

Duarte Station Specific Plan Amendment

Final Subsequent Environmental Impact Report

SCH NO. 2013041032

November 2019

Lead Agency:

City of Duarte
Contact: Mr. Jason Golding
626-357-7931

Prepared By:





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1. INTRODUCTION

The Final Subsequent Environmental Impact Report (Final SEIR) for the proposed amended Duarte Station Specific Plan has been prepared by the City of Duarte (City), the Lead Agency, in keeping with the California Environmental Quality Act (CEQA). The City has prepared the Final SEIR pursuant to the CEQA Guidelines, including Sections 15086 (Consultation Concerning Draft EIR), 15088 (Evaluation of and Responses to Comments), and 15132 (Contents of Final Environmental Impact Report). In conformance with these guidelines, the Final EIR consists of the following volumes:

1. The Draft EIR (DEIR) which was circulated for a 45-day public comment period beginning August 27, 2019 and ending on October 10, 2019; and
2. The FEIR document, which includes a list of all commenters on the DEIR during the public comment period, copies of all written comment letters on the DEIR, responses to all comments received on the DEIR, and required revisions to the DEIR in response to comments.

None of the revisions to the Draft SEIR represent a substantial increase in the severity of an identified significant impact or the identification of a new significant impact, mitigation measure, or alternative different from those already considered in preparing the Draft SEIR.

The Draft SEIR, Final SEIR, and administrative record for the Duarte Station Specific Plan are available for review upon request at:

City of Duarte
Community Development Department
1600 Huntington Drive
Duarte, CA 91010

Certification of this Final SEIR by the Duarte City Council must occur prior to approval of the amended Duarte Station Specific Plan, the General Plan Amendment for the Duarte Station Specific Plan, and the Vesting Tentative Tract Map for The Residences at Duarte Station.

1.1 PROJECT DESCRIPTION SUMMARY

This project description summary should not be relied upon for a thorough understanding of the details of the project, its individual impacts, and related mitigation needs. Please refer to Chapter 3 of the Draft SEIR for a complete description of the project, Chapters 4 through 9 and 2 of the Draft SEIR for a complete description of identified environmental impacts and associated mitigation measures, and Chapter 6 of the DEIR for an evaluation of alternatives to the project.

DESCRIPTION OF PROJECT

The current Duarte Station Specific Plan was adopted and the EIR certified by the Duarte City Council on December 10, 2013. This proposed project represents a comprehensive amendment and update to the adopted Specific Plan. The City-initiated Duarte Station Specific Plan (Specific Plan) is intended to establish the general type, parameters, and character of the

development desired to create an integrated transit-oriented development (TOD) compatible with the surrounding area. The plan area’s proximity to freeways, major streets, and existing rail infrastructure makes the Duarte Station Specific Plan site an ideal location for integrating a mix of uses and transit, along with facilitating economic development in Duarte.

PERMITTED LAND USES

The primary goal of the updated Duarte Station Specific Plan is to provide flexibility for property owners to respond to market conditions by creating a plan that accommodates a mixed-use transit village. The updated plan will facilitate investment and revitalization, ultimately resulting in new uses that complement one another, take advantage of ready Gold Line light rail accessibility, and provide needed housing. While the existing Duarte Station Specific Plan allows residential, office, research and development, hotel, and commercial retail and restaurant use, the proposed amended Duarte Station Specific Plan will more than double the number of new residential units and still accommodate offices, retail spaces, and restaurants. Importantly, the update plan will provide for better integration of uses and connections to the Gold Line station via Highland Avenue.

DEVELOPMENT SCENARIO

For purposes of the environmental analysis, one potential development scenario has been examined that represents a preferred mix of uses under the amended Duarte Station Specific Plan as shown in *Table 1-1, Development Scenario*, and compared with the existing land uses and original approved land uses under the existing Duarte Station Specific Plan. The ultimate land uses on each site would be determined at the time of site plan submittal for a specific parcel. This development buildout scenario was chosen for the analysis not just because it represents the preferred ultimate condition but also because it has the potential to have a high level of impact, thus representing a conservative level of analysis.

**Table 1-1
 Development Scenario**

Land Use	Residential (DU)	Non-Residential (SF)
Existing		
Warehouse/Industrial		313,955
Original Approved Specific Plan		
Retail		12,000
Office		400,000
Hotel		250 rooms
High Density Residential	475	
Proposed		
Retail/Restaurant		12,500
Office		100,000

Land Use	Residential (DU)	Non-Residential (SF)
High Density Residential	1,400	
TOTAL PROPOSED	1,400	112,000
Abbreviations: DU dwelling units; SF square feet		

The City has received a preliminary application for a development project on parcels 8528-011-025, called The Residences at Duarte Station. The development comprises a two-building residential development with 619 dwelling units, parking structures, and 157,195 square feet of open space.

The City has also received a second preliminary application for the Duarte Intergenerational Housing Project; this project proposes an affordable housing development on parcel 8528-011-906 consisting of a mixed-use building with ground-floor commercial use and up to 80 units of rent-restricted affordable housing.

GROWTH RELATIVE TO EXISTING CONDITIONS

As shown in the *Table 1-2, Growth Relative to Existing Conditions*, the anticipated growth in residential and non-residential uses above 2019 existing conditions is projected to be:

- Addition of 1,400 dwelling units
- Reduction of 313,955 square feet industrial uses
- Addition of 100,000 square feet of non-residential (office) uses
- Addition of 12,500 square feet of retail/restaurant uses

**Table 1-2
 Growth Relative to Existing Conditions**

Land Use	Residential (units)	Non-Residential (square feet)
Existing		
Warehouse/Industrial		313,955
Total		313,955
Proposed Specific Plan		
Retail/Restaurant		12,500
Office		100,000
High Density Residential	1,400	
Total	1,400	112,500
Difference Between Existing Conditions and Specific Plan Assumptions	+1,400	-201,455

1.2 ADEQUACY OF FINAL SEIR

Under CEQA, the responses to comments on a Draft SEIR must include good faith, well-reasoned responses to all comments received on the Draft SEIR that raise significant environmental issues related to the project under review. If a comment does not relate to the Draft SEIR or does not raise a significant environmental issue related to the project, there is no need for a response under CEQA.

In responding to comments, CEQA does not require the SEIR authors to conduct every test or perform all research or study suggested by commenters. Rather, the SEIR authors need only respond to significant environmental issues and need not provide all of the information requested by reviewers, as long as a good faith effort at full disclosure is made in the SEIR (CEQA Guidelines Sections 15088, 15132, and 15204).

Due to the number of comments received during the public comment period of the Draft SEIR which discuss proposed or recommended changes to the Duarte Station Specific Plan, the City has addressed these Specific Plan-related comments in the staff report for consideration by the City Council for adoption of the amended Duarte Station Specific Plan.

2. RESPONSE TO COMMENTS ON THE DRAFT SEIR

After completion of the Draft SEIR (also referred to as “DSEIR”), the Lead Agency is required under CEQA Guidelines Sections 15086 (Consultation Concerning Draft EIR) and 15088 (Evaluation of and Response to Comments) to consult with and obtain comments from other public agencies having jurisdiction by law with respect to the project, and to provide the general public with an opportunity to comment on the DSEIR. Under CEQA Guidelines Section 15088, the Lead Agency is also required to respond in writing to substantive environmental points raised in the DSEIR review and consultation process.

Comments on the DSEIR were submitted in the form of comment letters during the public comment period held between August 27, 2019 and October 10, 2019. CEQA Guidelines Section 15132 (Contents of Final Environmental Impact Report), subsection (b), requires that the FEIR include the full set of comments and recommendations received on the DSEIR either verbatim or in summary. Section 15132, subsection (c) requires that the FEIR include “a list of persons, organizations, and public agencies commenting on the DEIR,” and Section 15132, subsection (d), requires that the FEIR include “the responses of the Lead Agency to significant environmental points raised in the review and consultation process.” In keeping with these guidelines, this Response to Comments chapter includes the following sections:

- A list of commenters on the DSEIR which lists each individual who submitted comments during the public comment period;
- A response to all comments received on the DSEIR which includes copies of all letters and emails received during the public comment period.

2.1 LIST OF COMMENTERS

Agencies and individuals and organizations who commented on the DSEIR are listed below in alphabetical order. Each comment letter is included below and assigned a code (e.g., L1, L2, L3). Each comment within each letter is further assigned a code for tracking individual responses to comments (e.g., L1.1, L1.2, L2.1, L2.2).

2.1.1 Responsible and Interested Agencies

Caltrans (L1 and L2)
California Public Utilities Commission (CPUC) (L3)
South Coast Air Quality Management District (SCAQMD) (L4)
County of Los Angeles Fire Department (LACoFD) (L5)
Sanitation Districts of Los Angeles County (L6)

2.1.2 Individuals and Organizations

Southwest Regional Council of Carpenters (L7)

2.2 RESPONSES TO COMMENTS

The following section includes comment letters received during the public comment period on the DSEIR, followed by a written response to each comment. The comments and responses are correlated by code numbers shown in the right margin of each comment letter.

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DEPARTMENT OF TRANSPORTATION
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*Making Conservation
a California Way of Life.*

October 7, 2019

Jason Golding
City of Duarte
1600 Huntington Drive
Duarte, CA 91010

RE: Duarte Station Specific Plan Amendment –
Subsequent Environmental Impact Report
(SEIR)
SCH# 2013041032
GTS# 07-LA-2019-02787
Vic. LA-210 PM R35.827

Dear Jason Golding,

Thank you for including the California Department of Transportation (Caltrans) in the environmental review process for the above referenced project. The project will revise the existing Duarte Station Specific Plan, Master Land Use Plan and allowable development, and includes revisions to the General Plan to provide consistency. Within this total development scenario, the proposed development on parcels 8528-011-025 and 8528-011-906 will include development up to 1,400 dwelling units, reduction of 313, 955 square feet of industrial uses, addition of 100,000 square feet of nonresidential office uses, and addition of 12,500 square feet of retail/restaurant uses. The project will also require a General Plan amendment to revise the anticipated build-out consistent with the Specific Plan amendment.

The nearest State facility to the proposed project is I-210. After reviewing the Notice of Preparation, Caltrans has the following comments:

Caltrans acknowledges and supports infill development that prioritizes nearby transit service, like the proposed specific plan aims to facilitate. However, due to the amount of parking, the Duarte Station Specific Plan is still designed in a way that induces demand for additional vehicle trips. This demand should be addressed with appropriate design and management principles. Caltrans supports reducing the amount of parking whenever possible. Research on parking suggests that abundant car parking enables and encourages driving. Research looking at the relationship between land-use, parking, and transportation indicates that the amount of car parking supplied can undermine a project's ability to encourage public transit and active modes of transportation. For any project to better promote public transit and reduce vehicle miles traveled, we recommend the implementation of Transportation Demand Management (TDM) strategies as an alternative to building an excessive amount of parking.

L1.1

Caltrans encourages the Lead Agency to consider any reduction in vehicle speeds to benefit pedestrian and bicyclist safety, as there is a direct link between impact speeds and the likelihood of fatality or serious injury. The most effective methods to reduce pedestrian and bicyclist exposure to vehicles is through physical design and geometrics. These methods include the construction of physically separated facilities such as Class IV bike lanes, wide sidewalks, pedestrian refuge islands, landscaping, street furniture, and reductions in crossing distances through roadway narrowing. Visual indicators such as, pedestrian and bicyclist warning signage, flashing beacons, crosswalks, signage, and striping should be used in addition to physical design improvements to indicate to motorists that they can expect to see and yield to pedestrians and people on bikes.

L1.2

To ensure the success of this project's transit-oriented transportation goals, Caltrans recommends the following multimodal improvements:

1. Remove or significantly narrow the empty median along Highland Avenue to add Class 4 protected bike lanes in both directions.
2. The sidewalk along E. Duarte Road currently ends just east of Mountain Avenue. Please plan to continue the sidewalk to maintain pedestrian connectivity.
3. Improve the existing bike lanes along E. Duarte Road to Class 4 to improve safety and prevent illegal vehicle parking.
4. Paint new continental crosswalks at all intersections.
5. Provide adequate bike parking structures and/or "bike hub" with air pump and tools.
6. Shade structures, including trees and transit stop shelters.
7. Adequate lighting and trip predictors at all bus stops.

Any development should keep livability in mind by providing shade trees, native landscaping, bioswales, street furniture, bicycle parking, bus shelters and trash cans. Bus bulb-outs can reduce conflict between bicycles and buses on busy roads. Bus only lanes are encouraged to reduce travel times and make public transit more appealing to discretionary users. Any gated communities should provide pedestrian paths and doors to ensure access to transit, shopping centers, schools and main roads. Whenever possible, a grid pattern with short blocks is recommended to promote walking. Permeable paving materials should be incorporated whenever possible. Signage can be reinforced by road design features such as lane widths, landscaping, street furniture, and other design elements.

L1.3

Additionally, Caltrans is replacing Level of Service (LOS) with Vehicle Miles Traveled (VMT) when evaluating traffic impacts. By July 1, 2020, VMT will be the standard transportation metric for land use projects and new Traffic Impact Study guidelines will be used to analyze and address

L1.4

transportation impacts on the State Transportation System. For any future project we encourage the Lead Agency to integrate transportation and land use in a way that reduces VMT and Greenhouse Gas (GHG) emissions by facilitating the provision of more proximate goods and services to shorten trip lengths and achieve a high level of non-motorized travel and transit use. As required by SB 743, Caltrans recommends the Lead Agency develop a verifiable performance-based VMT criteria.

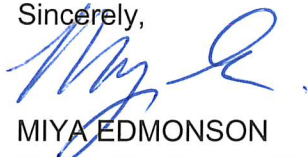
L1.4
Cont.

Since there is no physical development being proposed, nor are any new construction, grading, or other physical alterations to the environment being considered at this time, we cannot determine the level of impact that this project will cause to our highways and freeways. However, Lead Agency representatives should consult with Caltrans when future projects have the potential to cause a significant impact to state facilities.

L1.5

If you have any questions, please contact project coordinator Anthony Higgins, at anthony.higgins@dot.ca.gov and refer to GTS# 07-LA-2019-02787.

Sincerely,



MIYA EDMONSON

IGR/CEQA Branch Chief

cc: Scott Morgan, State Clearinghouse

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2.2.1 State of California Department of Transportation (Caltrans) Regarding Duarte Station Specific Plan Amendment (L1) (3 pages)

L1.1 The Duarte Station Specific Plan should be designed in a way that does not induce demand for additional vehicle trips using appropriate design and management principles. Caltrans recommends the implementation of Transportation Demand Management (TDM) strategies as an alternative to building an excessive amount of parking.

Response: The City of Duarte has created a parking standard for the amended Duarte Station Specific Plan that is lower than the development code standard in other parts of the City. The table below shows the difference between the two standards:

Development Code Standard	Multifamily Dwellings	2 per unit in a garage, plus overflow and guest parking as follows: 1 overflow parking space per each 4 units 1 guest parking space per each 4 units
Specific Plan Standard	Multifamily Dwellings	Studio/1-Bedroom: 1 per unit 2-Bedroom: 1.8 per unit 3-Bedroom: 2 per unit Guest spaces: Projects over 150 units: 0.15 per unit; Projects 149 units or less: 0.2 per unit

The developer and the City have also committed to the creation of a Parking Management Plan. There will be a separate management plan for the residential and commercial components of the project. As part of the management plan, the supply is flexible and will be monitored and adjusted accordingly. The amount of parking provided is anticipated to be shared between the residents, visitors, and tenants of the onsite buildings.

L1.2 Consider any reduction in vehicle speeds to benefit pedestrian and bicycle safety. Visual indicators should be used in addition to physical design improvements to indicate to motorists that they can expect to see and yield to pedestrians and people on bikes. Caltrans encourages the Lead Agency to consider any reduction in vehicle speeds to benefit pedestrian and bicyclist safety, as there is a direct link between impact speeds and the likelihood of fatality or serious injury. The most effective methods to reduce pedestrian and bicyclist exposure to vehicles is through physical design and geometrics. These methods include the construction of physically separated facilities such as Class IV bike lanes, wide sidewalks, pedestrian refuge islands, landscaping, street furniture, and reductions in crossing distances through roadway narrowing. Visual indicators such as, pedestrian and bicyclist warning signage, flashing beacons, crosswalks, signage, and striping should be used in addition to physical design improvements to indicate to motorists that they can expect to see and yield to pedestrians and people on bikes.

To ensure the success of this project's transit-oriented transportation goals, Caltrans recommends the following multimodal improvements:

1. Remove or significantly narrow the empty median along Highland Avenue to add Class 4 protected bike lanes in both directions.
2. The sidewalk along E. Duarte Road currently ends just east of Mountain Avenue. Please plan to continue the sidewalk to maintain pedestrian connectivity.
3. Improve the existing bike lanes along E. Duarte Road to Class 4 to improve safety and prevent illegal vehicle parking.

4. Paint new continental crosswalks at all intersections.
5. Provide adequate bike parking structures and/or "bike hub" with air pump and tools.
6. Shade structures, including trees and transit stop shelters.
7. Adequate lighting and trip predictors at all bus stops.

Response: The City of Duarte recently won an Active Transportation Planning (ATP) Grant that will enable them to make improvements for non-vehicular modes of travel close to the project site. The planned projects include:

- Evergreen Pedestrian Walkway – Sidewalk along the north side of Evergreen Street between Brightside Avenue and Highland Avenue
- Pedestrian / Bicyclist Connection Corridor – Pedestrian corridor south of the I-210 between Buena Vista Street and Brightside Avenue
- Central Pedestrian Walkway – Sidewalk along the south side of Central Avenue between Bradbury Avenue to Highland Avenue
- Pedestrian Underpass Connectivity – Advanced pedestrian lighting under the I-210 underpasses along Highland Avenue, Duncannon Avenue, and Buena Vista Avenue

In addition to the projects associated with the ATP funding, the City of Duarte has a Bicycle and Pedestrian Master Plan. This plan includes proposed bicycle and pedestrian access improvements to the Duarte Gold Line Station ("Safe Routes to Transit Plans"). The facilities being proposed overlap with many of Caltrans' suggestions including the addition of continental crosswalks, increased lighting, and expanded bicycle and pedestrian infrastructure.

L1.3 Any development should keep livability in mind by providing shade trees, native landscaping, bioswales, street furniture, bicycle parking, bus shelters and trash cans. Bus bulb-outs can reduce conflict between bicycles and buses on busy roads. Bus only lanes are encouraged to reduce travel times and make public transit more appealing to discretionary users. Any gated communities should provide pedestrian paths and doors to ensure access to transit, shopping centers, schools and main roads. Whenever possible, a grid pattern with short blocks is recommended to promote walking. Permeable paving materials should be incorporated whenever possible. Signage can be reinforced by road design features such as lane widths, landscaping, street furniture, and other design elements.

Response: The proposed Duarte Station Specific Plan is intended to be an accessible and livable development. Placemaking features such as landscaping, wayfinding, and a sense of vibrancy due to a mix of land uses are all to be incorporated on site. It will be well connected to the Duarte Gold Line station and also provide opportunities for connections to other transit, such as buses. The Bicycle and Pedestrian Master Plan from the City of Duarte also identifies areas surrounding the site that should see streetscape improvements (such as trees and lighting) in the future.

L1.4 Caltrans encourages the Lead Agency to integrate transportation and land use in a way that reduces VMT and Greenhouse Gas (GHG) emissions by facilitating the provision of more proximate goods and services to shorten trip lengths and achieve a high level of non-motorized travel and transit use. Caltrans also recommends the Lead Agency develop a verifiable performance-based VMT criteria.

Response: CEQA Guidelines do not require adoption of VMT criteria until July 1, 2020. However, a VMT analysis for the project can be found in the transportation section of the DSEIR. As the City of Duarte has not yet adopted new guidelines for the preparation of traffic impact analyses

using VMT, including thresholds of significance in compliance with Senate Bill 743, the VMT analysis in the SEIR was conducted for informational purposes only.

The proposed Specific Plan would involve development of multifamily housing and mixed use development in an urban infill location and an area that qualifies as a Transit Priority Area (TPA) according to CEQA and identified as a High Quality Transit Area (HQTA) by Southern California Association of Governments' (SCAG's) 2016-2040 Regional Transportation Plan/Sustainable Communities Strategy (RTP/SCS), thereby ultimately reducing vehicle miles traveled and associated greenhouse gas (GHG) emissions in the region.

L1.5 Since there is no physical development being proposed, nor are there any new construction, grading, or other physical alterations to the environment being considered at this time, Caltrans cannot determine the level of impact from future development on highways and freeways. Therefore, the Lead Agency should consult with Caltrans when future projects have the potential to cause a significant impact to state facilities.

Response: Please see responses to Caltrans' comments below in Section 2.2.2. In addition, the transportation section of the Draft SEIR contains an analysis of potential effects of the project on freeway (Caltrans) facilities assuming full buildout of the proposed land uses under the Specific Plan. Two analyses were conducted, which included an off-ramp queuing analysis at five off-ramps on the I-210 and I-605 freeways and a freeway mainline freeway segment analysis for a series of mainline segments on I-210 and I-605 freeways. The project is not estimated to create off-ramp queue lengths that exceed 85 percent of the capacity of the ramps and the project is not projected to result in a change in the Measure of Effectiveness (MOE) at any mainline locations.

Future individual projects proposed under the Specific Plan will be evaluated for consistency with the Specific Plan and the assumptions in the SEIR. As stated in Section 5.4, Traffic, of the Draft SEIR, future development of the Duarte Station Specific Plan area will require Caltrans consultation if State facilities may be significantly impacted, and additional environmental review may be required.

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*Making Conservation
a California Way of Life.*

October 7, 2019

Jason Golding
City of Duarte
1600 Huntington Drive
Duarte, CA 91010

RE: The Residences at Duarte Station / Vesting
Tentative Tract Map No. 82518
GTS# 07-LA-2019-02821
Vic. LA-210 PM R35.827

Dear Jason Golding,

Thank you for including the California Department of Transportation (Caltrans) in the environmental review process for the above referenced project. Vesting Tentative Tract Map #82518 is a proposal for a multi-family residential infill development. The subdivision proposes two lots: Lot A - 189,223 sq.ft. or 4.34 acres, and Lot B - 148,546 sq.ft. or 3.41 acres. The proposed development on Lot A includes a six-story apartment building, consisting 344 units, wrapped by a seven-story parking structure. The proposed development on Lot B includes a six-story apartment building, consisting of 275 units, wrapped by a six-story parking structure. This tract map is associated with the concurrent processing of a general plan amendment, Duarte Station Specific Plan amendment, site plan and design review, and a subsequent environmental impact report (SCH#2013041032). Noticing for these entitlements will be handled separately.

The nearest State facility to the proposed project is I-210. After reviewing the Vesting Tentative Tract Map, Caltrans does not expect project approval to result in a direct adverse impact to the existing State transportation facilities. Please see comment letter in response to SCH# 2013041032 (GTS# 07-LA-2019-02787) for comments related to the development of the Duarte Station Specific Plan, which this tract map proposal is a part.

L2.1

In addition, Caltrans acknowledges and supports infill development that prioritizes nearby transit service, like the project that will be developed on these parcels. However, due to the amount of parking, the project is still designed in a way that induces demand for additional vehicle trips. This demand should be addressed with appropriate design and management principles. Caltrans supports reducing the amount of parking whenever possible. Research on parking suggests that abundant car parking enables and encourages driving. Research looking at the relationship between land-use, parking, and transportation indicates that the amount of car parking supplied can undermine a project's ability to encourage public transit and active modes of transportation. For any project to better promote public transit and reduce vehicle miles traveled, we recommend

L2.2

the implementation of Transportation Demand Management (TDM) strategies as an alternative to building an excessive amount of parking.

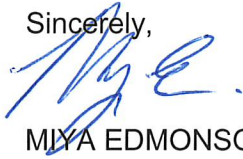
L2.2
Cont.

Additionally, any transportation of heavy construction equipment and/or materials which requires use of oversized-transport vehicles on State highways will need a Caltrans transportation permit. We recommend large size truck trips be limited to off-peak commute periods.

L2.3

If you have any questions, please contact project coordinator Anthony Higgins, at anthony.higgins@dot.ca.gov and refer to GTS# 07-LA-2019-02787.

Sincerely,



MYA EDMONSON
IGR/CEQA Branch Chief

2.2.2 State of California Department of Transportation (Caltrans) Regarding The Residences at Duarte Station (L2) (2 pages)

L2.1 Caltrans does not expect project approval to result in a direct adverse impact to the existing State transportation facilities.

Response: Comment noted; the SEIR provides substantial evidence to support this conclusion.

L2.2 The Residences at Duarte Station should be designed in a way that does not induce demand for additional vehicle trips using appropriate design and management principles. Caltrans recommends the implementation of Transportation Demand Management (TDM) strategies as an alternative to building an excessive amount of parking.

Response: Please see above response to Caltrans Comment Letter L1 “Duarte Station Specific Plan Amendment - Subsequent Environmental Impact Report (SEIR).”

L2.3 Transportation of heavy construction equipment and/or materials which requires use of oversized-transport vehicles on State highways will need a Caltrans transportation permit. Such large size truck trips should be limited to off-peak commute periods.

Response: Comment noted. Construction contractors are required to comply with all State regulations. Project applicants will be required to coordinate with the City of Duarte to develop a construction traffic management plan prior to the start of project construction. The applicant will also be required to contact Caltrans to obtain any of the necessary permits and to adhere to all restricted routes and travel timing restrictions required by Caltrans pursuant to Caltrans Transportation Permit process.

PUBLIC UTILITIES COMMISSION

320 WEST 4TH STREET, SUITE 500
LOS ANGELES, CA 90013



October 08, 2019

Jason Golding
City of Duarte
1600 Huntington Drive
Duarte, CA 91010

**Re: Duarte Station Specific Plan
SCH# 2013041032 – Supplement/Subsequent Environmental Impact Report**

Dear Mr. Golding:

The California Public Utilities Commission (Commission/CPUC) has jurisdiction over rail crossings (crossings) in California. CPUC ensures that crossings are safely designed, constructed, and maintained. The Commission's Rail Crossings Engineering Branch (RCEB) is in receipt of the Supplement/Subsequent Environmental Impact Report (EIR) for the proposed Duarte Station Specific Plan (Project). City of Duarte is the lead agency (City).

The project entails a mixed-use plan for the area that would include up to 475 residential units, up to 250 hotel rooms, up to 400,000 square feet of office space, and up to 12,000 square feet of retail space. The area covered by the Specific Plan is 19.08 acres in size and is currently the location of three industrial manufacturing buildings.

The project site area includes an active rail crossing near the proposed project at Highland Ave and E. Duarte Rd. The new development may increase traffic volumes not only on the streets and at intersections, but also at at-grade crossings. A traffic impact study should be conducted and any potential mitigations affecting the crossing should be discussed with RCEB.

L3.1

In addition, since the primary goal of the updated Duarte Specific Plan is to provide flexibility in accommodating the development of a mixed-use transit village, any development resulting in modification of the existing Gold Line light rail station in order to facilitate pedestrian access across rail tracks will require authorization from the Commission.


L3.2

RCEB representatives are available to discuss any potential safety impacts or concerns at crossings. Please continue to keep RCEB informed of the project's development. More information can be found at: <http://www.cpuc.ca.gov/crossings>.

L3.3

If you have any questions, please contact Jose Pereyra at (213) 576-7083, or JFP@cpuc.ca.gov.

Sincerely,


Jose Pereyra
Utilities Engineer
Rail Crossings and Engineering Branch
Rail Safety Division

CC: State Clearinghouse, state.clearinghouse@opr.ca.gov

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2.2.3 California Public Utilities Commission (CPUC or Commission) (L3) (1 page)

L3.1 A traffic impact study should be conducted and any potential mitigations affecting the active rail crossing near Highland Avenue and East Duarte Road should be discussed with the CPUC's Rail Crossing Engineering Branch (RCEB).

Response: A traffic impact study was conducted in July 2019 and incorporated by reference into DSEIR Section 5.4 Traffic. No mitigation measures were required for the intersection of Highland Avenue and East Duarte Road.

Improvements to the intersection of Huntington Drive and Highland Avenue are required in Mitigation Measure TRF-2; however, this intersection is located north of the I-210 and far enough away that improvements would have a less than significant effect on the rail crossing at Highland Avenue.

A project-related impact on the Level of Service (LOS) of the intersection of Buena Vista Street and Duarte Drive was identified, which is adjacent to the Los Angeles County Metropolitan Transportation Authority (Metro) Gold Line rail crossing. However, no feasible mitigation measures were identified for that location. Therefore, no changes are proposed for the current configuration and operation of the intersection.

L3.2 Any development resulting in modification of the existing Gold Line light rail station in order to facilitate pedestrian access across rail tracks will require authorization from the Commission.

Response: Comment noted. There are currently no proposed modifications to the existing Gold Line light rail station. However, as noted in the amended Duarte Station Specific Plan, the City would consult with the CPUC and Metro on any future applications for modifications to the station.

L3.3 Continue to keep RCEB informed of the project's development.

Response: As noted in the amended Duarte Station Specific Plan, the City would consult with the CPUC and Metro on any future applications for modifications to the Gold Line station and/or any other proposed plans that would affect the at-grade rail crossing in the Specific Plan area.



South Coast Air Quality Management District

21865 Copley Drive, Diamond Bar, CA 91765-4178
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SENT VIA E-MAIL AND USPS:

October 10, 2019

GoldingJ@accessduarte.com

Jason Golding, Planning Division Manager
City of Duarte, Planning Department
1600 Huntington Drive
Duarte, CA 91010

Draft Environmental Impact Report (Draft SEIR) for the Proposed Duarte Station Specific Plan Project (SCH No.: 2013041032)

South Coast Air Quality Management District (South Coast AQMD) staff appreciates the opportunity to comment on the above-mentioned document. The following comments are meant as guidance for the Lead Agency and should be incorporated into the Final SEIR.

South Coast AQMD Staff's Summary of Project Description

The Lead Agency proposes construction of 1,400 residential units, 12,500 square feet of retail/restaurant use, and 100,000 square feet of office uses on 19.08 acres (Proposed Project). The Proposed Project is located on the northwest corner of Duarte Road and Highland Avenue. The Proposed Project would be constructed in two phases. Phase 1 consists of approximately 700 residential units, 1,348 parking garage spaces, and 6,250 square feet of retail/restaurant use¹. Phase 2 consists of approximately 700 apartment units, 6,250 square feet of retail/restaurant use, and 100,000 square feet of commercial space². Construction of Phase 1 would begin in 2020 followed by construction of Phase 2 in 2022. The Proposed Project would reach full buildout by 2025³. Based on a review of Figure 3-3, *Specific Plan Area*, in the Draft SEIR, and aerial photographs, South Coast AQMD staff found that the Proposed Project is located within 500 feet of Interstate 210 (I-210)⁴.

South Coast AQMD Staff's Summary of Air Quality and Health Risk Assessment (HRA) Analyses

In the Air Quality section, the Lead Agency quantified the Proposed Project's construction and operation emissions and compared those emissions to South Coast AQMD's recommended regional and localized air quality CEQA significance thresholds. Based on the analyses, the Lead Agency found that the Proposed Project's construction air quality impacts would be less than significant, after the implementation of mitigation measure (MM) AIR-2A. MM AIR-2A requires construction contractors to utilize super-compliant architectural coatings with 10 grams of VOC per liter or less. Additionally, the Lead Agency found that the Proposed Project's operational emissions would not exceed South Coast AQMD's CEQA operational significance thresholds, after the implementation of MM AIR-2B. MM AIR-2B requires that no more than 60% of new residential units be built with fireplaces. The Lead Agency also performed a mobile source HRA analysis and found that future residents living at the Proposed Project would be exposed to a cancer risk ranging from 21.9 to 40.7 in one million⁵, which would exceed South Coast AQMD's CEQA significance threshold of 10 in one million for cancer risk by up to four times. To reduce the significant cancer risk impact, the Proposed Project is required to install and perform ongoing maintenance of HVAC systems with air filters that meet or exceed a Minimum Efficiency Reporting Value (MERV) of 13⁶.

L4.1

¹ Draft SEIR. Section 5.5, *Air Quality*. Page 5.5-23.

² *Ibid.*

³ *Ibid.* Page 5.5-23 and 5.5-24.

⁴ *Ibid.* Figure 3-3, *Specific Plan Area*. Page 3-4.

⁵ *Ibid.* Page 5.5-39.

⁶ *Ibid.* Executive Summary. Table 1-5, *Summary of Environmental Impacts and Mitigation Measures*. Page 1-15 and 1-16.

South Coast AQMD Staff's Comments on Air Quality Impact Analysis and Mitigation Measures

Air Quality Impact Analysis – Overlapping Construction and Operation

1. South Coast AQMD staff has comments on the Air Quality Analysis. Based on a review of the Air Quality Analysis, South Coast AQMD staff found that the Lead Agency did not consider or analyze a scenario where construction activities overlap with operational activities (e.g., some components of Phase 1 may be operational while some components of Phase 2 are under construction). Since implementation of the Proposed Project is expected to occur in phases and sub-phases over a multi-year timeframe of five years from 2019 to 2025⁷, and since the Lead Agency has received multiple development applications⁸, it is reasonably foreseeable that construction and operation of various development components may overlap. If an overlapping construction and operation scenario is reasonably foreseeable, to conservatively analyze a worst-case impact scenario, South Coast AQMD staff recommends that the Lead Agency use its best efforts to identify the overlapping construction and operational years and development components, combine construction emissions (including emissions from demolition, if applicable) with operational emissions, and compare the combined emissions to South Coast AQMD's air quality CEQA *operational* thresholds of significance to determine the level of significance in the Final SEIR, unless the Lead Agency includes requirement(s) that will prohibit overlapping construction and operational activities. If the Lead Agency finds, after analyzing an overlapping construction and operation scenario, that the Proposed Project's air quality impacts would be significant, additional mitigation measures will be required (CEQA Guidelines Section 15126.4). To assist the identification of feasible mitigation measures that are capable of reducing construction emissions from NOx and particulate matter, South Coast AQMD recommends that the Lead Agency incorporate the following mitigation measures in the Final SEIR. Please see Comment Nos. 2 to 6 below. If the Lead Agency finds, after revising the Air Quality Analysis, that a new significant impact or a substantial increase in the severity of an environmental impact than that analyzed in the Draft SEIR would result from the Proposed Project that cannot be reduced to less than significant with existing air quality mitigation measures and additional recommended air quality mitigation measures in Comment Nos 2 to 6, the Lead Agency should commit to reevaluating the Proposed Project's air quality impacts and recirculating the air quality impact section of the Draft SEIR for public review and comments (CEQA Guidelines Section 15088.5).

L4.1
Cont.

Additional Recommended Mitigation Measures

2. Require the use of off-road diesel-powered construction equipment that meets or exceeds the CARB and U.S. Environmental Protection Agency (USEPA) Tier 4 Final off-road emissions standards for equipment rated at 50 horsepower or greater during construction of the Proposed Project. Such equipment will be outfitted with Best Available Control Technology (BACT) devices including a CARB certified Level 3 Diesel Particulate Filter (DPFs). Level 3 DPFs are capable of achieving at least 85 percent reduction in particulate matter emissions⁹. A list of CARB verified DPFs are available on the CARB website¹⁰.

L4.2

To ensure that Tier 4 Final construction equipment or better would be used during the Proposed Project's construction, South Coast AQMD staff recommends that the Lead Agency include this requirement in applicable bid documents, purchase orders, and contracts. Successful contractor(s) must demonstrate the ability to supply the compliant construction equipment for use prior to any ground disturbing and construction activities. A copy of each unit's certified tier specification or model year specification and

⁷ *Ibid.* Section 5.5, *Air Quality*. Page 5.5-23 and 5.5-24.

⁸ *Ibid.* Executive Summary. Page 1-2.

⁹ CARB. November 16-17, 2004. *Diesel Off-Road Equipment Measure – Workshop*. Page 17. Accessed at: https://www.arb.ca.gov/msprog/ordiesel/presentations/nov16-04_workshop.pdf.

¹⁰ *Ibid.* Page 18.

CARB or South Coast AQMD operating permit (if applicable) shall be available upon request at the time of mobilization of each applicable unit of equipment. Additionally, the Lead Agency should require periodic reporting and provision of written construction documents by construction contractor(s) to ensure compliance, and conduct regular inspections to the maximum extent feasible to ensure compliance.

In the event that construction equipment cannot meet the Tier 4 Final engine certification, the Project representative or contractor must demonstrate through future study with written findings supported by substantial evidence that is approved by the Lead Agency before using other technologies/strategies. Alternative applicable strategies may include, but would not be limited to, construction equipment with Tier 4 Interim or Tier 3 emission standards, reduction in the number and/or horsepower rating of construction equipment, limiting the number of daily construction haul truck trips to and from the Proposed Project, and/or limiting construction phases occurring simultaneously.

L4.2
Cont.

3. Require the use of zero-emission or near-zero emission heavy-duty haul trucks during construction, such as trucks with natural gas engines that meet CARB's adopted optional NOx emissions standard of 0.02 grams per brake horsepower-hour (g/bhp-hr). At a minimum, require that operators of heavy-duty haul trucks visiting the Proposed Project during construction commit to using 2010 model year¹¹ or newer engines that meet CARB's 2010 engine emission standards of 0.01 g/bhp-hr for particulate matter (PM) and 0.20 g/bhp-hr of NOx emissions or newer, cleaner trucks. Include analyses to evaluate and identify sufficient power available for zero emission trucks and supportive infrastructures in the Energy and Utilities and Service Systems Sections of the Final SEIR, where appropriate. Require that the Proposed Project's tenant(s) shall maintain records of all trucks visiting the Proposed Project and make these records available to the Lead Agency upon request. The records will serve as evidence to prove that each truck called to the Proposed Project meets the minimum 2010 model year engine emission standards. The Lead Agency should conduct regular inspections of the records to the maximum extent feasible and practicable to ensure compliance with this mitigation measure.
4. Maintain vehicle and equipment maintenance records for the construction portion of the Proposed Project. All construction vehicles must be maintained in compliance with the manufacturer's recommended maintenance schedule. All maintenance records shall remain on-site for a period of at least two years from completion of construction.
5. Enter into a contract that notifies all construction vendors and contractors that vehicle idling time will be limited to no longer than five minutes or another time-frame as allowed by the California Code of Regulations, Title 13 section 2485 – CARB's Airborne Toxic Control Measure to Limit Diesel-Fueled Commercial Motor Vehicle Idling. For any vehicle that is expected to idle longer than five minutes, each project applicant, project sponsor, or public agency will require the vehicle's operator to shut off the engine. To further ensure that drivers understand the vehicle idling requirement, post signs at the entrance and throughout the site stating that idling longer than five minutes is not permitted.
6. Encourage construction contractors to apply for South Coast AQMD "SOON" funds. The "SOON" program provides funds to applicable fleets for the purchase of commercially-available low-emission heavy-duty engines to achieve near-term reduction of NOx emissions from in-use off-road diesel vehicles. More information on this program can be found at South Coast AQMD's website: <http://www.aqmd.gov/home/programs/business/business-detail?title=off-road-diesel-engines>.

¹¹ The CARB adopted the statewide Truck and Bus Regulation in 2010. The Regulation requires diesel trucks and buses that operate in California to be upgraded to reduce emissions. Newer heavier trucks and buses must meet particulate matter filter requirements beginning January 1, 2012. Lighter and older heavier trucks must be replaced starting January 1, 2015. By January 1, 2023, nearly all trucks and buses will need to have 2010 model year engines or equivalent. More information on the CARB's Truck and Bus Regulations is available at: <https://www.arb.ca.gov/msprog/onrdiesel/onrdiesel.html>.

Guidance on Siting Sensitive Receptors Near Sources of Air Pollution

7. South Coast AQMD staff recognizes that there are many factors lead agencies must consider when making local planning and land use decisions. To facilitate stronger collaboration between lead agencies and South Coast AQMD to reduce community exposure to source-specific and cumulative air pollution impacts, South Coast AQMD adopted the *Guidance Document for Addressing Air Quality Issues in General Plans and Local Planning* in 2005¹². This Guidance document provides recommended policies that local governments can use in their General Plans or through local planning to prevent or reduce potential air pollution impacts and protect public health. In addition, guidance on siting incompatible land uses (such as placing new sensitive land uses near a freeway) can be found in the California Air Resources Board’s *Air Quality and Land Use Handbook: A Community Health Perspective*, which can be found at: <http://www.arb.ca.gov/ch/handbook.pdf>. CARB’s Land Use Handbook is a general reference guide for evaluating and reducing air pollution impacts associated with new projects that go through the land use decision-making process.

L4.3

Conclusion

Pursuant to California Public Resources Code Section 21092.5(a) and CEQA Guidelines Section 15088(b), South Coast AQMD staff requests that the Lead Agency provide South Coast AQMD staff with written responses to all comments contained herein prior to the certification of the Final SEIR. In addition, issues raised in the comments should be addressed in detail giving reasons why specific comments and suggestions are not accepted. There should be good faith, reasoned analysis in response. Conclusory statements unsupported by factual information will not suffice (CEQA Guidelines Section 15088(c)). Conclusory statements do not facilitate the purpose and goal of CEQA on public disclosure and are not meaningful, informative, or useful to decision makers and to the public who are interested in the Proposed Project. Further, when the Lead Agency makes the finding that the recommended mitigation measures are not feasible, the Lead Agency should describe the specific reasons for rejecting them in the Final SEIR (CEQA Guidelines Section 15091).

L4.4

South Coast AQMD staff is available to work with the Lead Agency to address any air quality questions that may arise from this comment letter. Please contact Robert Dalbeck, Assistant Air Quality Specialist, at RDalbeck@aqmd.gov or (909) 396-2139, should you have any questions.

Sincerely,

Lijin Sun

Lijin Sun, J.D.
 Program Supervisor, CEQA IGR
 Planning, Rule Development & Area Sources

LS:RD
LAC190903-02
 Control Number

¹² South Coast AQMD. May 2005. “Guidance Document for Addressing Air Quality Issues in General Plans and Local Planning” Accessed at: <http://www.aqmd.gov/docs/default-source/planning/air-quality-guidance/complete-guidance-document.pdf>.

2.2.4 South Coast Air Quality Management District (South Coast AQMD or SCAQMD) (L4) **(4 pages)**

L4.1 South Coast AQMD staff has comments on the Air Quality Analysis. Based on a review of the Air Quality Analysis, South Coast AQMD staff found that the Lead Agency did not consider or analyze a scenario where construction activities overlap with operational activities (e.g., some components of Phase 1 may be operational while some components of Phase 2 are under construction). Since implementation of the Proposed Project is expected to occur in phases and sub-phases over a multi-year timeframe of five years from 2019 to 2025 and because the Lead Agency has received multiple development applications, it is reasonably foreseeable that construction and operation of various development components may overlap. If an overlapping construction and operation scenario is reasonably foreseeable, to conservatively analyze a worst-case impact scenario, South Coast AQMD staff recommends that the Lead Agency use its best efforts to identify the overlapping construction and operational years and development components, combine construction emissions (including emissions from demolition, if applicable) with operational emissions, and compare the combined emissions to South Coast AQMD's air quality CEQA operational thresholds of significance to determine the level of significance in the Final SEIR, unless the Lead Agency includes requirement(s) that will prohibit overlapping construction and operational activities. If the Lead Agency finds, after analyzing an overlapping construction and operation scenario, that the Proposed Project's air quality impacts would be significant, additional mitigation measures will be required (CEQA Guidelines Section 15126.4). To assist the identification of feasible mitigation measures that are capable of reducing construction emissions from NO_x and particulate matter, South Coast AQMD recommends that the Lead Agency incorporate the following mitigation measures in the Final SEIR. If the Lead Agency finds, after revising the Air Quality Analysis, that a new significant impact or a substantial increase in the severity of an environmental impact than that analyzed in the DSEIR would result from the Proposed Project that cannot be reduced to less than significant with existing air quality mitigation measures and additional recommended air quality mitigation measures discussed in South Coast AQMD's comment letter, the Lead Agency should commit to reevaluating the Proposed Project's air quality impacts and recirculating the air quality impact section of the DSEIR for public review and comments (CEQA Guidelines Section 15088.5).

Response: The commenter's recommendation is not consistent with other SCAQMD guidance documents, recommendations, and impact analyses. For example, neither the SCAQMD's CEQA Air Quality Handbook, Guidance Document for Addressing Air Quality Issues in General Plans and Local Planning, or Air Quality Significance Thresholds imply or explicitly recommend combining emissions from distinct construction and operational activities into a single lump sum emissions total. Rather, each of these documents discusses potential sources, mitigation measures, and thresholds of significance for construction and operational emissions separately. In addition, the SCAQMD did not recommend combining construction and operational emissions in its April 9, 2019 comments on the City's Notice of Preparation (NOP) of Draft Subsequent Environmental Impact Report for Duarte Station Specific Plan Amendment. Furthermore, the SCAQMD's Program EIR for its 2016 Air Quality Management Plan (AQMP) evaluated construction and operational emissions associated with AQMP implementation separately and did not combine potential emissions impacts resulting from the 2016 AQMP. Given the above, the City finds the SCAQMD's recommendation is not consistent with the general guidance promulgated by the SCAQMD for use by lead agencies, the specific comments the SCAQMD provided on the NOP of the project, or the air quality impact analysis methodology employed by the SCAQMD as a CEQA lead agency.

Second, notwithstanding the fact that the SCAQMD's recommendation is inconsistent with publicly available SCAQMD guidance and other documents, the SCAQMD does not factually

substantiate why combined emissions should be compared to the SCAQMD's operational threshold of significance. The SCAQMD's CEQA Air Quality Handbook maintains separate and distinct thresholds of significance for construction (i.e., short-term emissions) and operational activities (i.e., long-term emissions) because these activities have different emissions profiles. The SCAQMD's CEQA Air Quality Handbook (Section 6.2) describes that the thresholds of significance for operation were developed, in part, based on federal Clean Air Act definitions for significant levels of stationary source emissions. In contrast, for construction thresholds of significance, the SCAQMD's CEQA Air Quality Handbook states (Section 6.4), "...since a project's impact is limited to the construction phase, and level of mitigation, the procedure for determining significance is different than that for a project's operational impacts." The SCAQMD does not have an established threshold of significance for combined construction and operational emissions and has not substantiated how the application of the operational threshold of significance is appropriate to construction emissions.

Finally, specific details regarding development of the parcels in Phase 2 are not known at this time. The SEIR's air quality analysis assumed construction of Phase 2 would begin in 2022. In addition, the analysis assumed both remaining parcels would be developed at the same time, and that construction activities associated with these developments would overlap. Actual development would be subject to market conditions. It is possible that only one of the parcels in Phase 2 could be developed beginning in 2022, or that construction could start later than 2022, which would affect emissions estimates. It is not possible to know the specific timing and characteristics of potential future projects occurring in the planning area and, therefore, evaluating potential combined emissions scenarios would be speculative and would not provide meaningful information or analyses.

L4.2 The SCAQMD provides recommendations for additional mitigation measures, such as the use of off-road diesel-powered construction equipment that meets or exceeds the CARB and U.S. Environmental Protection Agency Tier 4 Final off-road emissions standards for equipment rated at 50 horsepower or greater during construction, the use of zero-emission or near-zero emission heavy-duty haul trucks during construction, maintaining vehicle and equipment maintenance records, entering into contracts that notifies all construction vendors and contractors that vehicle idling time will be limited to no longer than five minutes or another time-frame as allowed by the California Code of Regulations, Title 13 section 2485, and encouraging construction contractors to apply for SCAQMD "SOON" funds, to reduce construction-related emissions.

Response: The DSEIR's air quality impact analysis contains an evaluation of regional and localized construction emissions (DSEIR pages 5.5-23 to 5.5-27). The analysis concludes that the maximum daily construction emissions generated by the proposed project would be below the SCAQMD's regional construction emission thresholds with the inclusion of Mitigation Measure AIR-2A and would not exceed the SCAQMD's localized significance thresholds. Thus, additional mitigation measures are not required to reduce project construction emissions to less than significant levels.

L4.3 South Coast AQMD staff recognizes that there are many factors lead agencies must consider when making local planning and land use decisions. To facilitate stronger collaboration between lead agencies and South Coast AQMD to reduce community exposure to source-specific and cumulative air pollution impacts, South Coast AQMD adopted the *Guidance Document for Addressing Air Quality Issues in General Plans and Local Planning* in 2005. This Guidance document provides recommended policies that local governments can use in their General Plans or through local planning to prevent or reduce potential air pollution impacts and protect public health. In addition, guidance on siting incompatible land uses (such as placing new sensitive land

uses near a freeway) can be found in the California Air Resources Board's [CARB] *Air Quality and Land Use Handbook: A Community Health Perspective*, which can be found at: <http://www.arb.ca.gov/ch/handbook.pdf>. CARB's Land Use Handbook is a general reference guide for evaluating and reducing air pollution impacts associated with new projects that go through the land use decision-making process.

Response: The documents identified by the SCAQMD were referenced and are described on pages 5.5-3 and 5.5-4 of the DSEIR. The DSEIR (pages 5.5-32 to 5.5-42) evaluates the potential for the project to expose sensitive receptors to substantial pollutant concentrations, including concentrations of CO, asbestos, diesel particulate matter, and other pollutants and concludes the project would not result in significant impacts from pollutant concentrations with the incorporation of Mitigation Measure AIR-3A.

L4.4 Pursuant to California Public Resources Code Section 21092.5(a) and CEQA Guidelines Section 15088(b), South Coast AQMD staff requests that the Lead Agency provide South Coast AQMD staff with written responses to all comments contained herein prior to the certification of the Final SEIR. In addition, issues raised in the comments should be addressed in detail giving reasons why specific comments and suggestions are not accepted. There should be good faith, reasoned analysis in response. Conclusory statements unsupported by factual information will not suffice (CEQA Guidelines Section 15088(c)). Conclusory statements do not facilitate the purpose and goal of CEQA on public disclosure and are not meaningful, informative, or useful to decision makers and to the public who are interested in the Proposed Project. Further, when the Lead Agency makes the finding that the recommended mitigation measures are not feasible, the Lead Agency should describe the specific reasons for rejecting them in the Final SEIR (CEQA Guidelines Section 15091).

Response: After completion of the DSEIR, the Lead Agency is required under CEQA Guidelines Sections 15086 (Consultation Concerning Draft EIR) and 15088 (Evaluation of and Response to Comments) to consult with and obtain comments from other public agencies having jurisdiction by law with respect to the project and to provide the general public with an opportunity to comment on the DSEIR. Under CEQA Guidelines Section 15088, the Lead Agency is also required to respond in writing to substantive environmental points raised in the DSEIR review and consultation process.

CEQA Guidelines Section 15132 (Contents of Final Environmental Impact Report), subsection (b), requires that the FEIR include the full set of comments and recommendations received on the DSEIR either verbatim or in summary. Section 15132, subsection (c) requires that the FEIR include "a list of persons, organizations, and public agencies commenting on the DEIR," and Section 15132, subsection (d), requires that the FEIR include "the responses of the Lead Agency to significant environmental points raised in the review and consultation process." In keeping with these guidelines, this Response to Comments chapter complies with these requirements.



**COUNTY OF LOS ANGELES
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**CITY OF DUARTE
COMMUNITY DEVELOPMENT**

September 25, 2019

Jason Golding, Analyst
City of Duarte
Planning Department
1600 Huntington Drive
Duarte, CA 91010

Dear Mr. Golding:

NOTICE OF AVAILABILITY OF THE SUBSEQUENT ENVIRONMENTAL IMPACT REPORT, "DUARTE STATION SPECIFIC PLAN," ESTABLISHES THE GENERAL TYPE, PARAMETERS, AND CHARACTER OF THE DEVELOPMENT AND ALLOWS FOR MIX OF RESIDENTIAL, OFFICE AND RESEARCH AND DEVELOPMENT, HOSPITALITY USES, SUPPORTING COMMERCIAL USES, AND URBAN OPEN SPACES, DUARTE, FFER 2019005231

The Notice of Availability of the Subsequent Environmental Impact Report has been reviewed by the Planning Division, Land Development Unit, Forestry Division, and Health Hazardous Materials Division of the County of Los Angeles Fire Department.

The following are their comments:

PLANNING DIVISION:

We have no comments.

For any questions regarding this response, please contact Loretta Bagwell, Planning Analyst, at (323) 881-2404 or Loretta.Bagwell@fire.lacounty.gov.

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LAND DEVELOPMENT UNIT:

The Land Development Unit is reviewing the proposed “Amendment and Update to the adopted Specific Plan” Project for access and water system requirements. The Land Development Unit comments are only preliminary requirements. Specific fire and life safety requirements will be addressed during the review for building and fire plan check phases. There may be additional requirements during this time.

L5.1

The development of this project must comply with all applicable code and ordinance requirements for construction, access, water mains, fire flows, and fire hydrants.

ACCESS REQUIREMENTS:

- 1 The proposed development will require multiple ingress/egress access for the circulation of traffic and emergency response issue .
- 2 All on-site Fire Department vehicular access roads shall be labeled as “Private Driveway and Fire Lane” on the site plan along with the widths clearly depicted on the plan. Labeling is necessary to assure the access availability for Fire Department use. The designation allows for appropriate signage prohibiting parking.
 - a. The Fire Apparatus Access Road shall be cross-hatch on the site plan with the width clearly noted on the plan.
- 3 Every building constructed shall be accessible to Fire Department apparatus by way of access roadways with an all-weather surface of not less than the prescribed width. The roadway shall be extended to within 150 feet of all portions of the exterior walls when measured by an unobstructed route around the exterior of the building.
- 4 Fire Apparatus Access Roads must be installed and maintained in a serviceable manner prior to and during the time of construction.
- 5 The edge of the Fire Apparatus Access Road shall be located a minimum of 5 feet from the building or any projections there from.
- 6 The Fire Apparatus Access Roads and designated fire lanes shall be measured from flow line to flow line.
- 7 The dimensions of the approved Fire Apparatus Access Roads shall be maintained as originally approved by the fire code official.
- 8 Provide a minimum unobstructed width of 28 feet, exclusive of shoulders and an unobstructed vertical clearance “clear to sky” Fire Department vehicular access to within 150 feet of all portions of the exterior walls of the first story of the building, as measured by an approved route around the exterior of the building when the height of the building above the lowest level of the Fire Department vehicular access road is

more than 30 feet high, or the building is more than three stories. The access roadway shall be located a minimum of 15 feet and a maximum of 30 feet from the building and shall be positioned parallel to one entire side of the building. The side of the building on which the aerial Fire Apparatus Access Road is positioned shall be approved by the fire code official.

L6.1
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9. If the Fire Apparatus Access Road is separated by island, provide a minimum unobstructed width of 20 feet, exclusive of shoulders and an unobstructed vertical clearance "clear to sky" Fire Department vehicular access to within 150 feet of all portions of the exterior walls of the first story of the building as measured by an approved route around the exterior of the building.
10. Dead-end Fire Apparatus Access Roads in excess of 150 feet in-length shall be provided with an approved Fire Department turnaround. Include the dimensions of the turnaround with the orientation of the turnaround shall be properly placed in the direction of travel of the access roadway.
11. Fire Department Access Roads shall be provided with a 32-foot centerline turning radius. Indicate the centerline, inside, and outside turning radii for each change in direction on the site plan.
12. Fire Apparatus Access Roads shall be designed and maintained to support the imposed load of fire apparatus weighing 75,000 lbs., and shall be surfaced so as to provide all-weather driving capabilities. Fire Apparatus Access Roads having a grade of 10 percent or greater shall have a paved or concrete surface.
13. Provide approved signs or other approved notices or markings that include the words "NO PARKING - FIRE LANE." Signs shall have a minimum dimension of 12 inches wide by 18 inches high and have red letters on a white reflective background. Signs shall be provided for fire apparatus access roads, to clearly indicate the entrance to such road, or prohibit the obstruction thereof and at intervals, as required by the Fire Inspector.
14. A minimum 5-foot wide approved firefighter access walkway leading from the Fire Department Access Road to all required openings in the building's exterior walls shall be provided for firefighting and rescue purposes. Clearly identify firefighter walkway access routes on the site plan. Indicate the slope and walking surface material. Clearly show the required width on the site plan.
15. Fire Apparatus Access Roads shall not be obstructed in any manner, including by the parking of vehicles, or the use of traffic calming devices, including but not limited to, speed bumps or speed humps. The minimum widths and clearances established in Fire Code Section 503.2.1 shall be maintained at all times.
16. Traffic Calming Devices, including but not limited to, speed bumps and speed humps, shall be prohibited unless approved by the fire code official.

17. Security barriers, visual screen barriers, or other obstructions shall not be installed on the roof of any building in such a manner as to obstruct firefighter access or egress in the event of fire or other emergency. Parapets shall not exceed 48 inches from the top of the parapet to the roof surface on more than two sides. Clearly indicate the height of all parapets in a section view.
18. Approved building address numbers, building numbers, or approved building identification shall be provided and maintained so as to be plainly visible and legible from the street fronting the property. The numbers shall contrast with their background, be Arabic numerals or alphabet letters, and be a minimum of 4 inches high with a minimum stroke width of 0.5 inch.
19. Multiple residential and commercial buildings having entrances to individual units not visible from the street or road shall have unit numbers displayed in groups for all units within each structure. Such numbers may be grouped on the wall of the structure or mounted on a post independent of the structure and shall be positioned to be plainly visible from the street or road as required by Fire Code 505.3 and in accordance with Fire Code 505.

L5.1
Cont.

WATER SYSTEM REQUIREMENTS:

1. All fire hydrants shall measure 6"x 4"x 2-1/2" brass or bronze conforming to current AWWA standard C503 or approved equal and shall be installed in accordance with the County of Los Angeles Fire Code.
2. The development may require fire flows up to 4,000 gallons per minute at 20 pounds per square inch residual pressure for up to a four-hour duration. Final fire flows will be based on the size of buildings, the installation of an automatic fire sprinkler system, and type(s) of construction used.
3. The fire hydrant spacing shall be every 300 feet for both the public and the on-site hydrants. The fire hydrants shall meet the following requirements:
 - a. No portion of lot frontage shall be more than 200 feet via vehicular access from a public fire hydrant.
 - b. No portion of a building shall exceed 400 feet via vehicular access from a properly spaced public fire hydrant.
 - c. Additional hydrants will be required if hydrant spacing exceeds specified distances.
4. All required public fire hydrants shall be installed and tested prior to beginning construction.

5. All private on-site fire hydrants shall be installed, tested, and approved prior to building occupancy.
 - a. Plans showing underground piping for private on-site fire hydrants shall be submitted to the Sprinkler Plan Check Unit for review and approval prior to installation.
6. An approved automatic fire sprinkler system is required for the proposed buildings within this development. Submit design plans to the Fire Department Sprinkler Plan Check Unit for review and approval prior to installation.

L5.1
Cont.

Additional Department requirements will be determined by Fire Prevention Engineering during the Building Plan Check.

For any questions regarding the report, please contact Inspector Claudia Soiza at (323) 890-4243 or Claudia.soiza@fire.lacounty.gov.

FORESTRY DIVISION – OTHER ENVIRONMENTAL CONCERNS:

The statutory responsibilities of the County of Los Angeles Fire Department's Forestry Division include erosion control, watershed management, rare and endangered species, vegetation, fuel modification for Very High Fire Hazard Severity Zones, archeological and cultural resources, and the County Oak Tree Ordinance. Potential impacts in these areas should be addressed.

L5.2

Under the Los Angeles County Oak tree Ordinance, a permit is required to cut, destroy, remove, relocate, inflict damage or encroach into the protected zone of any tree of the Oak genus which is 25 inches or more in circumference (eight inches in diameter), as measured 4 1/2 feet above mean natural grade.

If Oak trees are known to exist in the proposed project area further field studies should be conducted to determine the presence of this species on the project site.

The County of Los Angeles Fire Department's Forestry Division has no further comments regarding this project.

For any questions regarding this response, please contact Forestry Assistant, Joseph Brunet at (818) 890-5719.

HEALTH HAZARDOUS MATERIALS DIVISION:

The Site Mitigation Unit (SMU) is within the Health Hazardous Materials Division of the Los Angeles County Fire Department. SMU does not direct nor issue permits for environmental cleanups; SMU oversees environmental cleanups for the protection of the environment and manages associated potential human health risks and hazards. In order for SMU to oversee environmental site assessment, remediation, and mitigation measures at the project site, the

L5.3

Jason Golding, Analyst
September 25, 2019
Page 6

applicant has to enter into a "Remedial Action Agreement" with SMU per California Health and Safety Code, Section 101480(c). SMU is currently understaffed and may not be able to oversee the project at this time due to previous commitments. Therefore, the Cal-EPA Department of Toxic Substances Control or the Los Angeles Regional Water Quality Control may have to be pursued for environmental oversight of the project site.

L5.3
Cont.

Please contact HHMD senior typist-clerk, Perla Garcia at (323) 890-4035 or Perla.garcia@fire.lacounty.gov if you have any questions.

If you have any additional questions, please contact this office at (323) 890-4330

Very truly yours,



MICHAEL Y. TAKESHITA, ACTING CHIEF, FORESTRY DIVISION
PREVENTION SERVICES BUREAU

MYT:ac

2.2.5 County of Los Angeles Fire Department (LACoFD) (L5) (6 pages)

L5.1 The Land Development Unit is reviewing the proposed "Amendment and Update to the adopted Specific Plan" Project for access and water system requirements. The Land Development Unit comments are only preliminary requirements. Specific fire and life safety requirements will be addressed during the review for building and fire plan check phases. There may be additional requirements at this time.

The development of this project must comply with all applicable code and ordinance requirements for construction, access, water mains, fire flows, and fire hydrants.

Response: All Fire Department development standards have been and will be adhered to in the development of the Specific Plan and design of The Residences at Duarte Station project.

L5.2 The statutory responsibilities of the County of Los Angeles Fire Department's Forestry Division include erosion control, watershed management, rare and endangered species, vegetation, fuel modification for Very High Fire Hazard Severity Zones, archeological and cultural resources, and the County Oak Tree Ordinance. Potential impacts in these areas should be addressed.

Under the Los Angeles County Oak tree Ordinance, a permit is required to cut, destroy, remove, relocate, inflict damage or encroach into the protected zone of any tree of the Oak genus which is 25 inches or more in circumference (eight inches in diameter), as measured 4 1/2 feet above mean natural grade. If Oak trees are known to exist in the proposed project area further field studies should be conducted to determine the presence of this species on the project site.

Response: The Specific Plan area is currently developed and not located adjacent to the San Gabriel Mountains or wildland areas. There are no known oak trees in the Specific Plan area. The project site is not located within an area mapped by CAL FIRE or the City as a High or Very High Fire Hazard Severity Zone (VHFHSZ), nor is it in an area of state or federal area of responsibility. The far southwest corner of the proposed project site is located adjacent to a VHFHSZ, however, proposed development would not interfere with emergency response activities in this area. In addition, the Specific Plan area is an infill site surrounded by development with ornamental landscaping; natural fuels are absent for the areas immediately surrounding the Specific Plan area. Therefore, the proposed project would not exacerbate wildland fire risk to residents and employees in the area.

L5.3 The Site Mitigation Unit (SMU) is within the Health Hazardous Materials Division [HHMD] of the Los Angeles County Fire Department. SMU does not direct nor issue permits for environmental cleanups; SMU oversees environmental cleanups for the protection of the environment and manages associated potential human health risks and hazards. In order for SMU to oversee environmental site assessment, remediation, and mitigation measures at the project site, the applicant has to enter into a "Remedial Action Agreement" with SMU per California Health and Safety Code, Section 101480(c). SMU is currently understaffed and may not be able to oversee the project at this time due to previous commitments. Therefore, the Cal-EPA Department of Toxic Substances Control or the Los Angeles Regional Water Quality Control may have to be pursued for environmental oversight of the project site.

Response: Mitigation measures contained in Section 5.8, Hazards and Hazardous Materials, of the SEIR require applicants to coordinate with HHMD on the investigation and cleanup of potential contamination with hazardous substances in the Specific Plan area. However, in the event that the HHMD is not able to oversee the investigation and cleanup of project sites in the Specific Plan

area, Mitigation Measure HAZ-4 states “Should the HHMD refer the case to any other regulatory agency (e.g., the Department of Toxic Substances Control, or Regional Water Quality Control Board, etc.), then the applicant shall comply with that agency’s requirements as well.” Therefore, mitigation measures in Section 5.8 would ensure that applicants comply with CERCLA and the California Health and Safety Code regarding the investigation and cleanup of hazardous substances.

October 10, 2019

Ref. DOC 5287655

RECEIVED

OCT 15 2019

**CITY OF DUARTE
COMMUNITY DEVELOPMENT**

Mr. Jason Golding
City of Duarte
1600 Huntington Drive
Duarte, CA 91010

Dear Mr. Golding:

SEIR Response for the Duarte Station Specific Plan

The Sanitation Districts of Los Angeles County (Districts) received a Subsequent Environmental Impact Report (SEIR) for the subject project on August 28, 2019. The proposed project area is located within the jurisdictional boundaries of District No. 22. We offer the following comments:

1. **5.15.2 Environmental Setting**, page 5.15-3, top of page – The San Jose Creek Water Reclamation Plant currently processes an average flow of 58.5 million gallons per day. L6.1
2. **5.15.4 Project Impacts and Mitigation Measures**, page 5.15-4, Table 5.15-1 – The table lists the proposed development as 1,400 high density residences, 12,500 square feet of mixed-use commercial/retail development and 100,000 square feet of office space. Based on this description and the Districts’ average wastewater generation factors, the expected increase in average wastewater flow from the project is 233,258 gallons per day, after all structures on the project site are demolished. L6.2

All other information concerning Districts’ facilities and sewerage service contained in the document is current. If you have any questions, please contact the undersigned at (562) 908-4288, extension 2717.

Very truly yours,



Adriana Raza
Customer Service Specialist
Facilities Planning Department

AR:ar

cc: A. Schmidt
A. Howard

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2.2.6 Sanitation Districts of Los Angeles County (L6) (1 page)

L6.1 15.15.2 Environmental Setting, page 5.15-3, top of page—The San Jose Creek Water Reclamation Plant currently processes an average flow of 58.5 million gallons per day.

Response: The SEIR assumes an average flow of 63.8 million gallons per day at the San Jose Creek Water Reclamation Plant based upon a figure provided in the Can and Will Serve Letter provided by the Sanitation Districts of Los Angeles County for The Residences at Duarte Station project. This is a more conservative estimate for the impact analysis on utilities and service systems.

L6.2 5.15.4 Project Impacts and Mitigation Measures, page 5.15-4, Table 5.15-1—The table lists the proposed development as 1,400 high density residences, 12,500 square feet of mixed-use commercial/retail development, and 100,000 square feet of office space. Based on this description and the Districts' average wastewater generation factors, the expected increase in average wastewater flow from the project is 233,258 gallons per day after all structures on the project site are demolished.

Response: The SEIR assumes that buildout under the amended Duarte Station Specific Plan would generate approximately 246,681.25 million gallons per day of wastewater according to data provided in the Can and Will Serve Letter provided by the Sanitation Districts of Los Angeles County for The Residences at Duarte Station project. This is a more conservative estimate for the impact analysis on utilities and service systems.

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Mitchell M. Tsai
Attorney At Law

155 South El Molino Avenue
Suite 104
Pasadena, California 91101

VIA HAND DELIVERY, U.S. MAIL & E-MAIL

October 10, 2019

Jason Golding, Planning Manager
City of Duarte, Planning Division
1601 Huntington Drive
Duarte, CA 91010
Em: goldingi@accessduarte.com

RE: Draft Subsequent Environmental Impact Report for Duarte Station Specific Plan Amendment Project, SCH. No. 2013041032

Dear Mr. Golding,

On behalf of Southwest Regional Council of Carpenters (Collectively “**Commenters**” or “**Southwest Carpenters**”), my Office is submitting these comments on the City of Commerce’s (“**City**” or “**Lead Agency**”) Draft Subsequent Environmental Impact Report (“**DSEIR**”) (SCH No. 2013041032) for the Duarte Station Specific Plan Amendment Project (“**Project**”).

The Southwest Carpenters is a labor union representing 50,000 union carpenters in six states, including in southern California, and has a strong interest in well-ordered land use planning and addressing the environmental impacts of development projects. Commenters expressly reserve the right to supplement these comments at or prior to hearings on the Project, and at any later hearings and proceedings related to this Project. Cal. Gov. Code § 65009(b); Cal. Pub. Res. Code § 21177(a); *Bakersfield Citizens for Local Control v. Bakersfield* (2004) 124 Cal. App. 4th 1184, 1199-1203; see *Galante Vineyards v. Monterey Water Dist.* (1997) 60 Cal. App. 4th 1109, 1121.

Commenters incorporate by reference all comments raising issues regarding the EIR submitted prior to certification of the EIR for the Project. *Citizens for Clean Energy v City of Woodland* (2014) 225 CA4th 173, 191 (finding that any party who has objected to the Project’s environmental documentation may assert any issue timely raised by other parties).

Moreover, Commenters request that the Lead Agency provide notice for any and all notices referring or related to the Project issued under the California Environmental Quality Act (“**CEQA**”), Cal Public Resources Code (“**PRC**”) § 21000 *et seq*, and the California Planning and Zoning Law (“**Planning and Zoning Law**”), Cal. Gov’t Code §§ 65000–65010. California Public Resources Code Sections 21092.2, and 21167(f) and Government Code Section 65092 require agencies to mail such notices to any person who has filed a written request for them with the clerk of the agency’s governing body.

I. APPROVAL OF THE PROJECT WOULD VIOLATE THE CALIFORNIA ENVIRONMENTAL QUALITY ACT.

A. Project Description and Background

The Duarte Station Specific Plan Amendment (“**Project**”) seeks to take full advantage of the arrival of additional transit to the City (Project) by increasing transit-oriented development and increasing

developer flexibility on a 19.08-acre, railroad-adjacent site bounded by Evergreen Street and the Foothill Freeway (Interstate 210) to the north, Highland Avenue to the east, a single-family residential neighborhood to the west, and the Los Angeles County Metropolitan Transportation Authority (“Metro”)-owned railroad right-of-way (“ROW”) and Duarte Road to the south.

The Draft Specific Plan Amendment provides:

Because of evolving market conditions, the Specific Plan has been updated to establish land use standards and a form-based code specifically created to optimize development catered to transit-oriented uses and design, promote development feasibility, and respond to contextual challenges and opportunities presented by adjacent uses.

(Draft Amendment, p. 1-1.) Currently, the Project site is developed with a mix of industrial uses totaling approximately 313,955 square feet. The Project would replace this industrial development with 1,400 housing units for 4,625 new residents, 100,000 square feet (sf) of office space and 12,500 sf of restaurant/retail space. (DSEIR, p. 5.3-7.) By contrast, the existing general plan provides for nearly 1000 fewer residential units and 400,000 square feet of office space.

As discussed below, the project raises a number of issues that must be addressed prior to its approval in order to comply with the requirements of CEQA. These include that: the Project description is impermissibly vague; the Project fails to include required traffic alternatives and mitigation; the Project fails to address air quality impacts; the Project’s noise-related mitigation measures fail to meet CEQA’s requirements; the Project fails to ensure regional housing needs are met; the Project’s mitigation measures are overall vague and unenforceable, or are unlawfully deferred; and, the Project lacks required measures to protect against prior industrial and agricultural use and other potential site hazards. The above concerns are discussed in further detail, below.

B. Background Concerning the California Environmental Quality Act

The California Environmental Quality Act (CEQA) has two basic purposes. First, CEQA is designed to inform decision-makers and the public about the potential, significant environmental effects of a project. 14 California Code of Regulations (“CCR” or “CEQA Guidelines”) § 15002(a)(1). “Its purpose is to inform the public and its responsible officials of the environmental consequences of their decisions *before* they are made. Thus, the EIR ‘protects not only the environment but also informed self-government.’ [Citation.]” (*Citizens of Goleta Valley v. Board of Supervisors* (1990) 52 Cal. 3d 553, 564.) The EIR has been described as “an environmental ‘alarm bell’ whose purpose it is to alert the public and its responsible officials to environmental changes before they have reached ecological points of no return.” (*Berkeley Keep Jets Over the Bay v. Bd. of Port Comm’rs.* (2001) 91 Cal. App. 4th 1344, 1354 (“*Berkeley Jets*”); *County of Inyo v. Yorty* (1973) 32 Cal.App.3d 795, 810.)

Second, CEQA directs public agencies to avoid or reduce environmental damage when possible by requiring alternatives or mitigation measures. (CEQA Guidelines § 15002(a)(2) and (3); *see also*, *Berkeley Jets*, 91 Cal. App. 4th 1344, 1354; *Citizens of Goleta Valley v. Board of Supervisors* (1990) 52 Cal.3d 553; *Laurel Heights Improvement Ass’n v. Regents of the University of California* (1988) 47 Cal.3d 376, 400.) The EIR serves to provide public agencies and the public in general with information about the effect that a proposed project is likely to have on the environment and to “identify ways that environmental damage can be avoided or significantly reduced.” (CEQA Guidelines § 15002(a)(2).) If the project has a significant effect on the environment, the agency may approve the project only upon finding that it has “eliminated or substantially lessened all significant effects on the environment where feasible” and that any unavoidable significant effects on the environment are “acceptable due to overriding concerns” specified in CEQA section 21081. (CEQA Guidelines § 15092(b)(2)(A–B).)

While the courts review an EIR using an “abuse of discretion” standard, “the reviewing court is not to ‘uncritically rely on every study or analysis presented by a project proponent in support of its position.’ A ‘clearly inadequate or unsupported study is entitled to no judicial deference.’” (*Berkeley Jets, supra*, 91 Cal.App.4th 1344, 1355 [emphasis added, quoting *Laurel Heights*, 47 Cal.3d at 391, 409 fn. 12]. Drawing this line and determining whether the EIR complies with CEQA’s information disclosure requirements presents a question of law subject to independent review by the courts. (*Sierra Club v. Cnty. of Fresno* (2018) 6 Cal. 5th 502, 515; *Madera Oversight Coalition, Inc. v. County of Madera* (2011) 199 Cal.App.4th 48, 102, 131.) As the court stated in *Berkeley Jets, supra*, 91 Cal. App. 4th at 1355:

A prejudicial abuse of discretion occurs “if the failure to include relevant information precludes informed decision-making and informed public participation, thereby thwarting the statutory goals of the EIR process.

The preparation and circulation of an EIR are more than a set of technical hurdles for agencies and developers to overcome. The EIR’s function is to ensure that government officials who decide to build or approve a project do so with a full understanding of the environmental consequences and, equally important, that the public is assured those consequences have been considered. For the EIR to serve these goals it must present information so that the foreseeable impacts of pursuing the project can be understood and weighed, and the public must be given an adequate opportunity to comment on that presentation before the decision to go forward is made. (*Communities for a Better Environment v. Richmond* (2010) 184 Cal. App. 4th 70, 80 [quoting *Vineyard Area Citizens for Responsible Growth, Inc. v. City of Rancho Cordova* (2007) 40 Cal.4th 412, 449–450].)

C. The DSEIR’s Project Description is Impermissibly Vague

The DSEIR fails to sufficiently describe the Project. An adequate CEQA analysis that fully informs the public and decisionmakers is dependent on an adequate Project Description. A “curtailed, enigmatic or unstable project description draws a red herring across the path of public support.” (*County of Inyo v. City of Los Angeles* (1981) 71 Cal.App.3d 185, 197-98.) DSEIR p. 3-12 provides the expected growth over existing conditions, and we appreciate the inclusion of the proposed development projects at 3-12, but the EIR never sets out how the development standards will change from those that currently exist. There are no references in the Project Description to changes in height limits, floor-to-area ratio, setbacks, or land use designations. Instead, DSEIR p. 3-10 refers to the Specific Plan itself. The project description cannot fail to describe key elements of the Project. (*San Joaquin Raptor/Wildlife Rescue Center v. County of Stanislaus* (1994) 27 Cal.App.4th 713, 730-35.) While an EIR is permitted to refer to additional sources, the actual disclosure, analysis, and mitigation of a Project’s potential impacts are required to be contained in the EIR itself. (*Vineyard Area Citizens for Responsible Growth, Inc. v. City of Rancho Cordova* (2007) 40 Cal.4th 412, 443.) That requirement is not met here, and the DSEIR must be revised to include the required information.

L7.1

D. The Project Fails to Incorporate Required Traffic Alternatives or Mitigation

The DSEIR admits that the Project will have significant and unavoidable traffic impacts at the intersection of Buena Vista Street and Duarte Road. (DSEIR, p. 9-1.) Accordingly, CEQA requires that the Project incorporate all feasible alternatives or mitigation measures to substantially lessen or avoid these impacts.

L7.2

The Legislature finds and declares that it is the policy of the state that public agencies should not approve projects as proposed if there are feasible alternatives or feasible mitigation

measures available which would substantially lessen the significant environmental effects of such projects. . .

(Pub. Resources Code § 21002.) Instead, however, the DSEIR states only, under Mitigation Measure TRF-1:

Pursuant to CEQA and the latest CEQA Guidelines, all project applicants within the Duarte Station Specific Plan Area shall prepare and submit at their time of their development application to the Community Development Department a traffic study that documents the project-related trips.

L7.2
Cont.

(DSEIR, p. 5.4-19). “Formulation of mitigation measures should not be deferred until some future time.” (Guidelines § 15126.4(a)(1)(B).) Mitigation Measure TRF-1 is nothing more than deferred mitigation, requiring only for applicants to prepare and submit a traffic study at some later date.

This provides no guarantee of useful; results or actions to be taken. And aside from requiring the use of the Highway Capacity Manual for intersection analysis, the mitigation measure contains no performance standards or even goals for reducing impacts to the intersection of Buena Vista Street and Duarte Road.

L7.3

This constitutes deferred mitigation, at best. “Impermissible deferral of mitigation occurs when an EIR puts off analysis or orders a report without either setting standards or demonstrating how the impact can be mitigated in the manner described in the EIR.” (*Clover Valley Foundation v. City of Rocklin* (2011) 197 Cal.App.4th 200, 236.) The DSEIR must be revised to include more detailed mitigation for this impact, such as that included in TRF-2, which addresses impacts at Highland Avenue and Huntington Drive and requires: “Modif[ication of] the northbound approach and southbound approach signal on Highland Avenue by adding an overlap phase for both right-turn approaches.”

L7.4

TRF-3 also defers to a future report without any triggering standards. “When deemed necessary by the City Community Development Director and/or City Engineer...” The City’s delegation of feasibility to a post-approval, non-public, standardless, staff-level determination for individual projects violates CEQA. (See e.g., *CBE v. Richmond* (2010) 184 Cal.App.4th 70, 94 [list of potential methods of mitigation for later selection without “specific and mandatory performance standards” is improper deferral]; see also *Cal. Clean Energy Comm. v. City of San Jose* (2013) 220 Cal.App.4th 1325 [delegation to a nonelected, non-decisionmaking body improper under CEQA].)

L7.5

Deferral of the development of mitigation is only allowable where “specific performance criteria” are required at the “time of project approval.” (*Sacramento Old City Association v. City Council of Sacramento* (1991) 229 Cal.App.3d 1011, 1029.)

E. The Project Fails to Properly Address Air Quality Impacts, Including from Proximity to Interstate 210

CEQA requires an environmental review of a Project’s potentially adverse impacts on human beings. (Guidelines § 15065 subd. (a)(2).) Countless peer-reviewed studies have been published documenting the dangers of living near freeways due to their emissions of ultrafine diesel particulate matter and other air pollutants. Ultrafine particulate matter causes cardiovascular and neuron damage.¹ More than 90 percent of the particles in diesel exhaust are ultrafine particles, which are

L7.6

¹ See <http://www.arb.ca.gov/research/health/healthup/jan03.pdf>; incorporated by reference.

easily inhaled into the lung.² Diesel particulate matter also contains gases such as acetaldehyde, acrolein, benzene, 1,3-butadiene, formaldehyde, and polycyclic aromatic hydrocarbons, increasing the hazards to human health.³ Consequently, diesel particulate matter was declared a toxic air contaminant by the California Air Resources Board in 1998.⁴ Diesel particulate matter is considered carcinogenic to humans, and according to the Air Resources Board, contributes to health effects that “include premature death, hospitalizations, and emergency department visits for exacerbated chronic heart and lung disease, including asthma, increased respiratory symptoms and decreased lung function in children.”⁵

L7.6
Cont.

Pollution-related ailments have also been correlated with the distance a home sits from the freeway. Experts recommend that homes not be located within 1,000 feet of a freeway.⁶ However, as the Project is bordered by the 210 Freeway, it is located well within the 1,000-foot recommended buffer. Significant health impacts are likely.

Mitigation Measure AIR-3 requires:

For all new residential units in the project area, the developer shall install, and owner maintain, HVAC systems with air filters that meet or exceed a Minimum Efficiency Rating Value (MERV) of 13 as determined by ASHRAE Standard 52.2

However, this measure will fail to provide useful protection of human health if there are operable windows in the residential units, and does nothing to address potential impacts to human health, particularly for vulnerable populations such as children, pregnant women, or the elderly, for exposure from potential outdoor space, or outdoor facilities such as a pool or playground. The DSEIR must be revised to incorporate additional mitigation to address these issues.

Additionally, Mitigation Measure AIR 2-B requires that “all apartment buildings in the plan area be constructed such that no more than 60 percent of units in the structure have fireplaces. . . .” With regard to particulate matter, the South Coast Air Basin has “some of the worst air quality in the nation,”⁷ and is in non-attainment for national ambient air quality standards (“**NAAQS**”) for PM_{2.5}. (DSEIR, p. 5.5-12.) Given ongoing pollution concerns, It is unclear why fireplaces are allowed at all, and the DSEIR should be revised to properly consider this issue.

L7.7

F. The Project’s Noise Related Mitigation Measures do not Comply with CEQA

The Project will result in significant and unavoidable construction noise impacts to residents living adjacent to the project site, south of Evergreen Street. (See DSEIR Fig. 3-3.) Over two hundred

L7.8

² Matsuoka, Hricko, et al. Global Trade Impacts: Addressing the Health, Social, and Environmental Consequences of Moving International Freight Through Our Communities, March 2011, p. 17, available at <http://departments.oxy.edu/uepi/>, herein incorporated.

³ See <https://ww2.arb.ca.gov/resources/overview-diesel-exhaust-and-health>, herein incorporated by reference.

⁴ Ibid.

⁵ Ibid., see also https://www.iarc.fr/wp-content/uploads/2018/07/pr213_E.pdf, incorporated by reference.

⁶ Yifang Zhu, et. al., Study of Ultrafine Particles Near a Major Highway with Heavy-Duty Diesel Traffic, 36 Atmospheric 4323-4335 (2002), Attachment 1.

⁷ See, <http://www.aqmd.gov/docs/default-source/news-archive/2017/protect-public-health---check-before-you-burn---november-1-2017.pdf?sfvrsn=10>, incorporated by reference.

homes about the project site and would benefit from little or no distance-based noise attenuation during the Project's construction.

L7.8
Cont.

The adverse health and quality of life impacts of noise are well-documented. According to the U.S. Environmental Protection Agency, exposure to high noise levels presents a

health risk in that noise may contribute to the development and aggravation of stress-related conditions such as high blood pressure, coronary disease, ulcers, colitis, and migraine headaches... Growing evidence suggests a link between noise and cardiovascular problems. There is also evidence suggesting that noise may be related to birth defects and low birth-weight babies. There are also some indications that noise exposure can increase susceptibility to viral infection and toxic substances.”⁸

Exposure to even moderately high levels of noise during a single 8-hour period triggers the body's stress response. In turn, the body increases cortisol production, which stimulates vasoconstriction of blood vessels that results in a five to ten-point increase in blood pressure. Over time, this noise-induced stress can result in hypertension and coronary artery disease, both of which increase the risk of heart attack death.⁹ Studies on the use of tranquilizers, sleeping pills, psychotropic drugs, and mental hospital admission rates suggest that high noise levels cause adverse impacts on mental health.¹⁰

CEQA prohibits a lead agency from approving a project that will have significant impacts on the environment unless it first finds that there are no feasible alternatives or mitigation measures available to reduce or eliminate those impacts. “CEQA does not authorize an agency to proceed with a project that will have significant, unmitigated effects on the environment... unless the measures necessary to mitigate those effects are *truly* infeasible.” (*City of Marina v. Board of Trustees of the California State University* (2006) 39 Cal. 4th 341, 368 (“*City of Marina*”) emphasis added.) The DSEIR acknowledges that the Project will result in significant and unavoidable short-term construction noise impacts. (DSEIR p. 9-1.) However, the EIR rejects feasible measures to reduce construction noise or altogether fails to analyze other potential measures. More specifically, Mitigation Measure N-1 is too vague to enforce. It contains no standards to ensure that construction equipment is actually “placed to maintain the greatest possible distance to sensitive receptors,” to determine whether the use of pneumatic tools is unavoidable or to determine whether the use of drills or external jackets on equipment is feasible. (DSEIR, p. 5.7-26). It forgoes meaningful hours limitations - construction hours are listed as from 7 am to 10 pm. Even for people who leave the house during the day, they will be exposed to construction noise the entire time they are awake and home. The measure does not account for meal times or even bedtimes. 24-hour response to a complaint of noise beginning before 7 am does not help the person who was woken up early.

L7.9

L7.10

⁸ EPA Noise Effects Handbook, <http://www.nonoise.org/library/handbook/handbook.htm>, incorporated by reference; see also EPA *Noise: A Health Problem* <http://www.nonoise.org/library/epahlth/epahlth.htm#heart%20disease>, incorporated by reference.

⁹ WHO, Guidelines for Community Noise, p. x and pp. 47-48, available at <http://whqlibdoc.who.int/hq/1999/a68672.pdf>; see also, Maschke C (2003). “Stress Hormone Changes in Persons exposed to Simulated Night Noise”. *Noise Health* 5 (17): 35–45. PMID 12537833, <http://www.noiseandhealth.org/article.asp?issn=1463-1741;year=2002;volume=5;issue=17;spage=35;epage=45;aulast=Maschke>, incorporated by reference.

¹⁰ WHO, Guidelines for Community Noise, p. x and pp. 48-49.

“[I]f the project can be economically successful with mitigation, then CEQA requires that mitigation...” (*Uphold Our Heritage v. Town of Woodside* (2007) 147 Cal. App. 4th at 600.) When other similar projects implement particular mitigation measures, it is evident that those measures are feasible. (*Western States Petroleum Association v. Southern California Air Quality Management District* (2006) 136 Cal.App.4th 1012, 1020 [no evidence showed refineries could not make the same air pollution control changes one refinery made or that the cost of such changes would be prohibitive].)

L7.10
Cont.

The DSEIR must be revised to provide specific, enforceable mitigation measures for construction noise.

G. The Project Fails to Ensure Affordable Housing Needs are Met

California’s housing crisis is well documented. According to the Legislative Analyst’s Office, “As of early-2015, the typical California home cost \$437,000, more than double the typical U.S. home (\$179,000). California renters also face higher costs. In 2013, the median monthly in California was \$1,240, nearly 50 percent more than the national average.”¹¹ Conditions have only worsened since this time, and luxury units far out supply low income or very-low-income units.

The DSEIR recognizes, “The proposed project is intended to meet the RHNA allocation for Duarte and the goals of the 2014-2021 Housing Element by providing up to 1,400 dwelling units, some of which would be affordable housing.” (DSEIR p. 5.3-8) The 2014-2011 Regional Housing Needs Allocation for Duarte provides for the City to construct 44 units for extremely low-income households, 87 units for very low-income households, and 53 units for low-income housing. However, the Project does not appear to provide any assurances that low-income units will actually be constructed when the Specific Plan is adopted. Thus, despite the claim of less than significant impact (DSEIR, p. 5.3-9), the Project will result in adverse impacts as related to the provision of housing and will fail to meet state-mandated affordable housing requirements. The DSEIR must be revised to address this.

L7.11

H. The Project Contains Numerous Mitigation Measures that are Inadequate, Vague, or Unlawfully Deferred

Mitigation measures must be “fully enforceable through permit conditions, agreements, or other measures.” (Pub. Resources Code § 21081.6(b).) “The purpose of these requirements is to ensure that feasible mitigation measures will actually be implemented as a condition of development, and not merely adopted and then neglected or disregarded.” (*Federation of Hillside & Canyon v. City of Los Angeles* (2000) 83 Cal.App.4th 1252, 1261; *Katzeff v. California Dept. of Forestry and Fire Protection* (2010) 181 Cal.App.4th 601, 612; *Lincoln Place Tenants Assn v. City of Los Angeles* (2005) 130 Cal.App.4th 1491.)

The DSEIR relies on vague, inadequate, and deferred mitigation in multiple sections, in violation of CEQA. (*Endangered Habitats League v County of Orange* (2005) 131 Cal. App. 4th 777, 793-94; Guidelines Section 15126.4(a)(1)(B).) When funding for a mitigation measure is not assured, the measure is not enforceable. (*Anderson First Coalition v. City of Anderson* (2005) 130 Cal.App.4th 1173, 1189-90.) Further, mitigation measures that “are not guaranteed to occur at any particular time or in any particular manner” are inadequate. (*Preserve Wild Santee v. City of Santee* (2012) 210 Cal.App.4th 260,

L7.12

¹¹ See, <https://lao.ca.gov/reports/2015/finance/housing-costs/housing-costs.pdf>, incorporated by reference.

281; *Gray v. County of Madera* (2008) 167 Cal.App.4th 1099, 1119.) Examples of mitigation measures that do not meet CEQA's requirements include:

Mitigation Measure HAZ-1 requires that “[p]rior to demolition activities, an asbestos survey shall be conducted by an Asbestos Hazard Emergency Response Act (AHERA) and Cal OSHA certified building inspector to determine the presence or absence of asbestos-containing materials (ACMs).” (DSEIR, p. 5.8-20.) There is no reason why the asbestos survey should not be performed now, as a condition of the EIR. Deferring the study and any follow up action to a later time would violate CEQA.

Mitigation Measure HYD-1 fails to set enforceable standards, requiring vaguely that, “that runoff values for each phase remain at or below existing runoff values in compliance with current State law or other applicable statutes.” This section should be strengthened to provide specific standards for performance.

Mitigation Measure WAT-1 requires individual project applicants to conduct a hydraulic analysis, “prior to the approval of building permits.” There is no reason not to determine the existing water supply capacity or capacity to accept wastewater now, and the DSEIR should be revised to require this study.

As discussed below, the Hazards section and associated mitigation measures similarly fail to comply with CEQA and are vague, inadequate, or unlawfully defer action.

I. Industrial Sites need Cleanup

The Project identifies numerous potential hazards present on the site as a result of previous industrial activity, the presence of current or former underground storage tanks, previous agricultural activity, the presence of asbestos-containing materials, and other site conditions. (See, DSEIR, pp. 5.8-11 – 5.8-15). However, the majority of mitigation measures for hazards in this section are deferred until a later date. Mitigation measures must be “fully enforceable through permit conditions, agreements, or other measures.” (Pub. Resources Code § 21081.6(b).) Deferred mitigation violates CEQA. (*Endangered Habitats League v County of Orange* (2005) 131 Cal. App. 4th 777, 793-94; Guidelines Section 15126.4(a)(1)(B) (“Formulation of mitigation measures should not be deferred until some future time.”).) Further, when mitigation is deferred, the public and decisionmakers are deprived of the opportunity to evaluate its effectiveness or desirability prior to project approval. (*Communities for a Better Environment v. City of Richmond* (2010) 184 Cal.App.4th 70, 92.)

Mitigation Measure HAZ-3 requires an environmental professional to “conduct an inspection of existing on-site structures before building renovation/ demolition activities . . . [and to determine whether or not testing is required to confirm the presence or absence of hazardous substances in building materials.” (DSEIR, p. 5.8-21.) This measure should define parameters for required additional testing and should require testing to be done as a condition of approval for the SEIR.

Mitigation Measures HAZ-5, HAZ-6, and HAZ-7 require soil sampling within portions of the site historically used for agricultural purposes, soil sampling along the southern boundary of the project, and soil sampling and vapor intrusion sampling generally to occur prior to issuance of a grading permit. (DSEIR, p. 5.8-21.) Soil and vapor intrusion sampling at the Project site, for all three measures, should be required as a condition of Project approval, and the DSEIR should be revised to reflect this.

Given the site's future development for residential units, it must be cleaned to residential standards and assured of being safe for children. The DSEIR must be revised to address the above issues.

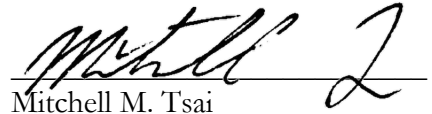
L7.12
Cont.

L7.13

II. CONCLUSION

Commenters request that the City revise and recirculate the Project's environmental impact report to address the aforementioned concerns. If the City has any questions or concerns, feel free to contact my office.

Sincerely,

A handwritten signature in black ink, appearing to read "Mitchell M. Tsai", is written over a horizontal line.

Mitchell M. Tsai
Attorneys for Southwest Regional
Council of Carpenters

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2.2.7 Southwest Regional Council of Carpenters (L7) (9 pages)

L7.1 The DSEIR's Project Description is Impermissibly Vague. The DSEIR fails to sufficiently describe the Project. "[T]he EIR never sets out how the development standards will change from those that currently exist. There are no references in the Project Description to changes in height limits, floor-to-area ratio, setbacks, or land use designations. Instead, DSEIR p. 3-10 refers to the Specific Plan itself. The project description cannot fail to describe key elements of the Project."

Response: Chapter 3 of the DSEIR provides a thorough discussion of the project description. Pursuant to Section 15125 of the CEQA Guidelines, the baseline for the impact analysis in the SEIR is the existing environmental setting, rather than approved development standards under the existing Specific Plan. The relevant details of the amended Specific Plan's development standards and design guidelines (e.g., form-based code, height, setbacks, open space, landscaping) are discussed in the applicable chapters of the SEIR including, but not limited to, in the impact analyses on aesthetics, land use, and hydrology.

L7.2 Mitigation Measure TRF-1 requiring traffic studies for future projects is deferred mitigation.

Response: Mitigation Measure TRF-1 is commensurate with the level of detail concerning the Specific Plan and associated programmatic impact analysis. Traffic studies will be required for all future development under the Specific Plan to evaluate traffic impacts associated with each individual project compared with the City's thresholds of significance. A traffic study was prepared for The Residences at Duarte Station and is discussed in the SEIR. In addition, by July 1, 2020, the City will be required to adopt new thresholds of significance for vehicle miles traveled (VMT).

L7.3 Project fails to incorporate required traffic alternatives or mitigation. No performance standards or goals for reducing impacts are provided for Buena Vista Street/Duarte Road.

Response: The SEIR identifies applicable feasible mitigation measures and evaluates a reasonable range of alternatives. Improvements at the Buena Vista Street/Duarte Road intersection were evaluated in the original EIR for the Duarte Station Specific Plan, as well as in the traffic study prepared for the amended Duarte Station Specific Plan (see Appendix D of the SEIR). Specifically, a physical improvement was analyzed involving a modification to the northbound approach on Buena Vista Street to add a right-turn lane. The mitigation would reduce the intersection impact to a less-than-significant level. However, the mitigation is infeasible, due to the need to modify the right-of-way, which contains the Metro Gold Line tracks to the north and private property to the south. Therefore, development of the Specific Plan would result in significant unavoidable significant impacts to this intersection as described in Impact TRF-1.

L7.4 The DSEIR must be revised to include more detailed mitigation for this impact, such as that included in TRF-2, which addresses impacts at Highland Avenue and Huntington Drive and requires: "Modification of] the northbound approach and southbound approach signal on Highland Avenue by adding an overlap phase for both right-turn approaches."

Response: Mitigation Measure TRF-2 further stipulates, "This mitigation will require a modification to the lane geometry through the striping of northbound and southbound right-turn lanes." A signal warrant analysis was performed for this intersection, is discussed in the SEIR, and is included in the Traffic Impact Analysis Report contained in Appendix D of the SEIR.

L7.5 Mitigation Measure TRF-3 requiring a Neighborhood Traffic Management Plan for future projects is deferred mitigation as no triggering standards are provided.

Response: TRF-3 is not required to correct any anticipated deficient roadway conditions. TRF-3 is required to minimize traffic nuisances and potential safety hazards in the area (e.g., cut-through traffic in residential neighborhoods). The trigger for preparation of a Neighborhood Traffic Management Plan is receipt of nuisance complaints on traffic by a project as stipulated in TRF-3.

L7.6 The Project Fails to Properly Address Air Quality Impacts, Including from Proximity to Interstate 210. CEQA requires an environmental review of a Project's potentially adverse impacts on human beings. (Guidelines § 15065 subd. (a)(2).) Countless peer-reviewed studies have been published documenting the dangers of living near freeways due to their emissions of ultrafine diesel particulate matter and other air pollutants. Ultrafine particulate matter causes cardiovascular and neuron damage. More than 90 percent of the particles in diesel exhaust are ultrafine particles, which are easily inhaled into the lung. Diesel particulate matter also contains gases such as acetaldehyde, acrolein, benzene, 1,3-butadiene, formaldehyde, and polycyclic aromatic hydrocarbons, increasing the hazards to human health. Consequently, diesel particulate matter was declared a toxic air contaminant by the California Air Resources Board in 1998. Diesel particulate matter is considered carcinogenic to humans, and according to the Air Resources Board, contributes to health effects that "include premature death, hospitalizations, and emergency department visits for exacerbated chronic heart and lung disease, including asthma, increased respiratory symptoms and decreased lung function in children. Pollution-related ailments have also been correlated with the distance a home sites from the freeway. Experts recommends that homes not be located within 1,000 feet of a freeway. However, as the Project is bordered by the 210 Freeway, it is located well within the 1,000-foot recommended buffer. Significant health impacts are likely.

Mitigation Measure AIR-3 requires: For all new residential units in the project area, the developer shall install, and owner maintain, HVAC systems with air filters that meet or exceed a Minimum Efficiency Rating Value (MERV) of 13 as determined by ASHRAE Standard 52.2. However, this measure will fail to provide useful protection of human health if there are operable windows in the residential units, and does nothing to address potential impacts to human health, particularly for vulnerable populations such as children, pregnant women, or the elderly, for exposure from potential outdoor space, or outdoor facilities such as a pool or playground. The DSEIR must be revised to incorporate additional mitigation to address these issues.

Response: As discussed in Section 5.5 of the DSEIR, a Health Risk Assessment was prepared (see Appendix E) and concludes that the project would not exacerbate health risk associated with placing residences in close proximity to the I-210. The SCAQMD was provided with this Health Risk Assessment including the model input and output files and has no comment on the documentation.

Air filters are required in forced-air ventilation systems which improve indoor air quality even with operable windows. Requirement of filters as well as other design measures to reduce potential exposure of residents result in health risk that does not exceed significance thresholds. In addition, it is reasonable to assume that residents closest to the I-210 would be apt to leave windows closed to reduce interior noise levels.

According to the Office of Environmental Health Hazard Assessment's (OEHHA) *Air Toxics Hot Spots Program Guidance Manual for Preparation of Health Risk Assessments (2015)*, "OEHHA has striven to use the best science available in developing risk assessment guidelines. However, there is a great deal of uncertainty associated with the process of risk assessment. The uncertainty arises from lack of data in many areas necessitating the use of assumptions. The assumptions used in these guidelines are designed to err on the side of health protection in order to avoid underestimation of risk to the public."

L7.7 Additionally, Mitigation Measure AIR 2-B requires that “all apartment buildings in the plan area be constructed such that no more than 60 percent of units in the structure have fireplaces...” With regard to particulate matter, the South Coast Air Basin has “some of the worst air quality in the nation,” and is in non-attainment for national ambient air quality standards (“NAAQS”) for PM. (DSEIR, p. 5.5-12) Given ongoing pollution concerns, It is unclear why fireplaces are allowed at all, and the DSEIR should be revised to properly consider this issue.

Response: The commenter is correct that the South Coast Air Basin is designated nonattainment for national, as well as state, PM₁₀ and PM_{2.5} ambient air quality standards (DSEIR Table 5.5-1). As explained in the DSEIR (pages 5.5-27 to 5.5-30, Table 5.5-11 and Table 5.5-12), maximum daily operational emissions associated with build-out of the Specific Plan would not exceed the SCAQMD’s recommended regional pollutant threshold of significance for all criteria air pollutant emissions, except NO_x. The increase in regional NO_x emissions anticipated to occur under buildout conditions would primarily come from area and mobile sources. Area sources account for approximately 37 percent of the build-out NO_x emissions, which come from the additional natural gas consumption and combustion associated with operation of the gas fireplaces that would be located in the approximately 1,400 apartment units. Mitigation Measure AIR-2B limits the amount of natural gas fireplaces permitted in new residential development in the planning area such that maximum daily operational NO_x emissions associated with build-out of the Specific Plan would not exceed the SCAQMD’s operational threshold of significance. Mitigation Measure AIR-2B is not included in the DSEIR to reduce PM₁₀ and PM_{2.5} emissions since buildout emissions of these pollutants would not exceed SCAQMD operational threshold of significance. It is also not necessary to prohibit all natural gas fireplaces in residential development since, as shown in DSEIR Table 5.5-12, limiting fireplaces to 60% of the residential units lowers NO_x emissions to levels that are below SCAQMD operational threshold of significance.

L7.8 The commenter states the project will result in significant and unavoidable construction noise impacts to residents living adjacent to the project site, south of Evergreen Street, and notes there are two hundred homes that would benefit from little or no distance based noise attenuation during Project construction.

Response: The DSEIR evaluated noise levels associated with buildout of the Specific Plan at sensitive receptor locations. The commenter correctly summarizes the DSEIR’s significance findings pertaining to temporary construction noise impacts; however, as explained on DSEIR page 5.7-23, there are at most approximately 15 receptors located directly adjacent to the planning area. These receptors would be most impacted by potential construction noise during subsequent project development. The majority of potential construction activities would occur at distances of 100 to 400 feet or more from the nearest sensitive receptors and would not be expected to interfere with normal residential activities.

L7.9 The commenter states the DSEIR rejects feasible measures to reduce construction noise or altogether fails to analyze other potential measures. The commenter states Mitigation Measure N-1 is too vague to enforce because it contains no standards pertaining to identified measures. The DSEIR must be revised to provide specific, enforceable mitigation measures for construction noise.

Response: Mitigation Measure N-1 is commensurate with the level of detail concerning the Specific Plan and associated impact analysis. Mitigation Measure N-1 does not contain vague or unenforceable requirements. Rather, this measure identifies 10 distinct measures intended to reduce construction noise levels. Specifically, the measure establishes a requirement for stationary equipment to be placed to maintain the greatest possible distance to the sensitive

receptors . Since the Specific Plan does not authorize any specific development project and specific construction details are not known at this time (DSEIR page 5.7-22), it is not possible for Mitigation Measure N-1 to set a specific setback distance for stationary equipment; rather, the measure sets a flexible performance standard that would ensure stationary equipment is set back as far as possible from sensitive receptors given the specific characteristics of the subsequent development project. Similarly, the use of pneumatic tools and jackets for equipment would be subject to project-specific conditions that would be described and justified in the construction noise management plan that Mitigation Measure N-1 requires to be submitted to the City for review. CEQA and the State CEQA Guidelines define “feasible” as “capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, legal, social, and technological factors (Public Resources Code (PRC) section 15364).” This standard definition of feasibility pursuant to CEQA would be used to determine the basis for specific equipment selection and controls during the review of subsequent development project’s construction noise management plans.

L7.10 Mitigation Measure N-1 foregoes meaningful hours limitations.

Response: Mitigation Measure N-1 incorporates construction hour limits consistent with the standards established by Section 9.68.120 of the City’s Municipal Code, which is intended to prohibit unnecessary, excessive and annoying noises from all sources subject to the City’s police power. Furthermore, each project would be required to resolve noise complaints, including complaints related to permissible construction hours, by determining the cause of the noise complaint (e.g., starting too early, malfunctioning muffler) and implementing reasonable measures to resolve the complaint as deemed acceptable by the Duarte Planning Department.

L7.11 The Project Fails to Ensure Affordable Housing Needs are Met. California’s housing crisis is well documented. According to the Legislative Analyst’s Office, “As of early-2015, the typical California home cost \$437,000, more than double the typical U.S. home (\$179,000). California renters also face higher costs. In 2013, the median monthly in California was \$1,240, nearly 50 percent more than the national average.” Conditions have only worsened since this time, and luxury units far out supply low income or very-low-income units. The DSEIR recognizes, “The proposed project is intended to meet the RHNA allocation for Duarte and the goals of the 2014-2021 Housing Element by providing up to 1,400 dwelling units, some of which would be affordable housing.” (DSEIR p. 5.3-8) The 2014-2011 Regional Housing Needs Allocation for Duarte provides for the City to construct 44 units for extremely low-income households, 87 units for very low-income households, and 53 units for low-income housing. However, the Project does not appear to provide any assurances that low-income units will actually be constructed when the Specific Plan is adopted. Thus, despite the claim of less than significant impact (DSEIR, p. 5.3-9), the Project will result in adverse impacts as related to the provision of housing and will fail to meet state-mandated affordable housing requirements. The DSEIR must be revised to address this.

Response: The project provides the opportunity for construction of high-density residential units that will provide a greater mix of housing opportunities in the City. Thus, the Project helps meet the housing needs in the City and the City’s ability to meet the housing goals of its Housing Element. Moreover, although the Project does not specifically require that an applicant provide affordable housing, the DSSP encourages and discusses affordable housing development. For example, the SEIR discusses the Duarte Intergenerational Housing project, which would provide up to 80 rent-restricted affordable units, is currently under consideration for Phase 1 buildout of the Specific Plan area.

L7.12 The Project Contains Numerous Mitigation Measures that are Inadequate, Vague, or Unlawfully Deferred. Mitigation measures must be “fully enforceable through permit conditions, agreements, or other measures.” (Pub. Resources Code § 21081.6(b).) “The purpose of these requirements is to ensure that feasible mitigation measures will actually be implemented as a condition of development, and not merely adopted and then neglected or disregarded.” (*Federation of Hillside & Canyon v. City of Los Angeles* (2000) 83 Cal.App.4th 1252, 1261; *Katzeff v. California Dept. of Forestry and Fire Protection* (2010) 181 Cal.App.4th 601, 612; *Lincoln Place Tenants Assn v. City of Los Angeles* (2005) 130 Cal.App.4th 1491.) The DSEIR relies on vague, inadequate, and deferred mitigation in multiple sections, in violation of CEQA. (*Endangered Habitats League v County of Orange* (2005) 131 Cal. App. 4th 777, 793-94; Guidelines Section 15126.4(a)(1)(B).) When funding for a mitigation measure is not assured, the measure is not enforceable. (*Anderson First Coalition v. City of Anderson* (2005) 130 Cal.App.4th 1173, 1189-90.) Further, mitigation measures that “are not guaranteed to occur at any particular time or in any particular manner” are inadequate. (*Preserve Wild Santee v. City of Santee* (2012) 210 Cal.App.4th 260, 281; *Gray v. County of Madera* (2008) 167 Cal.App.4th 1099, 1119.) Examples of mitigation measures that do not meet CEQA’s requirements include:

Mitigation Measure HAZ-1 requires that “[p]rior to demolition activities, an asbestos survey shall be conducted by an Asbestos Hazard Emergency Response Act (AHERA) and Cal OSHA certified building inspector to determine the presence or absence of asbestos-containing materials (ACMs).” (DSEIR, p. 5.8-20.) There is no reason why the asbestos survey should not be performed now, as a condition of the EIR. Deferring the study and any follow up action to a later time would violate CEQA.

Mitigation Measure HYD-1 fails to set enforceable standards, requiring vaguely that, “that runoff values for each phase remain at or below existing runoff values in compliance with current State law or other applicable statutes.” This section should be strengthened to provide specific standards for performance.

Mitigation Measure WAT-1 requires individual project applicants to conduct a hydraulic analysis, “prior to the approval of building permits.” There is no reason not to determine the existing water supply capacity or capacity to accept wastewater now, and the DSEIR should be revised to require this study.

Response: The SEIR contains both a programmatic impact analysis for future buildout of the Specific Plan as well a project-specific impact analysis for The Residences at Duarte Station. Many mitigation measures in the SEIR, including those referenced in comment L7.12, are applicable to future projects that are not yet proposed under the Specific Plan. Technical studies have already been prepared for The Residences at Duarte Station, are included as appendices to the SEIR, and are discussed in the SEIR, to address specific impacts for that individual project. Specifically, regarding future asbestos testing, this is a future requirement for a future activity (i.e., potential future demolition), and complies with CEQA. The requirement is triggered at the time of the activity giving rise to a potential significant environmental effect and is appropriate. Regarding Mitigation Measure HYD-1, compliance with applicable State standards is the defined performance criteria, and therefore is defined. Finally, the existing capacity for The Residences at Monrovia Station development has been addressed in a LID and Hydrology Report prepared for the development and contained in Appendix H of the SEIR. Because the regulatory environment and the system capacity of accepting wastewater is dynamic, and to avoid information that would be currently speculative or potentially obsolete at the time specific development is proposed, timing the assessment and specific mitigation of the project-specific requirements of potential future other development, under then-prevailing regulatory standards,

is entirely appropriate to address both impacts and responsive required measures and existing capacity as they arise.

L7.13 As discussed below, the Hazards section and associated mitigation measures similarly fail to comply with CEQA and are vague, inadequate, or unlawfully defer action. Industrial Sites need Cleanup. The Project identifies numerous potential hazards present on the site as a result of previous industrial activity, the presence of current or former underground storage tanks, previous agricultural activity, the presence of asbestos-containing materials, and other site conditions. (See, DSEIR, pp. 5.8-11 – 5.8-15). However, the majority of mitigation measures for hazards in this section are deferred until a later date. Mitigation measures must be “fully enforceable through permit conditions, agreements, or other measures.” (Pub. Resources Code § 21081.6(b).) Deferred mitigation violates CEQA. (*Endangered Habitats League v County of Orange* (2005) 131 Cal. App. 4th 777, 793-94; Guidelines Section 15126.4(a)(1)(B) (“Formulation of mitigation measures should not be deferred until some future time.”).) Further, when mitigation is deferred, the public and decisionmakers are deprived of the opportunity to evaluate its effectiveness or desirability prior to project approval. (*Communities for a Better Environment v. City of Richmond* (2010) 184 Cal.App.4th 70, 92.).

Mitigation Measure HAZ-3 requires an environmental professional to “conduct an inspection of existing on-site structures before building renovation/ demolition activities . . . [and to determine whether or not testing is required to confirm the presence or absence of hazardous substances in building materials.” (DSEIR, p. 5.8-21.) This measure should define parameters for required additional testing and should require testing to be done as a condition of approval for the SEIR.

Mitigation Measures HAZ-5, HAZ-6, and HAZ-7 require soil sampling within portions of the site historically used for agricultural purposes, soil sampling along the southern boundary of the project, and soil sampling and vapor intrusion sampling generally to occur prior to issuance of a grading permit. (DSEIR, p. 5.8-21.) Soil and vapor intrusion sampling at the Project site, for all three measures, should be required as a condition of Project approval, and the DSEIR should be revised to reflect this.

Given the site’s future development for residential units, it must be cleaned to residential standards and assured of being safe for children. The DSEIR must be revised to address the above issues.

Response: The investigation and determination of appropriate cleanup action for a contaminated site is governed by CERCLA and California Health and Safety Code and is regulated by the Department of Toxic Substances Control (DTSC) and authorities delegated by DTSC, including the Los Angeles County Fire Department’s Health Hazardous Materials Division (HHMD) and the Regional Water Quality Control in certain instances. Investigation and cleanup of asbestos is governed by the SCAQMD. As long as mitigation measures require full compliance with these laws, regulations, and processes prior to receipt of building permits for the project, the project impact can be concluded to be less than significant. Mitigation measures HAZ-1 through HAZ-10 ensure that all legal processes for the investigation and cleanup of past contamination are followed and completed prior to issuance of building permits. Further, the City would be remiss in preempting the authority of these responsible agencies in dictating the specifics of these processes. Recent case law in *Center for Biological Diversity v. California Department of Fish and Wildlife* (2015) 62 Cal.4th 204, 219-223 (*Newhall Land and Farming Company*) clarifies that compliance with other laws and regulations prior to construction, is considered adequate mitigation.

3. DRAFT SEIR REVISIONS

The following section includes all revisions to the Draft Subsequent EIR (SEIR) made in response to comments received during the Draft SEIR comment period. All text revisions are indicated by strike-through (deleted text) and underlining (added text) as errata to the Draft SEIR. All of the revisions supersede the corresponding text in the Draft SEIR. None of the criteria listed in CEQA Guidelines Section 15088.5 (Recirculation of an EIR Prior to Certification) indicating the need for recirculation of the Draft SEIR has been met as a result of the revisions. In particular:

- No new significant environmental impacts due to the project or due to a new mitigation measure has been identified;
- No substantial increase in the severity of an environmental impact has been identified; and
- No additional feasible project alternative or mitigate measure considerably different from others analyzed in the Draft SEIR has been identified that would clearly lessen the significant environmental impacts of the project.

Text revisions to the Draft SEIR are as follows:

Global Change:

The Residences at Duarte Station would involve 128,267 square feet (sf) of open space rather than 157,195 sf of open space currently reported in the Draft SEIR.

Chapter 8, EFNTBS

8.2.1 NO IMPACTS OR LESS THAN SIGNIFICANT IMPACTS

...

AESTHETICS

~~Construction activities associated with implementation of the proposed project could result in significant impacts related to temporary degradation of the visual character/quality of the site and its surroundings.~~

Implementation of the proposed project could result in significant impacts related to the long-term degradation of the visual character/quality of the site and its surroundings – visual character/quality.

~~Development associated with implementation of the proposed project along with other cumulative projects could result in cumulatively considerable aesthetics impacts.~~

8.2.2 LESS THAN SIGNIFICANT IMPACTS WITH MITIGATION INCORPORATED

HYDROLOGY, DRAINAGE, AND WATER QUALITY

~~Grading, excavation, and construction activities associated with implementation of the proposed project could significantly impact water quality.~~

Implementation of the proposed project could result in significant impacts related to increased run-off amounts and degraded water quality.

Implementation of the proposed project along with other related cumulative projects could result in cumulatively considerable impacts related to increased runoff and degraded water quality.