solano County Comprehensive Transportation Plan, CA
- El Dorado County General Plan, CA
- El Dorado County Traffic Impact Fee Program, CA
- Calaveras County Regional Transportation Plan, CA

- Mare Island Re-Use Plan, Vallejo, CA
- Amador County Regional Transportation Plan, CA
- Yolo County Transit Study, CA
- Folsom Citywide Transportation Systems Management Study, CA
- Nevada County Regional Transportation Plan, CA
- Auburn General Plan Circulation Element, Land Use Element, CA
- Nevada County Corridor Management and Preservation Study, CA
- Woodland General Plan Circulation Element and Street Master Plan, Woodland, CA
- City of Woodland Impact Fee Program, CA
- City of Fresno Impact Fee Program, CA
- City of Oroville Impact Fee Program, CA
- City of Redding Urban Area Transportation Plan, CA

Bikeway Planning and Design

Responsibilities have included the development of bikeway master plans, bicycle facility designs, and bikeway components for General Plan circulation elements, environmental documents, and Caltrans project development reports. Major bikeway projects include:

- Sacramento County GP Circulation Element - Bikeway Component, CA
- Solano Countywide Bicycle Master Plan, CA
- Yuba-Sutter Bikeway Master Plan, CA
- Nevada County Bicycle Master Plan, CA
- Livermore Bicycle/Pedestrian Plan Update and Equestrian Trails Study, CA
- Calaveras County Bikeway Master Plan, CA
- San Joaquin County Bikeway Master Plan
- North Natomas Bikeway Implementation Plan, Sacramento CA
- City of Folsom Bikeway Master Plan, Folsom, CA
- Lassen County Bikeway Master Plan, CA
- City of Citrus Heights Bikeway Master Plan, CA
- "Area of Opportunity" within the City where infill or redevelopment projects could occur and promote the City's Smart Growth goals.