Supplemental Information
Packet 2
June 8, 2022

Agenda Related Items
Meeting of June 8, 2022

Supplemental Information:
Any agenda related public documents received and distributed to a majority of the Planning Commission after the Agenda Packet is printed are included in Supplemental Packets. Supplemental Packets are produced as needed, typically they are distributed on the Thursday or Friday preceding the Planning Commission meeting and/or on Monday before the meeting. Supplemental Packets produced on Thursday or Friday are available for public inspection in the Community Development Department, 2100 E. Thousand Oaks Boulevard, during normal business hours (main location pursuant to the Brown Act, G.C. 54957.5(2). All Supplemental Packets are available for public review at the Planning Commission on the City’s website www.toaks.org.

Americans with Disabilities Act (ADA):
In compliance with the ADA, if you need special assistance to participate in this meeting or other services in conjunction with this meeting, please contact the Community Development Department at (805) 449-2500. Upon request, the agenda and documents in this agenda packet, can be made available in appropriate alternative formats to persons with a disability. Notification at least 48 hours prior to the meeting or time when services are needed will assist City staff in assuring reasonable arrangements can be made to provide accessibility to the meeting or service.
To:       Planning Commission
From:    John M. Dugan, Deputy Community Development Director
Date:    June 8, 2022
Subject: Regarding Item 05A - General Plan Amendment (LU) 2021-70215, Zone Change (ZC) 2021-70216, Specific Plan (SP) 2021-70397, Development Permit (DP) 2021-70214, Lot Line Adjustment (LLA) 2021-70398, Protected Tree Permit (PTP) 2021-70400, Development Agreement (DAGR) 2021-70399, and Environmental Impact Report (EIR) 2021-70442; IMT Capital V Hampshire V LLC – Additional Project Correspondence Received

Attached please find additional correspondence received since the printing of the packet.
Hello,

Please see the attached packet of letters from the Greater Conejo Valley Chamber of Commerce and several other major employers in support of Item 5A -- the T.O. Ranch Project.

Please let me know if you have any questions.

Thank you,
Adam

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Adam Haverstock
Director of Government Affairs & Tourism
Greater Conejo Valley Chamber of Commerce
Helping Businesses Succeed and Conejo Valley Thrive!
805-370-0035 | ahaverstock@conejochamber.org
June 7, 2022

Chair David Newman
Thousand Oaks Planning Commission
2100 Thousand Oaks Blvd
Thousand Oaks, CA 91362

Re: T.O. Ranch Project – Support

Dear Chair Newman and Planning Commissioners,

On behalf of the 800 members of the Greater Conejo Valley Chamber of Commerce, I am writing in support of the T.O. Ranch project proposed by IMT. Attached to this letter you will find a packet of additional letters from many local employers also expressing their support for the T.O. Ranch Project.

This project is a high priority for the Chamber of Commerce. As the City of Thousand Oaks continues expanding the biotech cluster in the Rancho Conejo area, potential employers have communicated two things Thousand Oaks is lacking: market rate “workforce” housing and a downtown. The young professionals who would likely comprise the workforce of these companies need market rate housing to live in and a downtown to enjoy.

IMT is proposing an excellent project to help meet both of these needs. Their site on Hampshire Road is a short walk from Thousand Oaks Blvd. The area surrounding City Hall has already been identified by city leaders as the site for a downtown with the Campus Master Plan recently identified as one of the city’s top priorities. This project would place more residents in close proximity to that future downtown.

The project is comprised of 420 units, including 50 affordable units that will provide a significant amount of “workforce” housing ranging from studios to 4-bedroom townhomes and 7 live/work units. In the 6th Regional Housing Needs Allocation (RHNA) cycle, Thousand Oaks needs to plan for 2,621 housing units, 544 of which must be for low income or very low income residents.

The site of T.O. Ranch has been a vacant lot for decades. IMT is taking one of the most dilapidated sites in our city and turning it into a beautiful community. This site was one of 6 sites within the city designated as “opportunity sites” in the Economic Development Strategic Plan.

Let’s take this opportunity and approve the proposal by IMT to develop T.O. Ranch.

Sincerely,

Danielle Borja, MBA
President/CEO
Greater Conejo Valley Chamber of Commerce
May 23, 2022

Chair David Newman  
Thousand Oaks Planning Commission  
2100 Thousand Oaks Blvd  
Thousand Oaks, CA 91362

Re: Thousand Oaks Planning Commission Meeting: Amgen’s Statement in Support of the T.O Ranch Project and Mixed-Use Properties

Dear Chair Newman and Commissioners,

More than 40 years ago, Amgen’s entrepreneurial founders established their new biotechnology headquarters in what was then the small town of Thousand Oaks. These visionary scientists believed that this community was an ideal place to get their growing business off the ground as it would offer employees a high-quality location to live, work and raise their families. We are proud of how Thousand Oaks and the surrounding towns have grown over the years.

As a large recruiter of top talent from around the world and across multiple disciplines, a vital factor in deciding where to locate offices is the availability of a wide variety of housing, entertainment, and recreation options for our employees. We also strive to be located in communities in which inclusiveness is valued and our team members can feel a true sense of belonging regardless of backgrounds.

Mixed-use housing provides opportunities for all levels of employment including those wanting to put down roots in our wonderful community.

Amgen supports the community as it continues to grow, and we support innovative projects that will make this town a vibrant place for all walks of life from around the world.

Sincerely,

Steve Anderson  
Executive Director, Site Lead  
Amgen Thousand Oaks
June 3, 2022

Chair David Newman
Thousand Oaks Planning Commission
2100 Thousand Oaks Blvd
Thousand Oaks, CA 91362

Re: T. O. Ranch Project - Support

Dear Chair Newman and Commissioners,

On behalf of Atara Biotherapeutics, I am writing this letter in support of the T.O. Ranch project proposed by IMT. Atara is a leading off-the-shelf, allogeneic T-cell immunotherapy company developing novel treatments for patients with cancer and autoimmune diseases with operations in Thousand Oaks.

Atara is part of the growing biotech hub in Rancho Conejo and currently has 434 employees. As the Senior Vice President and Chief People Officer, I know firsthand that the lack of local housing options continues to be a significant challenge to retain and attract highly skilled employees.

T.O. Ranch is a well-designed project that will bring 420 modern housing units to Thousand Oaks. This proposal is an opportunity to transform a longtime vacant lot into a vibrant mixed-use concept offering a wide range of unit sizes for our local workforce from studios to 4-bedroom townhomes.

I urge you to prioritize housing projects like this one that will be a key component to support continued growth of the biotech sector.

Sincerely,

Amie Krause
SVP, Chief People Officer
Atara Biotherapeutics, Inc.
May 20, 2022

Chair David Newman  
Thousand Oaks Planning Commission  
2100 Thousand Oaks Blvd  
Thousand Oaks, CA 91362

Re: T.O. Ranch Project – Support

Dear Chair Newman and Commissioners,

On behalf of Westlake Village BioPartners, I am writing this letter of support for the T.O. Ranch project proposed by IMT on Hampshire Road. Westlake Village BioPartners is the leader in early stage venture capital for many of the start-ups that are expanding in the Thousand Oaks biotech hub, most recently Capsida Biotherapeutics in 2021.

While the Thousand Oaks biotech hub is poised for continued growth, lack of local workforce housing continues to be a substantial challenge to attract the high quality talent these start-ups need. The T.O. Ranch project will provide 420 modern housing units that will be attractive to biotech professionals with close proximity to Rancho Conejo.

We urge you to prioritize housing projects like T.O. Ranch that will lead to economic development in the biotech sector, which continues to be one of the city’s top 10 goals.

Sincerely,

Sean Harper, M.D.  
Managing Director  
Westlake Village BioPartners
May 23, 2022

Chair David Newman
Thousand Oaks Planning Commission
2100 Thousand Oaks Blvd
Thousand Oaks, CA 91362

Re: T.O. Ranch Project – Support

Dear Chair Newman and Commissioners,

On behalf of Takeda, a major employer in Thousand Oaks, I am writing in support of the T.O. Ranch project proposed by IMT on Hampshire Road. Last year, Takeda broke ground on a new 15,000 square foot manufacturing facility to grow its portfolio of treatments for rare diseases and renovate an existing 14,000 square foot manufacturing space; a $126 million investment in our Thousand Oaks campus.

As we work to expand our footprint, one of the biggest challenges continues to be the lack of available workforce housing. The T.O. Ranch project fills a critical need with 420 modern housing units that will be attractive to biotech professionals with close proximity to Rancho Conejo.

As a global company, Takeda has a strong commitment to sustainability and is pleased that IMT has prioritized a wide variety of green initiatives including solar, water conservation and electronic charging systems. These are the types of projects that will make it easier to retain and attract the talent we need for biotech in the Conejo Valley.

Sincerely,

Katherine Harbeston
Communication Strategy Lead
Takeda Pharmaceutical Company Limited
May 19, 2022

Chair David Newman
Thousand Oaks Planning Commission
2100 Thousand Oaks Blvd
Thousand Oaks, CA 91362

Re: T.O. Ranch Project – Support

Dear Chair Newman and Commissioners,

On behalf of Capsida Biotherapeutics, I am writing this letter of support for the T.O. Ranch project proposed by IMT on Hampshire Road. Capsida is a gene therapy startup company developing therapies for rare and common diseases. We are located in Thousand Oaks and pride ourselves on being part of the biotech ecosystem here in the Conejo Valley. We continue to grow and currently have ~150 employees in specialized roles such as Research and Manufacturing.

One of the biggest challenges facing the business community in the City of Thousand Oaks is the lack of housing for our local workforce. This is causing our employees to live in other communities which also leads to longer commutes. Not only is this a burden on our employees, but it contributes to traffic and environmental issues.

T.O. Ranch is a beautiful project that will bring a large number of new housing units and create a village like feel with the addition of dining and retail. The project has prioritized both sustainability and affordable housing as significant community benefits. These are the types of projects that will make it easier to retain and attract the talent we need for the growing biotech hub in Rancho Conejo.

Recruiting top-tier individuals for critical scientific and technical roles is challenging. Capsida can better succeed at hiring and bringing talent to our biotech community if there are affordable, attractive, convenient housing options.

I urge you to approve the T.O. Ranch Project and help support the businesses and future residents of Thousand Oaks.

Sincerely,

Jessica McIntyre
VP Business Operations
Capsida Biotherapeutics, Inc
May 16, 2022

Chair David Newman
Thousand Oaks Planning Commission
2100 Thousand Oaks Blvd
Thousand Oaks, CA 91362

Re: T.O. Ranch Project – Support

Dear Chair Newman and Commissioners,

On behalf of NewMark Merrill and the Janss Marketplace, I am writing this letter of support for the T.O. Ranch project at 325 Hampshire Road. The Janss Marketplace has been a longtime fixture in the community and witnessed many chapters of change in Thousand Oaks over the past six decades.

While the Janss Marketplace as a property has continued to evolve over the years, one of our main challenges continues to be lack of housing for our local workforce. The long-term slow growth approach in Thousand Oaks has resulted in a negative population growth that effects of both the workforce and our local consumer population.

T.O. Ranch is a well-designed project that will bring 420 new housing units and create a village-like feel with the addition of dining and retail. The project has prioritized both sustainability and affordable housing as significant community benefits. It will offer a wide range of options from studios to 4-bedrooms townhomes that will make it easier to retain local employees including in the retail sector.

Sincerely,

Sandy Sigal
President and Chief Executive Officer
NewMark Merrill Companies
June 07, 2022

Chair David Newman  
Thousand Oaks Planning Commission  
2100 Thousand Oaks Blvd  
Thousand Oaks, CA 91362

Re: T.O. Ranch Project – Support

Dear Chair Newman and Commissioners,

On behalf of Private National Mortgage Acceptance Co. (Pennymac), a major employer in Ventura County with offices located in Westlake Village and Thousand Oaks, I am writing this letter in support of the T.O. Ranch project proposed by IMT on Hampshire Road. As an employer with over 2,100 employees in Ventura County alone it continues to be a challenge to attract high quality talent due to the lack of local housing options.

The T.O. Ranch Project is a well-designed project that will provide over 400 modern housing units that will be attractive to our current employees as well as future candidates when considering a relocation to our corporate office in addition to surrounding offices. We urge you to prioritize housing projects like T.O. Ranch.

Thank you in advance for your time and consideration.

Sincerely,

Stacy Diaz  
Executive Vice President, Human Resources
May 13, 2022

City of Thousand Oaks
Attn: Planning Commission
2100 Thousand Oaks Boulevard
Thousand Oaks, California 91362

RE: Thousand Oaks Ranch Project

Dear Planning Commission:

As William S. Burroughs said, "When stop growing you start dying" and nowhere are these words for apopos than in the city of Thousand Oaks. As the future success of our city hangs on the viability of a best-in-class biotech corridor, with hundreds of millions of dollars already invested, it is imperative we offer attractive and affordable housing options to those working in this sector.

This additional housing will benefit all businesses, including the vital hospitality industry, by creating more demand for our goods and services.

Approving this mixed-use development with many offsetting carbon footprint initiatives and fifty affordable housing units on a lot that has been vacant for decades would be a step in the right direction; breathing new life and vitality into Thousand Oaks and allowing us to grow our fine city thoughtfully and strategically. It has the full support of Hyatt Regency Westlake.

Regards,

David W. Barnett
Director of Sales and Marketing

cc: Danielle Borja
Adam Haverstock
June 1, 2022

Chair David Newman  
Thousand Oaks Planning Commission  
2100 Thousand Oaks Blvd  
Thousand Oaks, CA 91362

Re: T.O. Ranch Project – Support

Dear Chair Newman and Commissioners,

On behalf of Bioscience Alliance, I am writing this letter of support for the T.O. Ranch project proposed by IMT on Hampshire Road. Bioscience Alliance (BSA) www.biosciencealliance.org is a nonprofit organization that was established in 2008 to facilitate the development of a life cluster in this region. BSA provides a series of annual networking and resource events for the life science community along the 101 corridor, including Thousand Oaks.

The lack of workforce housing continues to be a dominate topic of conversation within our local life science community as they work to retain and attract high quality talent. The T.O. Ranch project will provide 420 modern housing units, with onsite amenities and green features that will be very attractive to life science professionals who are needed by the life science companies already located in this area as well as those relocating here.

This location has long been identified as an “opportunity site” by the City of Thousand Oaks and the mixed-use project proposal aligns with the Preferred Land Use map endorsed by the city council.

Please support housing projects like T.O. Ranch that provide market rate housing and continue to foster economic growth in the life science sector.

Sincerely,

Brent Reinke  
Founder and Chairman of BSA

3075 Townsgate Road, Suite 330, Westlake Village, CA 91361  
www.biosciencealliance.org  
bsa.founder@gmail.com
May 19, 2022

Chair David Newman
Thousand Oaks Planning Commission
2100 Thousand Oaks Blvd
Thousand Oaks, CA 91362

Re: T.O. Ranch Project – Support

Dear Chair Newman and Commissioners,

On behalf of Oaks Christian School, I am writing this letter of support for the T.O. Ranch project proposed by IMT at 325 Hampshire Road. Oaks Christian School is currently home to a middle and high school campus serving over 1500 students. Most recently, the Board of Trustees approved the expansion to become a full-fledged TK-12 school and this expansion will lead to both a larger student population and a larger staff.

One of the biggest challenges locally to accommodate a growing workforce is the lack of housing. The T.O. Ranch project will provide 420 housing units that will be attractive to staff that Oaks Christian School is looking to both retain and attract and less than 2 miles from our campus.

Let's take this opportunity to turn a vacant lot into an attractive mixed-use project that our community can be proud of. The project has prioritized both sustainability and 50 affordable housing units as significant community benefits. These are the types of projects that will make it easier to retain and attract the talent we need for education in Conejo Valley.

I urge you to approve the T.O. Ranch Project that will benefit businesses and residents alike.

Sincerely,

[Signature]

Robert T. Black
President / Head of School
Oaks Christian School
May 27, 2022

Chair David Newman
Thousand Oaks Planning Commission
2100 Thousand Oaks Blvd.
Thousand Oaks, CA 91362

Re: T.O. Ranch Project - Support

Dear Chair Newman and Commissioners,

On behalf of Premier America, I am writing this letter of support for the T.O. Ranch project at 325 Hampshire Road. Premier America Credit Union has two local branch locations and prides itself on being part of the Thousand Oaks business community.

As part of this business community, lack of housing continues to be a considerable challenge for our local workforce. T.O. Ranch is an opportunity to take a vacant lot with zero economic impact and bring 420 new housing units to the City of Thousand Oaks.

T.O. Ranch is a well-designed project that will create a village-like feel with the addition of dining and retail. The project has prioritized sustainability and will include 50 affordable housing units; both significant community benefits. It will offer a wide range of options from studios to 4-bedroom townhomes that will make it easier to retain local employees including in the financial sector.

Sincerely,

Rudy Pereira
President & CEO
Premier America Credit Union
May 17, 2022

Chair David Newman
Thousand Oaks Planning Commission
2100 Thousand Oaks Blvd
Thousand Oaks, CA 91362

Re: T.O. Ranch Project – Support

Dear Chair Newman and Commissioners,

As a local area resident and member of the business community, I support the T.O. Ranch project located at 325 Hampshire Road.

This former Kmart site has been vacant for more than two decades and T.O. Ranch is an ideal model of the type of project envisioned for the site. Currently, our population as a city and a county is declining, impacting labor for our local workforce. With economic growth in Thousand Oaks coming from the biotech sector, additional housing will benefit our existing and future businesses. These professionals want attractive housing options, and yet not everyone wants or can afford a single-family home. With more than 420 apartments and townhomes, 50 of which are affordable housing units, the T.O. Ranch project will provide the housing needed to attract and retain our local workforce. On a personal note, I am pleased that the project includes extensive green initiatives, including LEED building certification, EV charging stations, rooftop solar, and native landscaping.

Thank you in advance for your consideration of this important project.

Best regards,

Rick M. Gibson
Senior Vice Chancellor
Pepperdine University
May 18, 2022

Chair David Newman
Thousand Oaks Planning Commission
2100 Thousand Oaks Blvd
Thousand Oaks, CA 91362

Re: T.O. Ranch Project – Support

Dear Chair Newman and Commissioners,

I am writing in support of the T.O. Ranch project proposed by IMT on behalf of Key Pointe Asset Management, Inc that has managed the Gate One building on Townsgate Road for five years. It is a large commercial property whose sixteen tenants include several major local employers.

The lack of local workforce housing has a direct impact on our tenants and their employees. T.O. Ranch is an opportunity to take a vacant lot and bring 420 new housing units in close proximity to jobs in Thousand Oaks providing both economic and environmental benefits.

In addition to the housing units, 15,000 sq. ft. of dining and retail will create a vibrant village-like feel for both residents and community members to enjoy. The project has prioritized sustainability and 50 affordable housing units as significant community benefits. These are the types of projects that will make it easier to retain and attract the talent we need for our local businesses to thrive.

It is a substantial project on a parcel that has been vacant for decades and will be a huge win for the business community.

Sincerely,

John Shehorn, President
May 18, 2022

Chair David Newman
Thousand Oaks Planning Commission
2100 Thousand Oaks Blvd
Thousand Oaks, CA 91362

Re: T.O. Ranch Project – Support

Dear Chair Newman and Commissioners,

As a business owner in Agoura Hills and a resident of Thousand Oaks, I am writing this letter of support for the T.O. Ranch project by IMT. TechAhead empowers start-ups, businesses, and corporations to leverage the power of technology for growth, including mobile and web app development.

As part of the Conejo Valley business community, lack of housing continues to be a considerable challenge for our local workforce especially for our young professionals. T.O. Ranch is an opportunity to take a vacant lot and create a beautiful mixed-use project with housing solutions ranging from studio apartments to 4-bedroom townhouses.

It’s a well-designed project that will create a community feel with the addition of dining, retail and even a dog park. The project has prioritized sustainability and will include 50 affordable housing units, both substantial community benefits. These are the types of projects that will make it easier to retain local employees and homegrown talent including in the technology sector.

Sincerely,

[Signature]

Vikas Kaushik
CEO
TechAhead
June 07, 2022

Chair David Newman  
Thousand Oaks Planning Commission  
2100 Thousand Oaks Blvd  
Thousand Oaks, CA 91362

Re: T.O. Ranch Project — Support

Dear Chair Newman and Commissioners,

On behalf of FUJIFILM Diosynth Biotechnologies, a global Contract Development and Manufacturing Organization supporting the Biopharmaceutical Industry, I am writing in support of the T.O. Conejo Ranch Project. On April 4, 2022, FUJIFILM Corporation announced the closing of the $100M USD acquisition of our 90,000 sq.ft manufacturing facility here in Thousand Oaks. Fujifilm continues to build for the future to meet the growing need of cell therapy production globally. These therapies are at the cutting-edge of science and have the potential to cure patients across a wide gamut of illnesses and disorders.

Attracting and retaining the best talent is essential. I echo the need for affordable housing in the area for a growing workforce. The T.O. Conejo project will help close the gap we have in our region for housing that can support this need. This project can have a significant impact on talent attraction. We are delighted that this project incorporates sustainability as part of its fulfillment. This is well aligned with Fujifilm’s Sustainability Value Plan 2030 and our commitment to building for a better future.

It is my sincere hope that the T.O. Conejo Ranch project is approved for the benefit and growth our community.

Sincerely,

David Bolish  
Site Head, FUJIFILM Diosynth Biotechnologies, California
June 08, 2022

Ryan Van Ommeren
766 Rosario Drive
Thousand Oaks, CA 91362

Planning Commission
City of Thousand Oaks

Dear City of Thousand Oaks Planning Commission,

Although I write today as a citizen, please know that I have spent over 20 years planning the Cal Lutheran campus and every day I see first-hand the value of combining vocational space with living space and dining space. It is clear that as we have emphasized those developments on campus by bringing things like outdoor dining to our relatively new dining commons and by bringing Starbucks to the campus, (pre-pandemic) demand for housing has exceeded our supply and the campus has a vibrancy (at least pre-COVID) that didn’t exist two decades ago.

Beyond my on-campus observation, I am also see first-hand young staff and faculty that choose not to live in Thousand Oaks because of the lack of vibrancy in the City, and I see how a relatively new coffee shop (that I will not name) founded by Cal Lutheran graduates has transformed a “shop and leave” shopping center to an area in which individuals linger and sip coffee and enjoy a communal experience.

I definitely understand how individuals in the City are alarmed by the prospect of increased traffic in our peaceful city and understand how growth without adequate planning could be harmful.

However, I strongly believe that mixed-use developments such as the proposed development at TO Ranch will create quality developments of live-work-shop and dine space that will both create vibrancy for the overall community and minimally add traffic as both necessities and social activities will be within walking distance of living space.

I respectfully ask that all Councilmembers see the benefits of this project and vote for approval.

Sincerely,

Ryan Van Ommeren
Hello Dr. Martin,
Thank you for your patience as we worked to prepare the response to your subsequent inquiry regarding noise. Below are the responses from the project EIR consultants (bold and underlined):

**Envicom:**

ADDITIONAL COMMENT:

Just perusing the data, why wouldn’t the small samplings of 15 minutes be done from 6 to 8 am during the loudest time period of the day documented in the one and only 24-hour assessment?

RESPONSE:

Measuring during the quieter times of day is more conservative. It’s a lower baseline, so the project change would be larger. If we looked at the existing noisiest time the project change would be less.

The following provides some further explanation to clarify the methodology and reasons behind the noise measurements, which are utilized as a baseline for ambient noise.

The methodology for the assessment of the existing conditions ambient noise environment is summarized on page 4.10-3 of the Draft EIR, under the heading “Existing Noise Environment,” as follows:

"The most common source of noise in the project site vicinity is vehicular traffic on the US-101 and Hampshire Road, as well as commercial use noise (parking and garbage pickups) and activity at the preschool (Little Dreamers Early Childhood). To characterize ambient sound levels at and near the project site, five 15-minute sound level measurements were conducted on October 6 and 20, 2021, and one 24-hour measurement was conducted on October 20 and 21, 2021."
Measurement Short-Term (ST) 1 and ST 5 were conducted to capture the existing noise levels attributable to Hampshire Road; ST-2 and ST-3 were conducted along Foothill Drive to capture existing noise levels at residential uses to the west of the project site; ST-4 was conducted to capture existing noise levels at the preschool use adjacent to the southwest portion of the project site; ST-5 was conducted to capture existing noise levels at residential uses along Foothill Drive; and Measurement Long-Term (LT) 1 was conducted on-site over a 24-hour period. The 24-hour measurement resulted in a noise level of 65.2 dBA CNEL with hourly noise levels ranging from 54.4 dBA to 63.8 dBA Leq. Table 4.10-1 summarizes the results of the short-term noise measurements Noise measurement locations are shown in Figure 4.10-1.

As noted in response to your earlier comment, the noise monitoring times and dates are provided in Table 4.10-1, Project Site Vicinity Sound Level Monitoring Results, on Draft EIR page 4.10-5. The noise locations listed and described in that table are also shown in an aerial view map in Figure 4.10-1, Noise Measurement Locations, on Draft EIR page 4.10-4.

To answer the question of why the noise measurements were not taken during a noisier time of day in straightforward terms, measuring during the quieter time of day actual yields a more CEQA-conservative result (i.e., a more worst-case impact result so as to be sure not to underestimate impacts). This is because if we had started with a higher existing ambient dBA baseline, and added the project increment of noise to that, the calculations would yield a lower noise level increase, and thus a lesser impact. Instead, the technical study and EIR take a more conservative approach, starting with a lower existing ambient noise level, and adding the project increment of noise to that, which makes the resulting calculated noise level increase a higher number, and thus a greater (conservative) impact. It should be noted that because of the way the human ear detects sound, decibel level numbers are not directly additive. Nevertheless, starting with a lower existing ambient noise measurement still yields a higher project impact, which is a conservative approach under CEQA.

Rincon:
In the context of how the ambient noise levels were used in the analysis, saying “Measuring during the quieter times of day is more conservative. It’s a lower baseline, so the project change would be larger. If we looked at the existing noisiest time the project change would be less.” Is correct.

Construction noise analysis looked at construction noise compared to ambient noise levels. E.g., if construction generated 80 dBA, and ambient noise results showed 60 dBA, the project’s increase was 20 dBA. If they took measurements at the loudest part of the day, let’s say 65 dBA, then the project’s analyzed increase would only be 15 dBA. So when you measure at the quieter parts of the day, you get a more conservative construction noise analysis.

Bill Vosti, Program Manager – Air Quality, GHG Emissions, and Noise
Rincon Consultants, Inc.
805-459-2142 Mobile
bvosti@rinconconsultants.com
Kind regards,

Carlos Contreras  || Senior Planner  || Development Planning Supervisor
Community Development Department
Planning Division
2100 Thousand Oaks Boulevard
Thousand Oaks, CA 91362
Email: ccontreras@toaks.org
Office: (805) 449-2317
City of Thousand Oaks

*Please Note:
Effective Monday May 10, 2021 City Hall Public Counter services will be available to walk-in traffic for those services that cannot be conducted remotely. Public Counters will be open Monday - Thursday from 7:30am-5pm and alternate Friday's 8am to 5pm. Public Counter services are also available remotely via phone, email, or videoconference. Additionally, City of Thousand Oaks Planning Division only accepts digital submittals via the online Virtual Counter. Please visit www.toaks.org/cdd for more information.

-----Original Message-----
From: Karen Martin <takeodogg@aol.com>
Sent: Wednesday, June 8, 2022 8:25 AM
To: Carlos Contreras <CContreras@toaks.org>
Cc: Kelvin Parker <KParker@toaks.org>; John Dugan <JDugan@toaks.org>; Stephen Kearns <SKearns@toaks.org>; Patrick Hehir <PHehir@toaks.org>
Subject: Re: Kmart project - Noise Study

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

I know the project has probably passed, but I would still like an answer. If it be Rincon, that’s fine.
Sent from my iPhone

> On Jun 7, 2022, at 8:56 AM, Karen Martin <takeodogg@aol.com> wrote:
> 
> Hello fellows,
> 
> Just perusing the data, why wouldn’t the small samplings of 15 minutes be done from 6 to 8 am during the loudest time period of the day documented in the one and only 24 hour assessment?
> 
>> On Jun 6, 2022, at 10:37 PM, Carlos Contreras <CContreras@toaks.org> wrote:
>> 
>> Hello Dr. Martin,
>> 
>> Thank you for your inquiry. I understand the difficulty in locating specific documents associated with the Draft EIR prepared for the project. For your convenience, I have attached the Noise Study for your review. The analysis of noise impacts in Section 4.10 of the Draft EIR is based upon a noise study, which is provided in Appendix G "Noise and Vibration Impact Analysis." Section 4.1 of the study, entitled Ambient Noise Levels, explains the noise measurement methodology. Table 4-1 (page 9 of the Noise Study) in column three identifies the time of day and date of the noise measurements. Figure 2 (page 11 of the Noise Study), provides the noise measurement locations on an aerial map.
>> 
>> Please feel free to contact me should you have any further questions or concerns.
>> 
>> Kind regards,
>> 
>> Carlos Contreras || Senior Planner || Development Planning Supervisor
>> Community Development Department
>> Planning Division
>> 2100 Thousand Oaks Boulevard
>> Thousand Oaks, CA 91362
>> Email: ccontreras@toaks.org
>> Office: (805) 449-2317
>> City of Thousand Oaks
>> 
>> *Please Note:
>> Effective Monday May 10, 2021 City Hall Public Counter services will be available to walk-in traffic for those services that cannot be conducted remotely. Public Counters will be open Monday - Thursday from 7:30am-5pm and alternate Friday's 8am to 5pm. Public Counter services are also available remotely via phone, email, or videoconference. Additionally, City of Thousand Oaks Planning Division only accepts digital submittals via the online Virtual Counter. Please visit www.toaks.org/cdd for more information.
>>
Where might the methods by which Rincon got their results of the sound study referenced in the EIR? There is a footnote but I see no mention of number of days/weeks or time of day that sensors were placed in their results. Is it in another document or did I miss it?

<TO Ranch Noise Study 03.30.22.pdf>
Please add to the Supplemental.

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Written comments to Planning Commission for 6.8.22 Item 5.A.

I have been following the public work of the Planning Commission and City Council for a number of years. After retirement from the CVUSD Board of Education, I have used some of my “free time” to dig a bit deeper into the process and its successes and failures. What troubles me most about your work is the way each project and/or proposal that is brought before your bodies is examined in seeming isolation. It is unclear to me what priorities, in what particular order, are used by City staff in the planning negotiations that proceed this, or any other, project coming before you. It worries me that you, and the public, are depending on a staff report that doesn’t explain how the priorities of the City, as established by the City Council, are reflected in the negotiated proposal. Am I missing something?

Things I like about this project:

1. more housing our city needs to remain economically viable
2. increased density housing vs more single family homes few can afford
3. underground parking
4. mixed use that stands a chance of being successful
5. Addition of Quimby fees for park improvements
6. All electric

Things I don’t like about this project:
1. need housing that households making $60K-$80K can afford
2. doesn't make pedestrian safety the priority by raising crosswalks rather than letting cars remain king
3. doesn't connect residents to open space for recreation
4. doesn't enhance bike safety with bikes protected from traffic and linked up to existing bike infrastructure

Respectfully,
Betsy Connolly
Lori Goor

From: Community Development Department
Sent: Wednesday, June 8, 2022 12:36 PM
To: Lori Goor
Cc: Carlos Contreras; Stephen Kearns; Patrick Hehir; John Dugan
Subject: FW: 5A Public Hearing: IMT

Please add to the Supplemental.

-----Original Message-----
From: Jessica Weihe <mrs.weihe@gmail.com>
Sent: Wednesday, June 8, 2022 11:33 AM
To: Community Development Department <CommunityDevelopment@toaks.org>
Subject: RE: 5A Public Hearing: IMT

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Good Morning Planning Commission!

I’m writing as a life-long Conejo Valley resident to express my support of the IMT application (Old Kmart site.) I’m pleased to see a thoughtful mixed-use development on a site that has been an eyesore in our community for years. I appreciate that the developer is local. I appreciate that the developer has added in additional affordable units ... 54 of them. I greatly appreciate the green initiatives this development will be prioritizing and the fact that Conejo Climate Coalition gave this project a very positive verbal nod in a city council meeting a few months back really perked my ears. You obviously all have access to the website and details, so I’m not going to repeat them all here just to add extra reading. I really believe the City has a responsibility to work with reasonable developers and support reasonable development that meets our community needs when opportunities arise. With little acreage left for development, housing for all income levels is needed, and this mixed use provides that, just submitting my *yay* nod to the mix.

Have a great meeting tonight!

Jess Weihe
Newbury Park resident
Dear Commissioners,

Attached please find comments of Supporters Alliance for Environmental Responsibility ("SAFER") regarding the Final Environmental Impact Report prepared for the Thousand Oaks (T.O.) Ranch Mixed-Use and Multi-Family Residential Redevelopment Project.

If you could confirm receipt of this email and the attached comments, it would be much appreciated.

Sincerely,
Molly

--

Molly Greene
Legal Assistant
Lozeau | Drury LLP
1939 Harrison Street, Suite 150
Oakland, California 94612
(510) 836-4200
(510) 836-4205 (fax)
molly@lozeaudrury.com

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June 8, 2022

Via Email

David Newman
Sharon McMahon
Nelson Buss
Justin Link
Don Lanson
Planning Commission
City of Thousand Oaks
2100 Thousand Oaks Blvd.
Thousand Oaks, CA 91362
communitydevelopment@toaks.org


Dear Commissioners:

I am writing on behalf of Supporters Alliance for Environmental Responsibility (“SAFER”) regarding the Final Environmental Impact Report (“FEIR”) prepared for the Thousand Oaks (T.O.) Ranch Mixed-Use and Multi-Family Residential Redevelopment Project (SCH 2021120559), including all actions related or referring to the demolition of existing buildings on the site and the development of an 841,153 square foot site with 420 residential units, 15,000 square feet of commercial uses, 203,172 square feet of open space and amenities, surface parking, and two subterranean parking structures, located at 325 and 391 Hampshire Road in the City of Thousand Oaks (“Project”), which is being heard by the Planning Commission at its June 8, 2022 meeting.

After reviewing the FEIR, we conclude that the FEIR fails as an informational document and fails to impose all feasible mitigation measures to reduce the Project’s impacts. SAFER requests that the Planning Division address these shortcomings in a revised draft environmental impact report and recirculate it prior to considering approvals for the Project.
June 8, 2022
Comment on FEIR
T.O. Ranch Mixed-Use and Multi-Family Residential Redevelopment Project
Page 2 of 2

We reserve the right to supplement these comments during review of the Final EIR for the Project and at public hearings concerning the Project. *Galante Vineyards v. Monterey Peninsula Water Management Dist.*, 60 Cal. App. 4th 1109, 1121 (1997).

Sincerely,

Rebecca Davis
Lozeau Drury LLP
Lori Goor

From: Community Development Department
Sent: Wednesday, June 8, 2022 2:10 PM
To: Lori Goor
Cc: Stephen Kearns; Carlos Contreras; John Dugan; Patrick Hehir
Subject: FW: June 8, 2022 Planning Commission Meeting - IMT Capital V Hampshire V LLC
Attachments: June 8, 2022 Planning Commission letter - IMT TO Ranch (Recovered).pdf

Please add to supplemental.

From: Faith Grant <faithagrant@aol.com>
Sent: Wednesday, June 8, 2022 2:07 PM
To: Kelvin Parker <KParker@toaks.org>; Community Development Department <CommunityDevelopment@toaks.org>
Subject: June 8, 2022 Planning Commission Meeting - IMT Capital V Hampshire V LLC

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The Conejo Climate Coalition would like to add its comments on the T.O. Ranch Project hearing.

Thank you.

Faith Grant
The Conejo Climate Coalition
June 8, 2022

Thousand Oaks Planning Commission
2100 E. Thousand Oaks Boulevard
Thousand Oaks, California  91362

Subject:  IMT Capital V Hampshire V LLC

Dear Thousand Oaks Planning Commission:

The Conejo Climate Coalition thanks IMT for participating in multiple meetings to review and discuss sustainable building features for the T.O. Ranch project. The resulting project truly sets the bar for multi-family developments in Thousand Oaks. We applaud this climate-forward LEED and Fitwell certified building project that features all-electric residential units and EV-charging stations powered by rooftop solar panels. This project is significant in that it eliminates climate and health damaging natural gas infrastructure in favor of a healthier, climate-safe development that demonstrates market demand, adoption and acceptance along with builder profitability.

Other features address the reduction of greenhouse gasses, water scarcity, and protection of our biodiversity. The mixed-use and highly walkable project will reduce Vehicle Miles Traveled and subsequent greenhouse gas emissions. Water retention will improve following the removal of impervious surfaces. Increasing the cover of native and drought tolerant landscaping will create habitat and cover for wildlife. Partial use of gray water will reduce reliance on our potable water supply.

Studies have shown that the building of market-rate units, while increasing overall housing stock, will also help with affordability due to the supply-effect. That being said, Thousand Oaks has a desperate need for low-income units and we are extremely pleased to see that this project includes 50 affordable residential units for low-income residents and 4 units as moderate-income households. The Conejo Climate Coalition supports affordable housing and the level of building density that has been shown to reduce GHGs. In fact, higher density developments like this one have been shown to produce significantly less greenhouse gas emissions compared to lower density developments.

We believe IMT has reached a major milestone in designing sustainable residential buildings and we look forward to other builders adopting these sustainable, climate saving building features. The Conejo Climate Coalition enthusiastically supports this project.

Sincerely,

The Conejo Climate Coalition
Conejo Valley Advocates for Sensible Planning supports this project. The key to our name is Sensible Planning. We see many community benefits in this proposal some of which are:

-A long term vacant site will be revived.
-The surrounding neighborhood is primarily industrial, retail, office & apartments with just a small amount of single family homes. Positioning & height of the buildings have been designed to minimize the visual impact to the existing residential properties.
-Much needed housing in a wide variety of units will provide options for families of all sizes & ages.
-It’s located close to the 101 freeway & vehicle access will not go through residential neighborhoods.
-It’s within walking distance to the Westlake shopping center making it a truly walkable site.
-It’s less than 500’ feet from the Los Robles trail providing access to our wonderful COSCA open space. It’s also less than a mile form Triunfo Park.
The developer & setting aside true affordable units without asking for a density bonus. This is a big consideration for us because it shows the developers is trying to work with the community without holding us hostage.

There will always be some drawbacks associated with development, such as additional traffic, infrastructure needs & impact on the local residents during the construction process. I don’t want to minimize these issues. However they are something we have to accept when the benefits outweigh the drawbacks, & when the construction is complete I believe this project will be an asset to our community.

Karen Wilburn
2837 Denise St
Newbury Park, Ca, 91320

On behalf of:
Conejo Valley Advocates for Sensible Planning
https://cvasp.org/
Follow us https://www.facebook.com/cvasp2021/
Twitter@cvasp2021
To: Planning Commission
From: John M. Dugan, Deputy Community Development Director
Date: June 8, 2022
Subject: Regarding Item 05A - General Plan Amendment (LU) 2021-70215, Zone Change (ZC) 2021-70216, Specific Plan (SP) 2021-70397, Development Permit (DP) 2021-70214, Lot Line Adjustment (LLA) 2021-70398, Protected Tree Permit (PTP) 2021-70400, Development Agreement (DAGR) 2021-70399, and Environmental Impact Report (EIR) 2021-70442; IMT Capital V Hampshire V LLC – Additional Project Correspondence Received

Attached please find additional correspondence received by Mitchell M. Tsai late this morning, which is almost identical to the document submitted by Mr. Tsai on the day of the previously scheduled Planning Commission hearing on the item on May 23rd.

To avoid duplication, the third item of correspondence, from Mr. Tsai, only the first 23 pages have been included. For your convenience, the new or modified language from the last submitted document is identified as highlighted. The other pages (Exhibits) have already been submitted and are in the packet.

The points that Mr. Tsai made regarding the EIR in his May 23, 2022 letter and repeated in his June 8, 2002 letter have been thoroughly analyzed by our Environmental Consultant, and responses begin in O-4.01 in the responses to comments provided in the Planning Commission packet.
Lori Goor

From: Carlos Contreras
Sent: Wednesday, June 8, 2022 11:09 AM
To: Kelvin Parker; John Dugan; Stephen Kearns; Patrick Hehir
Cc: Lori Goor
Attachments: 20220608_SWRCC_TO_Ranch_SpecialCmntLtr_Signed_Complete.pdf

Carlos Contreras || Senior Planner || Development Planning Supervisor
Community Development Department
Planning Division
2100 Thousand Oaks Boulevard
Thousand Oaks, CA 91362
Email: ccontreras@toaks.org
Office: (805) 449-2317
City of Thousand Oaks

*Please Note:
Effective Monday May 10, 2021 City Hall Public Counter services will be available to walk-in traffic for those services that cannot be conducted remotely. Public Counters will be open Monday - Thursday from 7:30am-5pm and alternate Friday's 8am to 5pm. Public Counter services are also available remotely via phone, email, or videoconference. Additionally, City of Thousand Oaks Planning Division only accepts digital submittals via the online Virtual Counter. Please visit www.toaks.org/cdd for more information.

From: Maria Sarmiento <maria@mitchtsailaw.com>
Sent: Wednesday, June 8, 2022 10:43 AM
To: Carlos Contreras <CContreras@toaks.org>
Good Morning,

Attached please find our letter regarding the above mentioned project in the City of Thousand Oaks.

Please confirm receipt of this email.

Thank you.

Maria Sarmiento
Paralegal
Mitchell M. Tsai, Attorney At Law
139 South Hudson Avenue Suite 200
Pasadena, CA 91101
Phone: (626) 314-3821
Fax: (626) 389-5414
Email: maria@mitchtsailaw.com
Website: http://www.mitchtsailaw.com

*** Our Office Has Recently Moved. Please Note New Mailing Address ****

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June 8, 2022

Carlos Contreras
Senior Planner
City of Thousand Oaks
2100 Thousand Oaks Boulevard
Thousand Oaks, CA 91362
Em: ccontreras@toaks.org


Dear Carlos Contreras,

On behalf of the Southwest Regional Council of Carpenters (“SWRCC” or “Southwest Carpenters”), my Office is submitting these comments on the City of Thousand Oaks’ (“City” or “Lead Agency”) Draft Environmental Impact Report (“DEIR”) for The T.O. Ranch Mixed-Use and Multi-Family Residential Development Project (the “Project”).

The Southwest Carpenters is a labor union representing more than 50,000 union carpenters in six states and has a strong interest in well-ordered land use planning and addressing the environmental impacts of development projects.

Individual members of the Southwest Carpenters live, work and recreate in the City and surrounding communities and would be directly affected by the Project’s environmental impacts.

The Southwest Carpenters expressly reserves 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. California Government Code (“CGC”) § 65009(b); California Public Resources Code (“PRC”) § 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.
SWRCC incorporates 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 Cal.App.4th 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, SWRCC requests 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”), PRC § 21000 et seq, and the California Planning and Zoning Law (“PZL”), CGC §§ 65000–65010. PRC §§ 21092.2, and 21167(f) and CGC § 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.

The City should require the Applicant provide additional community benefits such as requiring local hire and use of a skilled and trained workforce to build the Project. The City should require the use of workers who have graduated from a Joint Labor Management apprenticeship training program approved by the State of California, or have at least as many hours of on-the-job experience in the applicable craft which would be required to graduate from such a state approved apprenticeship training program or who are registered apprentices in an apprenticeship training program approved by the State of California.

Community benefits such as local hire and skilled and trained workforce requirements can also be helpful to reduce environmental impacts and improve the positive economic impact of the Project. Local hire provisions requiring that a certain percentage of workers reside within 10 miles or less of the Project Site can reduce the length of vendor trips, reduce greenhouse gas emissions and providing localized economic benefits. Local hire provisions requiring that a certain percentage of workers reside within 10 miles or less of the Project Site can reduce the length of vendor trips, reduce greenhouse gas emissions and providing localized economic benefits. As environmental consultants Matt Hagemann and Paul E. Rosenfeld note:

[A]ny local hire requirement that results in a decreased worker trip length from the default value has the potential to result in a reduction of construction-related GHG emissions, though the significance of the reduction would vary based on the location and urbanization level of the project site.

Skilled and trained workforce requirements promote the development of skilled trades that yield sustainable economic development. As the California Workforce Development Board and the UC Berkeley Center for Labor Research and Education concluded:

... labor should be considered an investment rather than a cost – and investments in growing, diversifying, and upskilling California’s workforce can positively affect returns on climate mitigation efforts. In other words, well trained workers are key to delivering emissions reductions and moving California closer to its climate targets.1

Recently, on May 7, 2021, the South Coast Air Quality Management District found that the “[u]se of a local state-certified apprenticeship program or a skilled and trained workforce with a local hire component” can result in air pollutant reductions.2

Cities are increasingly adopting local skilled and trained workforce policies and requirements into general plans and municipal codes. For example, the City of Hayward 2040 General Plan requires the City to “promote local hiring . . . to help achieve a more positive jobs-housing balance, and reduce regional commuting, gas consumption, and greenhouse gas emissions.”3

In fact, the City of Hayward has gone as far as to adopt a Skilled Labor Force policy into its Downtown Specific Plan and municipal code, requiring developments in its Downtown area to require that the City “[c]ontribute to the stabilization of regional construction markets by spurring applicants of housing and nonresidential developments to require contractors to utilize apprentices from state-approved, joint

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labor-management training programs, . . .”

In addition, the City of Hayward requires all projects 30,000 square feet or larger to “utilize apprentices from state-approved, joint labor-management training programs.”

Locating jobs closer to residential areas can have significant environmental benefits. As the California Planning Roundtable noted in 2008:

People who live and work in the same jurisdiction would be more likely to take transit, walk, or bicycle to work than residents of less balanced communities and their vehicle trips would be shorter. Benefits would include potential reductions in both vehicle miles traveled and vehicle hours traveled.

In addition, local hire mandates as well as skill training are critical facets of a strategy to reduce vehicle miles traveled. As planning experts Robert Cervera and Michael Duncan noted, simply placing jobs near housing stock is insufficient to achieve VMT reductions since the skill requirements of available local jobs must be matched to those held by local residents. Some municipalities have tied local hire and skilled and trained workforce policies to local development permits to address transportation issues. As Cervera and Duncan note:

In nearly built-out Berkeley, CA, the approach to balancing jobs and housing is to create local jobs rather than to develop new housing.” The city’s First Source program encourages businesses to hire local residents, especially for entry- and intermediate-level jobs, and sponsors vocational training to ensure residents are employment-ready. While the program is voluntary, some 300 businesses have used it to date, placing more than 3,000 city residents in local jobs since it was launched in 1986. When

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5 City of Hayward Municipal Code, Chapter 10, § 28.5.3.020(C).


needed, these carrots are matched by sticks, since the city is not shy about negotiating corporate participation in First Source as a condition of approval for development permits.

The City should consider utilizing skilled and trained workforce policies and requirements to benefit the local area economically and mitigate greenhouse gas, air quality and transportation impacts.

The City should also require the Project to be built to standards exceeding the current 2019 California Green Building Code to mitigate the Project’s environmental impacts and to advance progress towards the State of California’s environmental goals.

I. THE PROJECT WOULD BE APPROVED IN VIOLATION OF THE CALIFORNIA ENVIRONMENTAL QUALITY ACT

A. Background Concerning 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).8 “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. CCR § 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

8 The CEQA Guidelines, codified in Title 14 of the California Code of Regulations, section 15000 et seq, are regulatory guidelines promulgated by the state Natural Resources Agency for the implementation of CEQA. (Cal. Pub. Res. Code § 21083.) The CEQA Guidelines are given “great weight in interpreting CEQA except when . . . clearly unauthorized or erroneous.” Center for Biological Diversity v. Department of Fish & Wildlife (2015) 62 Cal. 4th 204, 217.
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.” CCR § 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 § 21081. CCR § 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, 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, 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 is 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).
B. CEQA Requires Revision and Recirculation of an Environmental Impact Report When Substantial Changes or New Information Comes to Light

To afford the public an opportunity to review and comment on an EIR, “[w]hen significant new information is added to an environmental impact report after notice has been given pursuant to Section 21092 … but prior to certification, the public agency shall give notice again pursuant to PRC § 21092, and consult again pursuant to Sections 21104 and 21153 before certifying the environmental impact report” in accordance with PRC § 21092.1. CCR § 15088.5.

Significant new information includes “changes in the project or environmental setting as well as additional data or other information” that “deprives the public of a meaningful opportunity to comment upon a substantial adverse environmental effect of the project or a feasible way to mitigate or avoid such an effect (including a feasible project alternative).” CCR § 15088.5(a). Examples of significant new information requiring recirculation include “new significant environmental impacts from the project or from a new mitigation measure,” “substantial increase in the severity of an environmental impact,” “feasible project alternative or mitigation measure considerably different from others previously analyzed” as well as when “the draft EIR was so fundamentally and basically inadequate and conclusory in nature that meaningful public review and comment were precluded.” Id.

An agency has an obligation to recirculate an environmental impact report for public notice and comment due to “significant new information” regardless of whether the agency opts to include it in a project’s environmental impact report. Cadiz Land Co. v. Rail Cycle (2000) 83 Cal.App.4th 74, 95 [finding that in light of a new expert report disclosing potentially significant impacts to groundwater supply “the EIR should have been revised and recirculated for purposes of informing the public and governmental agencies of the volume of groundwater at risk and to allow the public and governmental agencies to respond to such information.”]. If significant new information was brought to the attention of an agency prior to certification, an agency is required to revise and recirculate that information as part of the environmental impact report.
C. Due to the COVID-19 Crisis, the City Must Adopt a Mandatory Finding of Significance that the Project May Cause a Substantial Adverse Effect on Human Beings and Mitigate COVID-19 Impacts.

CEQA requires that an agency make a finding of significance when a Project may cause a significant adverse effect on human beings. PRC § 21083(b)(3); CCR § 15065(a)(4).

Public health risks related to construction work requires a mandatory finding of significance under CEQA. Construction work has been defined as a Lower to High-risk activity for COVID-19 spread by the Occupations Safety and Health Administration. Recently, several construction sites have been identified as sources of community spread of COVID-19.\(^9\)

SWRCC recommends that the Lead Agency adopt additional CEQA mitigation measures to mitigate public health risks from the Project’s construction activities. SWRCC requests that the Lead Agency require safe on-site construction work practices as well as training and certification for any construction workers on the Project Site.

In particular, based upon SWRCC’s experience with safe construction site work practices, SWRCC recommends that the Lead Agency require that while construction activities are being conducted at the Project Site:

**Construction Site Design:**

- The Project Site will be limited to two controlled entry points.
- Entry points will have temperature screening technicians taking temperature readings when the entry point is open.
- The Temperature Screening Site Plan shows details regarding access to the Project Site and Project Site logistics for conducting temperature screening.

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• A 48-hour advance notice will be provided to all trades prior to the first day of temperature screening.
• The perimeter fence directly adjacent to the entry points will be clearly marked indicating the appropriate 6-foot social distancing position for when you approach the screening area. Please reference the Apex temperature screening site map for additional details.
• There will be clear signage posted at the project site directing you through temperature screening.
• Provide hand washing stations throughout the construction site.

**Testing Procedures:**

• The temperature screening being used are non-contact devices.
• Temperature readings will not be recorded.
• Personnel will be screened upon entering the testing center and should only take 1-2 seconds per individual.
• Hard hats, head coverings, sweat, dirt, sunscreen or any other cosmetics must be removed on the forehead before temperature screening.
• Anyone who refuses to submit to a temperature screening or does not answer the health screening questions will be refused access to the Project Site.
• Screening will be performed at both entrances from 5:30 am to 7:30 am.; main gate [ZONE 1] and personnel gate [ZONE 2]
• After 7:30 am only the main gate entrance [ZONE 1] will continue to be used for temperature testing for anybody gaining entry to the project site such as returning personnel, deliveries, and visitors.
• If the digital thermometer displays a temperature reading above 100.0 degrees Fahrenheit, a second reading will be taken to verify an accurate reading.

• If the second reading confirms an elevated temperature, DHS will instruct the individual that he/she will not be allowed to enter the Project Site. DHS will also instruct the individual to promptly notify his/her supervisor and his/her human resources (HR) representative and provide them with a copy of Annex A.

Planning

• Require the development of an Infectious Disease Preparedness and Response Plan that will include basic infection prevention measures (requiring the use of personal protection equipment), policies and procedures for prompt identification and isolation of sick individuals, social distancing (prohibiting gatherings of no more than 10 people including all-hands meetings and all-hands lunches) communication and training and workplace controls that meet standards that may be promulgated by the Center for Disease Control, Occupational Safety and Health Administration, Cal/OSHA, California Department of Public Health or applicable local public health agencies.10

The United Brotherhood of Carpenters and Carpenters International Training Fund has developed COVID-19 Training and Certification to ensure that Carpenter union members and apprentices conduct safe work practices. The Agency should require that all construction workers undergo COVID-19 Training and Certification before being allowed to conduct construction activities at the Project Site.

SWRCC has also developed a rigorous Infection Control Risk Assessment ("ICRA") training program to ensure it delivers a workforce that understands how to identify and

control infection risks by implementing protocols to protect themselves and all others
during renovation and construction projects in healthcare environments.\textsuperscript{11}

ICRA protocols are intended to contain pathogens, control airflow, and protect
patients during the construction, maintenance and renovation of healthcare facilities.
ICRA protocols prevent cross contamination, minimizing the risk of secondary
infections in patients at hospital facilities.

The City should require the Project to be built using a workforce trained in ICRA
protocols.

D. The DEIR Fails to Consider and Analyze all Feasible, Practical and
Effective Mitigation Measures for Significant and Unavoidable

Although the DEIR recognizes impacts to noise, transportation, housing, and hazards
as significant and unavoidable, it fails to consider all feasible, practical, and effective
feasible mitigation measures under PRC §§ 21061, 21100(b)(3); see also \textit{Napa Citizens

The DEIR is required to review all feasible, practical, and effective mitigation measures
as the DEIR concludes that the Project would have significant and unavoidable
impacts to several domains identified in the DEIR. However, the DEIR fails to
provide a feasibility analysis for mitigation measures that could conceivably reduce the
Project's impacts to culture to less than significant levels. For example, the Project
could adopt measures to mitigate noise rather than disrupt nearby sensitive receptors,
or expand surrounding roads to increase ease of access and traffic. Without a feasibility
analysis of more stringent mitigation measures, the DEIR fails as an informational
document.

For instance, the Project could correspond and coordinate with local sensitive
receptors, such as the nearby preschools to determine the best times to perform loud
construction so as not to substantially interfere with preschooler learning. The Project
could also analyze its transportation impacts and determine the least-disruptive
construction and transportation patterns, especially during rush-hour. Similarly,
transportation and importing or exporting of hazards should be analyzed with
attunement to the nearby sensitive receptors, businesses, and impact during high-
traffic hours.

\textsuperscript{11} For details concerning SWRCC's ICRA training program, see \url{https://icrahealthcare.com/}.
E. The DEIR Fails to Support Its Findings With Substantial Evidence

When new information is brought to light showing that an impact previously discussed in the DEIR but found to be insignificant with or without mitigation in the DEIR’s analysis has the potential for a significant environmental impact supported by substantial evidence, the EIR must consider and resolve the conflict in the evidence. See *Visalia Retail, L.P. v. City of Visalia* (2018) 20 Cal.App.5th 1, 13, 17; see also *Protect the Historic Amador Waterways v. Amador Water Agency* (2004) 116 Cal.App.4th 1099, 1109.

While a lead agency has discretion to formulate standards for determining significance and the need for mitigation measures—the choice of any standards or thresholds of significance must be “based to the extent possible on scientific and factual data and an exercise of reasoned judgment based on substantial evidence. CEQA Guidelines § 15064(b); *Cleveland Nat’l Forest Found. v. San Diego Ass’n of Gov’ts* (2017) 3 Cal.App.5th 497, 515; *Mission Bay Alliance v. Office of Community Inv. & Infrastructure* (2016) 6 Cal.App.5th 160, 206. And when there is evidence that an impact could be significant, an EIR cannot adopt a contrary finding without providing an adequate explanation along with supporting evidence. *East Sacramento Partnership for a Livable City v. City of Sacramento* (2016) 5 Cal. App. 5th 281, 302.

In addition, a determination that regulatory compliance will be sufficient to prevent significant adverse impacts must be based on a project-specific analysis of potential impacts and the effect of regulatory compliance. In *Californians for Alternatives to Toxics v. Department of Food & Agric.* (2005) 136 Cal. App. 4th 1, the court set aside an EIR for a statewide crop disease control plan because it did not include an evaluation of the risks to the environment and human health from the proposed program but simply presumed that no adverse impacts would occur from use of pesticides in accordance with the registration and labeling program of the California Department of Pesticide Regulation. See also *Ebbets Pass Forest Watch v. Department of Forestry & Fire Protection* (2008) 43 Cal.App.4th 936, 956 (fact that Department of Pesticide Regulation had assessed environmental effects of certain herbicides in general did not excuse failure to assess effects of their use for specific timber harvesting project).

Here, the most recent Staff Report does not address the comments of SWRCC’s last letter, and as such SWRCC reincorporates its prior comments which are again set forth in this letter.
1. *The DEIR Fails to Support its Findings on Greenhouse Gas Impacts with Substantial Evidence*

CCR § 15064.4 allow a lead agency to determine the significance of a project’s GHG impact via a qualitative analysis (e.g., extent to which a project complies with regulations or requirements of state/regional/local GHG plans), and/or a quantitative analysis (e.g., using model or methodology to estimate project emissions and compare it to a numeric threshold). So too, CEQA Guidelines allow lead agencies to select what model or methodology to estimate GHG emissions so long as the selection is supported with substantial evidence, and the lead agency “should explain the limitations of the particular model or methodology selected for use.” CCR § 15064.4(c).

CCR §§ 15064.4(b)(3) and 15183.5(b) allow a lead agency to consider a project’s consistency with regulations or requirements adopted to implement a statewide, regional, or local plan for the reduction or mitigation of GHG emissions.

CCR §§ 15064.4(b)(3) and 15183.5(b)(1) make clear qualified GHG reduction plans or CAPs should include the following features:

1. **Inventory**: Quantify GHG emissions, both existing and projected over a specified time period, resulting from activities (e.g., projects) within a defined geographic area (e.g., lead agency jurisdiction);

2. **Establish GHG Reduction Goal**: Establish a level, based on substantial evidence, below which the contribution to GHG emissions from activities covered by the plan would not be cumulatively considerable;

3. **Analyze Project Types**: Identify and analyze the GHG emissions resulting from specific actions or categories of actions anticipated within the geographic area;

4. **Craft Performance Based Mitigation Measures**: Specify measures or a group of measures, including performance standards, that substantial evidence demonstrates, if implemented on a project-by-project basis, would collectively achieve the specified emissions level;

5. **Monitoring**: Establish a mechanism to monitor the CAP progress toward achieving said level and to require amendment if the plan is not achieving specified levels;

Collectively, the above-listed CAP features tie qualitative measures to quantitative results, which in turn become binding via proper monitoring and enforcement by the
jurisdiction—all resulting in real GHG reductions for the jurisdiction as a whole, and
the substantial evidence that the incremental contribution of an individual project is
not cumulatively considerable.

Here, the DEIR concludes consistency with the SCAG’s 2016-2040 statewide plans to
reduce GHG emissions but does not identify consistency with the 2020-2045 plan
(DEIR 4.7-17-24). However, the DEIR materials includes an Appendix B titled “Air
Quality Monitoring,” wherein some attempt at quantification via modelling was done.
It includes what appear to be calculations of GHG emissions and CO2e numbers
which are not discussed anywhere in the DEIR. Additionally, as noted above, the
DEIR fails to analyze GHG emissions from sources outside of the “Focus Area” to
which the DEIR was limited. The DEIR must be revised to consider the
environmental impacts of GHG emissions from the whole project.

Although the Staff Report indicates that it will attempt to prematurely adopt the Final
Environmental Impact Report, it does so without having responded to the multitude
of comments provided to the City concerning the Project. For instance, the Staff
Report only mentions Greenhouse gases twice (pp. 11, 21) but neither are in reference
to the issues raised in SWRCC’s prior letter. The City should respond to comments
before adopting the Final Environmental Impact Report.

2. The DEIR is Required to Consider and Adopt All Feasible Air Quality
and GHG Mitigation Measures

A fundamental purpose of an EIR is to identify ways in which a proposed project's
significant environmental impacts can be mitigated or avoided. PRC §§ 21002.1(a),
21061. To implement this statutory purpose, an EIR must describe any feasible
mitigation measures that can minimize the project's significant environmental effects.
PRC §§ 21002.1(a), 21100(b)(3); CCR §§ 15121(a), 15126.4(a).

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 find that “specific overriding economic,
legal, social, technology or other benefits of the project outweigh the significant effects
on the environment.” “A gloomy forecast of environmental degradation is of little or
no value without pragmatic, concrete means to minimize the impacts and restore
142 Cal.App.4th 1018, 1039.
Here, the DEIR finds that the Project will have no significant and unavoidable impacts on air quality and greenhouse gas emissions, for several reasons, one of which is the consistency with the 2016 Ventura County AQMP population increase estimates. (DEIR 4.2-16) which is conclusory and evades the analysis under CEQA. Even assuming the Project may take credit for all the claimed VMT reductions it outlines, the Project will still have a significant GHG emissions impact which requires that the DEIR adopt a finding of a significance and the adoption of all feasible mitigation measures to ameliorate this impact. Instead, the DEIR again defers discussion of air quality and greenhouse gas emissions to the future, or never, and relies on the faulty inference that its impacts can be masked and assimilated under the guise of global climate change analysis.

The City is merely making a conclusory statement about future compliance with the law and does not commit itself to any specific or binding course of action which is project-specific. A determination that regulatory compliance will be sufficient to prevent significant adverse impacts must be based on a project-specific analysis of potential impacts and the effect of regulatory compliance. In Californians for Alternatives to Toxics v. Department of Food & Agric. (2005) 136 Cal.App.4th 1, the court set aside an EIR for a statewide crop disease control plan because it did not include an evaluation of the risks to the environment and human health from the proposed program but simply presumed that no adverse impacts would occur from use of pesticides in accordance with the registration and labeling program of the California Department of Pesticide Regulation. There is no analysis in the DEIR connecting the effect of compliance with regulatory requirements such that the impacts could be determined to be less than significant. The City is essentially requesting a good-faith assumption that regulatory compliance will serve as a backstop without developing any mitigation measures. The City must identify mitigations. It is insufficient to say that none is needed because the analysis would be subsumed by global climate change context.

3. The DEIR Provides Inadequate Population and Housing Impact Analysis

The DEIR provides inadequate analysis to housing impacts, despite the nearly 420 proposed units and 50 low-income units that will significantly increase population density in the area. (DEIR 2.6; 2-12/15) It is therefore necessary to perform a housing impact analysis, especially considering the site’s existing vacant commercial building that will result in a significant population increase in the area, not only due to the housing development but also because of the additional patronage from the
reintroduction of commercial uses and planned pedestrian access. An agency may not avoid its responsibility to prepare proper environmental analysis by failing to gather relevant data. *Sundstrom v. County of Mendocino* (1988) 202 Cal.App.3d 296, 311. Here, there are clear housing impacts because of the nature of the Project, and the City is obligated to include housing impacts in its environmental impact analysis.

While an analysis is provided, it indicates that the population increase is within the projected population estimates under the SCAG 2045 plan. However this estimate and analysis does not include the Project’s contribution per annum and instead evaluates and estimates an approximate its overall increase and contribution increase of 1,121 residents of total growth until 2045, and which would constitute almost half of the Thousand Oaks 2021-2029 Housing Element allotment, while only providing a 12% provision of low-income units for the area (DEIR 4.11-5-7).

Based on this, the DEIR concludes the population growth would be within estimated SCAG regional forecast and impacts would be less than significant. (DEIR 4.11-8) However the Project’s contribution per annum could be well in excess of annual contributions to population growth and occupies nearly half of the growth attributions in the Thousand Oaks Housing Element for the next seven years. As such, the City should attend to proper estimates of the Project’s overall contributions.

Although the Staff Report indicates that it will attempt to prematurely adopt the Final Environmental Impact Report, it does so without having responded to the multitude of comments provided to the City concerning the Project. For instance, the Staff Report only mentions housing seven times (pp. 17, 19, 20) but none are in reference to the issues raised in SWRCC’s prior letter. The City should respond to comments before adopting the Final Environmental Impact Report.

F. The DEIR’s Transportation and Traffic Analysis Is Insufficient and Inconsistent

The DEIR analyzes potential transportation and traffic impacts relating to the Project. (DEIR 4.14). It recognizes the existing street network and availability to public transit and adjacent highways, and specifically the 101 freeway to the north, and pedestrian networks. (DEIR 4.14.1) Despite this, the DEIR provides insufficient analysis of transportation and traffic impacts caused by the Project.

For instance, the City of Thousand Oaks Active Transportation Plan lists as a goal the development of an active transportation friendly environment. (DEIR 4.14-8)
However the Project is being built adjacent to a well-traveled road in Thousand Oaks and plans to add over 1000 residents and significant patronage who will require transportation either through public transit, car, or otherwise. These nontrivial increases will necessarily add stress to the nearby freeway and roads, and especially the already-congested Moorpark Road and 101 Freeway offramp nearby and Hampshire Road and the other businesses and schools identified surrounding the Project site. The DEIR nonetheless concludes that impacts to transportation and traffic would be less-than-significant. The agency may not avoid its responsibility to prepare proper environmental analysis by failing to gather relevant data. Sundstrom v. County of Mendocino (1988) 202 Cal.App.3d 296, 311. The DEIR is obligated to attend to these considerations but does not do so. SWRCC requests the City reconsider and incorporate deeper analysis as it pertains to transportation and traffic.

Although the Staff Report indicates that it will attempt to prematurely adopt the Final Environmental Impact Report, it does so without having responded to the multitude of comments provided to the City concerning the Project. For instance, the Staff Report primarily discusses traffic in a named section, (pp. 13) but the section is not substantially different than the section of the DEIR and the issues raised in SWRCC’s prior letter concerning that section. The City should respond to comments before adopting the Final Environmental Impact Report.

G. The DEIR Fails to Adequately Disclose and Analyze the Project’s Significant Noise Impacts

The DEIR discloses that the Project will have significant and unavoidable noise impacts and proposes mitigation measures that provide no or insufficient mitigation to sensitive receptors and the Project’s contribution to noise increases in the area. (DEIR 4.10-18).

The DEIR fails to adequately analyze all of the Project’s significant noise impacts. For example, the Project’s analysis excludes the impacts of the at least seven (7) nearby sensitive receptors, especially the Little Dreamers Preschool and Windsor Terrace of Westlake Village convalescent home, and the excessive noise levels that will impact these many receptors, especially concerning the planned demolition and planned residential and commercial uses and increased pedestrian traffic (DEIR 4.10-18; MM NOI-1). These are significant noise generating activities whose mitigation is missing entirely or defers mitigation through adjustments to construction equipment (DEIR 4.10-18). An agency may not avoid its responsibility to prepare proper environmental...

Despite recognizing the significant and unavoidable noise impacts to the nearby sensitive receptors for both the Project’s construction and the day-to-day use of the Project upon completion, it nonetheless provides no additional mitigation and still concludes that none is required. (DEIR 4.10-19). The Project must provide sufficient mitigation for these significant noise impacts.

Although the Staff Report indicates that it will attempt to prematurely adopt the Final Environmental Impact Report, it does so without having responded to the multitude of comments provided to the City concerning the Project. For instance, the Staff Report only mentions noise four times (pp. 19) but none are in reference to the issues raised in SWRCC’s prior letter. The City should respond to comments before adopting the Final Environmental Impact Report.

H. **The DEIR Fails to Adequately Disclose and Analyze the Project’s Significant Hazards and Wildfire Impacts**

The DEIR identifies hazards and hazardous materials in its analysis (DEIR 4.8-1) and identifies nearby routes to transport hazards and hazardous materials outside of the Project site (DEIR 4.8-3) to the nearby 126, 118, 101, 1, and local roads, as well as recognizes the demolition of a building that is known to contain hazardous materials like asbestos and lead. (DEIR 4.8-12) Despite the presence of not only nearby sensitive receptors, businesses, and other residences, the DEIR concludes no mitigation is required without also providing detailed analysis or Project specific metrics on the transportation and demolition of the building beyond consistency with steps outlined in the Thousand Oaks Municipal Code. (DEIR 4.8-13) An agency may not avoid its responsibility to prepare proper environmental analysis by failing to gather relevant data. *Sundstrom v. County of Mendocino* (1988) 202 Cal.App.3d 296, 311. The City must provide sufficient analysis to the transportation and management of hazards and hazardous materials given the proximity of the Project to nearby sensitive receptors, residential communities, and local businesses.

The area of Thousand Oaks is especially sensitive to wildfires, and therefore particular attention needs to be paid to this analysis. As the DEIR recognizes, the Project site is in a “Very High” Fire Severity Zone. (DEIR 4.16-4) Yet the DEIR only indicates consistency with state and local fire and hazard mitigation and emergency plans and
that impacts would be less-than-significant and no mitigation would be required. (DEIR 4.16-12) The Project and its corresponding construction will involve the demolition of a large and abandoned commercial building, increase traffic congestion with obstructing construction vehicles, and will otherwise increase fire danger through various construction activities. The DEIR needs to provide Project-specific analysis and details to adequately attend to fire and emergency protocols to protect the surrounding sensitive receptors and local residences and businesses. An agency may not avoid its responsibility to prepare proper environmental analysis by failing to gather relevant data. *Sundstrom v. County of Mendocino* (1988) 202 Cal.App.3d 296, 311.

Although the Staff Report indicates that it will attempt to prematurely adopt the Final Environmental Impact Report, it does so without having responded to the multitude of comments provided to the City concerning the Project. For instance, the Staff Report never mentions wildfire concerns, which was an issue raised in SWRCC’s prior letter. The City should respond to comments before adopting the Final Environmental Impact Report.

I. The DEIR Fails to Adequately Disclose and Analyze the Project’s Significant Biological Impacts

The DEIR finds that the Project will have less than significant impacts despite recognizing the presence of ten City Protected coast live oak and two City protected sycamore trees present on the Project site (DEIR 4.3-10/11) and attention to the City’s Oak Tree Preservation and Protection Guidelines and Oak and Landmark Tree Ordinance (DEIR 4.3-11). The mitigation indicates impact in the form of removal of six oak trees and potential presence of nesting birds (DEIR 4.3-8). The City defers to mitigation in the form of replacing the trees at a 3:1 ratio pursuant to code to the City’s Tree Protection Guidelines. However, although six oak trees will be removed and eighteen (18) are planned to be planted in their stead, there is no analysis done on the likelihood of the planted oaks reaching maturity to fully account for the removal of the six oak trees, or what preservation measures will be done to ensure the survival and livelihood of the remaining four oak trees. A full analysis of the oak tree mitigation measure, as well as finding non-deferred mitigation. An agency may not avoid its responsibility to prepare proper environmental analysis by failing to gather relevant data. *Sundstrom v. County of Mendocino* (1988) 202 Cal.App.3d 296, 311.

Although the Staff Report indicates that it will attempt to prematurely adopt the Final Environmental Impact Report, it does so without having responded to the multitude
of comments provided to the City concerning the Project. For instance, the Staff Report never mentions impacts to biological concerns, issues raised in SWRCC’s prior letter. It does iterate its strategy for the Oak Tree handling, but does not tackle the concerns addressed by the SWRCC. The City should respond to comments before adopting the Final Environmental Impact Report.

II. THE PROJECT VIOLATES THE STATE PLANNING AND ZONING LAW AS WELL AS THE CITY’S GENERAL PLAN

A. Background Regarding the State Planning and Zoning Law


State law mandates two levels of consistency. First, a general plan must be internally or “horizontally” consistent: its elements must “comprise an integrated, internally consistent and compatible statement of policies for the adopting agency.” See Gov. Code § 65300.5; *Sierra Club v. Bd. of Supervisors* (1981) 126 Cal.App.3d 698, 704. A general plan amendment thus may not be internally inconsistent, nor may it cause the general plan as a whole to become internally inconsistent. See *DeVita*, 9 Cal.4th at 796 fn. 12.

Second, state law requires “vertical” consistency, meaning that zoning ordinances and other land use decisions also must be consistent with the general plan. See CGC § 65860(a)(2) [land uses authorized by zoning ordinance must be “compatible with the objectives, policies, general land uses, and programs specified in the [general] plan.”]; see also *Neighborhood Action Group v. County of Calaveras* (1984) 156 Cal.App.3d 1176, 1184. A zoning ordinance that conflicts with the general plan or impedes achievement of its policies is invalid and cannot be given effect. See *Lesher*, 52 Cal.3d at 544.
State law requires that all subordinate land use decisions, including conditional use permits, be consistent with the general plan. See CGC § 65860(a)(2); Neighborhood Action Group, 156 Cal.App.3d at 1184.

A project cannot be found consistent with a general plan if it conflicts with a general plan policy that is “fundamental, mandatory, and clear,” regardless of whether it is consistent with other general plan policies. See Endangered Habitats League v. County of Orange (2005) 131 Cal.App.4th 777, 782-83; Families Unafraid to Uphold Rural El Dorado County v. Bd. of Supervisors (1998) 62 Cal.App.4th 1332, 1341-42 (“FUTURE”). Moreover, even in the absence of such a direct conflict, an ordinance or development project may not be approved if it interferes with or frustrates the general plan’s policies and objectives. See Napa Citizens, 91 Cal.App.4th at 378-79; see also Lesher, 52 Cal.3d at 544 (zoning ordinance restricting development conflicted with growth-oriented policies of general plan).

As explained in full below, the Project is inconsistent with the City’s Central City Community Plan, (“Community Plan”). As such, the Project violates the State Planning and Zoning law.

1. The Project is Inconsistent with the General Plan, and thus the DEIR’s Conclusions Regarding Impacts on Land Use and Planning are Unsupported by Substantial Evidence

The DEIR fail to establish the Project’s consistency with several Community Plan goals, policies, and programs including the following (DEIR 4.9-6-12):

- To provide and maintain a system of natural open space and trails;
- To develop appropriate additional tools enabling commercial, industrial and residential development to flourish in an efficient and compatible manner.
- To provide high quality environment, healthful and pleasing to the senses, which values the relationship between maintain of ecological systems and people’s general welfare.
- The City’s unique natural setting will be a guide to its future physical shape … the City will support and encourage open space/greenbelt buffers around it, separating the City from adjoining communities.
• Low profile and aesthetically designed signage shall be allowed for all developments; no billboards shall be allowed.

• Strive to provide a balanced range of adequate housing for Thousand Oaks Planning Area residents in a variety of locations for all individuals regardless of age, income, ethnic background, marital status, physical or developmental disability.

• Provide a wide range of housing opportunities for persons of all income levels.

• Provide housing opportunities for persons with special needs.

• A City-wide system of pedestrian and bicycle facilities that provide safe, continuous accessibility to all residential, commercial, and industrial areas, to the trail system and to the scenic bike route system shall be provided and maintains.

• Achieve and maintain an environment in which noise-sensitive uses are not disturbed by noise that exceeds exposure guidelines in this Noise Element.

The Project fails to discuss its conformity with each of the aforementioned Goals, Policies, and Programs laid out in the City’s Community Plan, even though the Project will have reasonably foreseeable impacts on land use, traffic, vehicle trip generation, air quality, and emissions. This discussion is relevant not only to compliance with land use and zoning law, but also with the contemplation of the Project’s consistency with land use plans, policies, and regulations adopted for the purpose of avoiding or mitigating environmental impacts. The DEIR should be amended to include analysis of the Project’s comportment with the Goals, Policies, and Programs listed above.

Although the Staff Report indicates that it will attempt to prematurely adopt the Final Environmental Impact Report, it does so without having responded to the multitude of comments provided to the City concerning the Project. For instance, the Staff Report only mentions rezoning four times (pp. 1, 2, 4, 13) but none are in reference to the issues raised in SWRCC’s prior letter. The City should respond to comments before adopting the Final Environmental Impact Report.
B. **The DEIR Should be Revised to Consider the Project’s Consistency with the Upcoming Revisions to the City’s Housing Element**

The DEIR includes discussion of the Project’s consistency with the City’s present housing element. However, the City recently adopted housing element on January 22, 2022 of the 2021-2029 Housing Element. As development of the Project area will take place during the upcoming planning period and not the current period, the DEIR should include an analysis of the Project’s consistency with the upcoming Housing Element update and its various policies and programs.

**III. CONCLUSION**

The Southwest Carpenters 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,

[Signature]

Mitchell M. Tsai
Attorneys for the Southwest Regional Council of Carpenters

Attached:

March 8, 2021 SWAPE Letter to Mitchell M. Tsai re Local Hire Requirements and Considerations for Greenhouse Gas Modeling (Exhibit A);

Air Quality and GHG Expert Paul Rosenfeld CV (Exhibit B); and

Air Quality and GHG Expert Matt Hagemann CV (Exhibit C).