



Attachment 4 - Response to Appellant Letter, December 28, 2025

MEMORANDUM

date December 28, 2025

to Peer Chacko, City of Culver City

from Mike Harden, Environmental Science Associates (ESA)

subject Supplemental CEQA Responses, 5757 Uplander Project, Culver City, California

Background

The City of Culver City (City), as lead agency, prepared an Environmental Checklist in October 2025 pursuant to California Environmental Quality Act (CEQA) Guidelines Section 15168(c) to evaluate the potential environmental effects associated the proposed 5757 Uplander Project (Project). Section 15168(c) of the CEQA Guidelines sets forth criteria to utilize a program Environmental Impact Report (EIR) for “later activities” within the scope of a program EIR. The City certified a programmatic EIR to evaluate the potential environmental impacts of approving the Culver City General Plan 2045 and Zoning Code Update Project in September 2024. The General Plan 2045 and Zoning Code Update Program EIR (State Clearinghouse No. 2022030144) (Programmatic EIR or Certified PEIR) evaluated the anticipated development within the City of Culver City (City), including the anticipated development on the Project Site.¹ The General Plan 2045 and Zoning Code update took effect on October 9, 2024.

The City published a Notice of Planning Commission Hearing (NOA) for the Project on October 22, 2025. The notice indicated that, “[b]ased on the Culver City General Plan 2045 and Zoning Code Update Certified Programmatic Environmental Impact Report (PEIR) analysis and pursuant to California Environmental Quality Act (CEQA) Guidelines, the City prepared a written checklist to evaluate the Project-specific environmental impacts and determined they are “within the scope” of the Certified PEIR. Pursuant to CEQA Guidelines Section 15168(c)(2), no further environmental analysis is required.”

On November 12, 2025, the City’s Planning Commission approved Resolution No. 2025-P013, which adopted the Project’s CEQA Environmental Checklist and approved the requested Site Plan Review, Tentative Parcel Map, and Extended Construction Hours for the Project.

On November 12, 2025, Lozeau Drury LLP, on behalf of the Supporters Alliance for Environmental Responsibility (SAFER), submitted a comment letter (included as Attachment 1 to this Memo). This comment letter includes comments stating that the Planning Commission should decline to recommend the City Council approve the Project and the CEQA Clearance document, and instead direct staff to prepare and circulate an EIR for public review. The

¹ A copy of the certified programmatic Final EIR for the General Plan 2045 can be found at <https://www.culvercity.org/files/content/public/v/7/city-hall/city-departments/planning-and-development/advance-planning-division/zz.-general-plan-2045-environmental-review/final-peir.pdf>.

comment letter contends that the City may not rely on the General Plan PEIR as the final CEQA analysis for the proposed Project.

Below are responses to address the comments in the SAFER letter.

Supplemental Responses

Comment SAFER-1

Honorable Members of the Planning Commission:

This comment letter was prepared on behalf of the Supporters Alliance for Environmental Responsibility (“SAFER”), an organization with members living and/or working in and around Culver City, regarding the proposed mixed-use project at 5757 Uplander Avenue in Culver City, California (“Project”). This massive Project would construct 1,077 residential units, including 78 “very low-income” units, 5,772 square feet of ground floor commercial space and 1,383 parking spaces. The developer, B9 Sequoia, Culver City Owner LP (“Developer”), filed two SB 330 applications, first on February 2, 2024 and then again on April 11, 2025, both times invoking vesting rights to development standards in place on those dates.

Response to Comment SAFER-1

This introductory comment introduces the commenter and provided a brief overview of the Project. This comment does not raise any issues with respect to the adequacy of the Draft EIR. Therefore, it is noted for the record and will be forwarded to the Project decision-makers for their review and consideration.

Comment SAFER-2

For the November 12, 2025 Planning Commission meeting, staff is recommending that the Commission approve the Project absent any project-specific environmental review under the California Environmental Quality Act (“CEQA”) on grounds that the Project is “within the scope” of the City’s December 2024 Programmatic Environmental Impact Report (PEIR). The PEIR analyzed the environmental effects of the City’s 2045 General Plan and updated zoning code at a very high level, but did not attempt to analyze impacts associated with the construction and operation of any specific development project. Ignoring this significant deficiency, staff now points to an October 2025 “CEQA Clearance” document to assert the Project is a later activity consistent with the PEIR and “no further environmental analysis is required.” (CEQA Clearance, at p. 1-2.)

Staff is wrong that an EIR is not required for the Project. Staff’s own earlier 1,177-page Initial Study enumerated the Project’s many potentially significant environmental impacts requiring a project-specific EIR. Conversely, the General Plan’s PEIR was never intended to analyze or mitigate any particular project’s myriad environmental effects, and staff’s CEQA Clearance document, despite its length, proves this point. The CEQA clearance document points to generalities and aspirational policies to claim it has analyzed the Project’s effects and any impacts would be mitigated. That approach is refuted below.

Response to Comment SAFER-2

The comment makes reference to the City’s December 2024 PEIR prepared for the Culver City General Plan 2045 and Zoning Code Update project. The comment states that the PEIR analyzed the environmental effects of the City’s 2045 General Plan and updated zoning code at a very high level, but did not attempt to analyze impacts associated with the construction and operation of any specific development project. The commenter is correct that the PEIR was prepared at a “program-level” consistent with Section 15168 of the CEQA Guidelines.

The program-level EIR does not evaluate the project-specific impacts of individual developments that may be allowed under the General Plan 2045 and Zoning Code Update. Pursuant to CEQA Section 15152, subsequent projects that are consistent with the General Plan 2045 may “tier” from this PEIR, relying on the environmental analysis and mitigation measures it contains in order to streamline environmental review and to focus on project-specific environmental effects not considered in the Program EIR, if any. Indeed, under Section 15152, “[a]gencies are encouraged to tier the environmental analyses which they prepare for separate but related projects,” an approach that can “eliminate repetitive discussions of the same issues and focus the later EIR or negative declaration on the actual issues ripe for decision at each level of environmental review.”

The Project’s Environmental Checklist does in fact tier from the PEIR per Section 15162. The Environmental Checklist appropriately relies on the environmental analysis and mitigation measures the PEIR contains in order to streamline environmental review, as applicable, and also provides project-specific analysis of environmental effects not specifically analyzed in the PEIR where there is a potential for site-specific impacts. This is not a “deficiency,” but rather a desirable and appropriate means to streamline a project’s CEQA environmental review when its proposed land use components are consistent with the City’s General Plan land use and zoning designations for a project site and the impacts of such a project are within the scope of impacts previously evaluated, as is true here with the PEIR. The Environmental Checklist found the Project does meet the applicable CEQA criteria for preparing a streamlined environmental review document.

The Project applicant (Applicant) initially submitted its application for the Project, as SAFER notes, on February 2, 2024. The initial study (Initial Study) was prepared over the course many months in 2024, whereby it was released for public review on December 9, 2024. The Project description’s list of discretionary approvals for the Project in the Initial Study included a General Plan Amendment related to various General Plan policies and standards in effect as of February 2, 2024, when the Project’s preliminary application was submitted; a Zone Change Map Amendment from Mixed-Use High to Planned Development (PD); and adoption of a Comprehensive Plan to develop standards for the new PD zoning for the phasing and development program of the Project. The Initial Study analysis did not attempt to tier from the PEIR. However, on October 9, 2024—after the Applicant submitted its Project application and while it was preparing the Initial Study, but before the City published the Initial Study—the City adopted the General Plan 2045 and Zoning Code update.

Subsequent to the release of the Initial Study, the Applicant revised the Project and the Project description in the Initial Study to align with standards and requirements that the 2045 General Plan land use and zoning designations allowed for the site as assumed by and analyzed in the PEIR. As a result, the Project removed its requests for a General Plan Amendment, a Zone Change Map Amendment, and adoption of a Comprehensive Plan. With the updates to the Project, including its removal of several requested approvals, the Project’s proposed land use components were consistent with the City’s General Plan 2045 land use and zoning designations for the Project site, whereas the Project evaluated in the Initial Study was not. This factor alone previously disallowed a streamlined

document tiering from the PEIR. When the Applicant amended its Project to comply with the City's new General Plan 2045 and Zoning Code update, it was able to tier from the PEIR.

CEQA also required the lead agency to determine whether the Project impacts were within the scope of the impacts of the PEIR. The City as lead agency provided this necessary Project-specific analysis in its Environmental Checklist, which showed that the impacts of the Project were not substantially greater or different (i.e., new impacts) than the impacts evaluated in the PEIR for the Project's Mixed Use High land use designation. Moreover, the Environmental Checklist was comprehensive, containing approximately 2,628 pages (as SAFER notes in its letter), providing 13 appendices with various technical studies and data, and assessing each question listed in CEQA Guidelines Appendix G. Much of this analysis, including modeling and calculations of impacts, is what would have been included in an EIR, should it have been required.

Projects often change their CEQA course as modifications or refinements occur, existing conditions change, regulations change, program-level analyses are further considered, etc. Here, based on the changes to the Project after the City published the Initial Study and a comprehensive evaluation of the Project's impacts relative to those evaluated in the PEIR, the lead agency determined shifting from a project-specific EIR to the approved Environmental Checklist to be appropriate. Furthermore, SAFER could not cite to any CEQA requirement that requires the Project to prepare a project-specific EIR, despite an Initial Study being prepared, because none exists.

The commenter is referred to Responses to Comments SAFER-7 to SAFER-11 for responses that further address the City's decision to prepare an Environmental Checklist that tiers from the Certified Culver City General Plan 2045 and Zoning Code Update PEIR.

Comment SAFER-3

For the Planning Commission's public meeting, the City has asked the public to review and comment on documents that total nearly 5,000 pages across the PEIR, Initial Study and newly-available "CEQA Clearance" document. In fact, the public was afforded just over two days to review the 2,628-page CEQA Clearance document before the November 12, 2025 meeting.

The Planning Commission should not condone an end run around meaningful public participation by depriving residents a reasonable opportunity to review and comment on the proposed Project. SAFER urges the Planning Commission to reject staff's recommendation, and instead direct staff to prepare a project-specific EIR to circulate for public review and comment prior to any Project approval.

Response to Comment SAFER-3

This comment states the City asked the public to review and comment on documents that total nearly 5,000 pages across the PEIR, Initial Study and newly-available "CEQA Clearance" document. The comment also states the public was afforded just over two days to review the 2,628-page CEQA Clearance document before the November 12, 2025 meeting.

The City provided a Notice of Public Hearing on October 22, 2025, which referenced the Project's CEQA's document. The notice did not request the public to review and comment on the CEQA documentation because no public review and comment period is required. Per CEQA Guidelines Section 15168(e) with regard to Notice of Later Activities, "[w]hen a law other than CEQA requires public notice when the agency later proposes to carry out

or approve an activity within the program and to rely on the program EIR for CEQA compliance, the notice for the activity shall include a statement that: (1) This activity is within the scope of the program approved earlier, and (2) The program EIR adequately describes the activity for the purposes of CEQA.” In the case of the Project, a Public Hearing notice was required for the Project, which included a statement that, “[b]ased on the Culver City General Plan 2045 and Zoning Code Update Certified Programmatic Environmental Impact Report (PEIR) analysis and pursuant to California Environmental Quality Act (CEQA) Guidelines, the City prepared a written checklist to evaluate the Project-specific environmental impacts and determined they are “within the scope” of the Certified PEIR. Pursuant to CEQA Guidelines Section 15168(c)(2), no further environmental analysis is required.” Accordingly, the noticing requirements were met and no other public review noticing standards were applicable to the Project’s Environmental Checklist under the CEQA Guidelines.

The comment also recommends the Planning Commission to reject the Staff’s recommendation deny and require preparation of project-specific EIR. Based on this response, as well as Response to Comments SAFER-2, and SAFER-7 to SAFER-11, the Environmental Checklist meets the necessary CEQA requirements applicable to the Project and no further CEQA analysis is required.

Comment SAFER-4

The Project would construct three new seven-story mid-rise buildings (nearly 90 feet tall) consisting of 1,077 residential units (including 78 very low-income units) and 5,772 square-feet of retail space. The Project proposes 131,834 square-feet of open space, including 36,516 square-feet of public open space. The Project also proposes 1,382 vehicular parking spaces (1,362 residential and 20 commercial) located within a combination of subterranean (up to two levels) and podium parking levels, and 305 bicycle parking spaces.

The developer has requested entitlements for:

- Zone Change Map Amendment to change zoning from Mixed-Use High (MU-HD) to Planned Development (PD);
- General Plan Amendment related to various General Plan policies and standards in effect as of February 2, 2024, when the Project’s preliminary application was submitted;
- Comprehensive Plan to develop standards for the new PD Zone District; Density and Other Bonus Incentives (DOBI) to allow increased density with affordable units incorporated into the Project, as well as a height incentive;
- Approval for Extended Hours of Construction (CCMC Section 9.07.035.C.1); and
- Vesting Tentative Parcel Map and Final Map to consolidate the existing four Project Site parcels and subsequently divide the Project Site into three parcels, each to contain one of the three Project buildings.¹

¹ See Culver City Initial Study For the 5757 Uplander Project (December 2024).

Response to Comment SAFER-4

This comment is inaccurate. It references the Project Description included in the December 2025 Initial Study, not the October 2025 Environmental Checklist.

Subsequent to the release of the Initial Study, the Project, as well as the Project Description in the Initial Study, was revised to more closely align with standards and requirements allowed under the 2045 General Plan land use and zoning designations for the site as assumed by and analyzed in the PEIR. As a result, the Project removed its requests for a General Plan Amendment; a Zone Change Map Amendment; and adoption of a Comprehensive Plan. With the updates to the Project, including its removal of several formerly requested approvals, the Project's proposed land use components are consistent with the City's General Plan 2045 land use and zoning designations for the project site.

Comment SAFER-5

LEGAL STANDARD

CEQA contains a strong presumption in favor of requiring a lead agency to prepare an EIR. That presumption is reflected in the fair argument standard. Under the fair argument standard, a lead agency must prepare an EIR whenever substantial evidence found in the whole record before the agency supports a fair argument that a project may have a significant effect on the environment. (See CEQA § 21082.2; *Laurel Heights Improvement Ass'n v. Regents of the University of California* (1993) ("Laurel Heights II") 6 Cal. 4th 1112, 1123; *No Oil, Inc. v. City of Los Angeles* (1974) 13 Cal.3d 68, 75, 82; *Quail Botanical Gardens v. City of Encinitas* (1994) 29 Cal.App.4th 1597, 1602.)

Staff is proposing that the City rely on CEQA Guidelines § 15168(c)(2) to avoid project-level CEQA review on grounds the Project would be within the scope of the PEIR prepared for the City's 2045 General Plan. In other words, staff proposes to "tier" any necessary environmental review from the PEIR. In general, tiering refers to using the analysis of more general matters contained in a programmatic EIR with later EIRs and negative declarations on narrower projects, then incorporating by reference the general discussions from the broader EIR. This process works to concentrate the later EIR or negative declaration solely on the issues specific to the later project." (See CEQA Guidelines § 15152(a).)

PEIRs are prepared for a series of actions that are related geographically or are part of a continuing program. (Guidelines §15168.) A PEIR is used for purposes of: (1) avoiding multiple EIRs, (2) simplifying later environmental review, and (3) consideration of broad programmatic issues. (See, e.g., Cal. Practice under CEQA, Cont. Ed. Bar 2d ed. (2016) §10.14B.) Importantly, the agency must examine each activity to determine whether additional environmental review is required. (Id. at § 10.16a.)

Whether subsequent environmental review is necessary requires a two-step process. First, the agency considers whether the activity is covered by a PEIR by analyzing whether the activity will result in environmental effects that were not examined in the PEIR. (CEQA Guidelines §15168(c)(1).) Central here is whether a later action is within the scope of the PEIR. To make that determination, a lead agency must consider the following:

- (1) the consistency of the later activity with the type of land use allowed;

- (2) the planned density and building intensity;
- (3) the geographic area analyzed for environmental impacts; and,
- (4) covered infrastructure as described in the program EIR.

(CEQA Guidelines §15168(c)(2).)

If the agency determines the activity is covered by a PEIR, it must evaluate the proposed activity to determine whether any new environmental effects could occur, or new mitigation measures would be required due to events occurring after the program EIR was certified. (CEQA Guidelines §15168(c)(2).)

The above determination is a factual question based on substantial evidence found in the record. (CEQA Guidelines §15168(c)(2).) Agencies often prepare a written checklist to determine whether the environmental effects are within the scope of the PEIR. (CEQA Guidelines § 15168(c)(4).) If the agency finds that the project is within the scope of the PEIR, and that no new effects could occur and no new mitigation measures would be required under Guidelines section 15162, the agency can approve the project without any new environmental document. (CEQA Guidelines §15168(c)(2).)

If the project is not within the scope of the PEIR, review is not governed by section 21166's substantial evidence standard. Instead, the agency must determine whether the later project might cause significant environmental effects not considered in the program EIR, and a tiered EIR must be prepared if there is substantial evidence that the project arguably may have such effects. (*Sierra Club v. County of Sonoma* (1992) 6 Cal.App.4th 1307, 1321.)

Response to Comment SAFER-5

This comment provides background information on CEQA legal standards and review. This comment does not raise any issues with respect to the adequacy of the Draft EIR. Therefore, it is noted for the record and will be forwarded to the decision-makers for their review and consideration.

Comment SAFER-6

DISCUSSION

I. TO DATE, STAFF HAS ISSUED CONTRADICTORY ANALYSES ON THE PROPOSED PROJECT'S POTENTIALLY SIGNIFICANT ENVIRONMENTAL IMPACTS.

For the Planning Commission meeting, staff is now claiming no further CEQA review is required because the Project is “within the scope” of the City’s 2024 General Plan PEIR. A chronology of relevant events illustrates why the Project needs further investigation beyond the PEIR’s analyses.

- **February, 2024:** the developer submitted its preliminary application pursuant to SB 330 ensuring the Project was subject only to those ordinances and policies in effect when the completed preliminary application was submitted.²
- **August, 2024:** City issued Final PEIR for the General Plan 2045 and Zoning Code Update Project.

- **October, 2024:** General Plan 2024 takes effect.³
- **December, 2024:** City’s Initial Study for 5757 Uplander Avenue Project finding the Project would cause numerous potentially significant impacts on the environment requiring an EIR.
- **April 2025:** the developer re-submits its preliminary application under SB 330 thereby “invoking vesting rights to development standards in place at that date.”⁴
- **October 2025:** Staff issued its “5757 UPLANDER PROJECT CEQA Guidelines Sections 15168(c) Clearance.”

In less than one year, staff has prepared nearly 4,000 pages of contradictory and irreconcilable environmental analyses for the same Project. In the December 2024 Initial Study, staff found the Project would cause numerous potentially significant impacts requiring an EIR. Then just a few months later, staff reversed course, issuing a “CEQA Clearance” document which purports to “address the environmental effects of the 5757 Uplander Project,” and claiming the PEIR “anticipated development on the Project Site.”⁵

The City cannot now simply disregard its own Initial Study’s in-depth impact analysis unequivocally calling for project-specific CEQA review on grounds the City finalized a high level PEIR for its 2024 General Plan. The fact is, no aspect of this massive 8.3-acre, nine-story project with 1,077 residential units, 5,772 square-feet of retail and 1,383 parking spaces has ever been subject to CEQA’s legal requirements for an EIR. Therefore, the City may not evade a Project EIR by asserting it would be within the scope of the PEIR pursuant to CEQA Guidelines § 15168(c)(2).

² December 2024 Initial Study at p. 1 citing Govt. Code §§ 65589.5(o) and 65941.1(d).

³ <https://www.culvercity.gov/Services/Building-Development/General-Plan>

⁴ Draft Planning Commission Resolution, No. 2025-P013 at p. 1 (Nov. 12, 2025.)

⁵ CEQA Clearance Document at p.1-1.

Response to Comment SAFER-6

This comment provides a timeline of events related to the Project and its CEQA documentation. Refer to Response to Comment SAFER-2, which discusses the change in CEQA documentation from an Initial Study/EIR to an Environmental Checklist. As discussed therein, based on the changes to the Project as evaluated in the Initial Study in combination with an evaluation of the Project’s impacts relative to those evaluated in the PEIR, it was appropriate to shift from a project-specific EIR to the approved Environmental Checklist approach. Furthermore, there is no CEQA requirement that requires the Project to prepare a project-specific EIR, despite an Initial Study being prepared.

Comment SAFER-7

II. THE CITY’S 2024 INITIAL STUDY IDENTIFIED NUMEROUS POTENTIALLY SIGNIFICANT ENVIRONMENTAL EFFECTS REQUIRING PREPARATION OF AN EIR.

Prior to issuing the PEIR, City staff outlined the Project’s myriad environmental effects in its December 6, 2024, Initial Study pursuant to CEQA Guidelines §15168(c)(1), finding that the Project “may have a significant effect on the environment, and an environmental impact report is required.” (2024 Initial Study at p. EC-3.) Specifically, the initial study determined that the proposed Project had the potential to degrade the quality of the environment for the following environmental topics:

- Aesthetics (conflicts with applicable zoning or other regulations governing scenic quality);
- Air Quality (all aspects except for odors);
- Cultural Resources (archaeological resources);
- Energy;
- Geology and Soils (paleontological resources);
- Greenhouse Gas Emissions;
- Hazards and Hazardous Materials (emergency response);
- Land Use and Planning (consistency with plans and policies);
- Noise (all aspects except for aircraft noise);
- Population and Housing (population growth);
- Public Services (fire protection, police protection, schools and parks);
- Recreation;
- Transportation;
- Tribal Cultural Resources; and,
- Utilities and Service Systems (water supply/infrastructure, electric and natural gas facilities).

Staff most certainly was aware of, if not involved in, the preparation of the PEIR while it was drafting the Project’s Initial Study, and still concluded that “[e]ach of the topics determined to have the potential for significant impacts in this Initial Study will be subject to further evaluation in the EIR, including evaluation of the potential for cumulatively significant impacts. (Initial Study at pp. B-41-42.) Now less than one year later staff is inexplicably asserting no project-specific CEQA analysis is required based on a questionable “comparative analysis of project impacts” from the General Plan PEIR.

Response to Comment SAFER-7

This comment provides a list of environmental issues areas that were identified as having “potentially significant impacts” in the December 2024 Initial Study. The comment states that, “[n]ow less than one year later staff is

inexplicably asserting no project-specific CEQA analysis is required based on a questionable “comparative analysis of project impacts” from the General Plan PEIR.” This comment incorrectly states the methodology and analyses included in the Environmental Checklist prepared for the Project. Chapter 3, Comparative Analysis of Project Impacts, in the Environmental Checklist includes a summary of impacts determined in the PEIR for questions listed in CEQA Guidelines Appendix G (Impact Determination in the Certified PEIR). This summary is followed by a “Impact Determination for Project” analysis directly applicable to the Project. This subsection is a Project-specific CEQA analysis directly applicable to the Project to determine whether the Project’s impacts are within the scope of the impacts evaluated in the PEIR. The document thus includes a Project-specific analysis for each of the environmental topics above, including sections on Aesthetics, Air Quality, Land Use and Planning, Noise, Population and Housing, Public Services, Recreation, Transportation, Tribal Cultural Resources, Utilities and Service Systems, and others not mentioned in SAFER’s letter.

Further, the Project-specific analysis includes Project-specific quantitative analyses where necessary based on the PEIR mitigation requirements. For example, quantitative analyses of air quality emissions, energy usage, greenhouse gas (GHG) emissions, and noise levels were completed to properly assess project-specific impacts for these issue areas. Note that these analyses include the same modeling and calculations of impacts that would have been included in an EIR, should it have been required. Other issue areas such as cultural resources, hazardous materials, hydrology and water quality, transportation, and utilities/service systems all include project-specific technical evaluations as evident by the studies attached to the Environmental Checklist as appendices. Again, these analyses include the same analysis, including modeling and calculations of impacts, that would have been included in an EIR, should it have been required. Thus, further evaluation of project-specific impacts beyond those included in the Environmental Checklist is not necessary.

Comment SAFER-8

III. AN EIR MUST BE PREPARED FOR THE PROPOSED PROJECT BECAUSE THE PEIR WAS NOT INTENDED TO ADDRESS PROJECT-SPECIFIC [SIC] CONSTRUCTION AND OPERATIONAL IMPACTS.

The City is allowed to tier project-specific CEQA review to a first-tier programmatic EIR, but it may not evade second tier review when, as here, the administrative record is replete with information that a later project could cause potentially significant environmental effects. Therefore, the question is not whether to prepare an EIR; instead, the question is the scope of the EIR the City must prepare for public review and comment. (CEQA § 21068.5; Guidelines § 15152(d).)

Response to Comment SAFER-8

This comment acknowledges a tiered project-specific CEQA review to a first-tier programmatic EIR is acceptable. The comment further asserts that a second tiered review in an EIR is required when administrative record is replete with information that a later project could cause potentially significant environmental effects. Further, the comment states that based on the potential for significant environmental impacts, the only question is the scope of the EIR.

The comment fails to mention the circumstances of the of the environmental review surrounding the December 2024 Initial Study preparation. As stated in Response to Comment SAFER-2, the Initial Study did not analyze impacts relative to the Culver City General Plan 2045 and Zoning Code Update PEIR. Furthermore, as discussed in Response

to Comment SAFER-4, subsequent to the release of the Initial Study, the Project, as well as the Project Description in the Initial Study, was revised to more closely align with standards and requirements allowed under the 2045 General Plan land use and zoning designations as assumed by and analyzed in the PEIR. As a result, the Project removed its requests for a General Plan Amendment; a Zone Change Map Amendment; and adoption of a Comprehensive Plan. Therefore, it was appropriate to re-assess the CEQA approach based on these considerations. The City appropriately re-assessed the CEQA approach based on the revised Project and consideration of the analyses included in the Certified PEIR. As discussed in Response to Comment SAFER-2, the Environmental Checklist was an appropriate streamlined approach to adequately assess the Project's impacts to meet its CEQA environmental review requirements. It contained approximately 2,628 pages of analysis, reports, and data, included 13 appendices with various technical studies and data, and assessed each question listed in CEQA Guidelines Appendix G. Much of this analysis, including modeling and calculations of impacts, is what would have been included in an EIR, should it have been required. Thus, as soon as it became clear the Environmental Checklist fulfilled the Project's CEQA requirements, no EIR was determined necessary and as such, there was no need to determine the scope of an EIR.

Comment SAFER-9

The public had little more than 2 days to review the 2,628-page CEQA Clearance document and compare it to the 1,177-page Initial Study, and the 900-page PEIR. Nevertheless, even a brief examination of staff's conflicting documents reveals that (1) the General Plan PEIR cannot supplant vital project-specific CEQA analysis; and (2) given staff's own conflicting conclusions in the record, an EIR is required.

Response to Comment SAFER-9

This comment refers to an inadequate public review and comment period for the Environmental Checklist. Refer to Response to Comment SAFER-3 which discusses the CEQA requirements for public review of the Environmental Checklist. As discussed therein, the Project met its public review requirements. Based on the above, there is no evidence in the comment that indicates the Environmental Checklist did not appropriately tier from the Certified PEIR.

Comment SAFER-10

The City's PEIR analyzed the full range of CEQA topics and found that implementation of the General Plan would result in significant and unavoidable impacts on (1) Air Quality, (2) Cultural Resources, (3) Noise, and (4) Transportation. (PEIR's Notice of Completion; DEIR Chap. 6.) Staff cannot plausibly claim that the General Plan PEIR adequately addressed these significant impacts at the project-specific level, and that the City is unable to propose any additional Project alternatives or feasible measures to mitigate the Project's future construction and operational impacts.

The PEIR was clear that it did not evaluate any specific projects, and could not speculate on the impacts caused by future projects. For example, in the PEIR's Air Quality analysis, it emphasized that it did not assess currently proposed or identified projects, and therefore "the exact nature of potential development was unknown, and determining localized [air quality] impacts from operational activities is speculative. Therefore, the analysis of localized impacts was discussed only qualitatively in the PEIR." (PEIR at p. 4.2-31-32)

Likewise, in terms of construction-related air quality impacts, the PEIR acknowledged “construction has the potential to create regional air quality impacts,” But “as there are no specific projects currently proposed under the General Plan and Zoning Code Update and there is no knowledge as to timing of construction, location or the exact nature of future projects, analysis of construction emissions would be speculative at best. Information regarding specific development projects, including specific buildings and facilities proposed to be constructed, construction schedules, quantities of grading, and other information would be required in order to provide a meaningful estimate of emissions. Since this information is unknown, emissions modeling is not feasible. (PEIR at p. 4.2-39.)

Similarly, the PEIR disclaimed mitigating local air quality impacts: “There is no information regarding specific development projects, including specific buildings and facilities proposed to be constructed, construction schedules, quantities of grading, and other information that would be required in order to provide a meaningful estimate of emissions. Since this information is unknown, emissions modeling is not feasible and would be speculative at best.

Applicants of future project developments under the Project would be required to conduct CEQA analyses, if necessary, in order to determine significance based on the individual project’s specifics.” (PEIR at p. 4.2-39.)

Neither did the PEIR attempt to quantify project-specific greenhouse gas emissions: “All future projects developed under the General Plan 2045 would be required to comply with applicable USEPA, CARB and SCAQMD emissions standards, rules, and regulations. In addition, applicable CEQA analysis, as required, would determine significance based on the individual project specifics.” (PEIR at p. 4.7-45.)

This is a small sample of the instances the PEIR acknowledged it was not intended to address and mitigate future projects’ impacts, because, unsurprisingly, general plan PEIR’s look at broad policies and regulatory consistency, not future development projects. General Plan PEIRs, by their nature, lack the specificity necessary to inform the public of the unique impacts posed by future projects in their communities. In short, the PEIR was not drafted to serve as the foundation for staff’s CEQA Clearance document. This is especially true given the size and intensity of the proposed Project as evidenced by staff’s 2024 Initial study.

Response to Comment SAFER-10

This comment states that the City’s PEIR identified analyzed the full range of CEQA topics and found that implementation of the General Plan would result in significant and unavoidable impacts. The comment states that Staff cannot plausibly claim that the General Plan PEIR adequately addressed these significant impacts at the project-specific level, and that the City is unable to propose any additional Project alternatives or feasible measures to mitigate the Project’s future construction and operational impacts. The comments cite air quality and greenhouse gas emissions as examples.

The Environmental Checklist prepared for the Project acknowledges the significant and unavoidable impacts identified in the PEIR, as well as the fact that Project-specific analyses would be necessary to address certain foreseeable impacts resulting from implementation of the Culver City General Plan 2045 and Zoning Code Update. Accordingly, and contrary to the comment, Project-specific impact analyses were prepared for all environmental issue areas, including air quality, cultural resources, noise, and transportation. For example, the PEIR acknowledges the potential significant and unavoidable air quality impacts and includes Mitigation Measures PEIR MMAQ-1 to AQ-7, which require that applicants for new development projects conduct site specific air quality impact analyses, as applicable. Consistent with the PEIR air quality mitigation measures, a project-specific quantitative air quality

impact analysis was prepared for the Project (see Section 3.2, Air Quality, of the Environmental Checklist) with detailed modeling and calculations provided in Appendix A of the Environmental Checklist. The Environmental Checklist includes the same analysis, including modeling and calculations of impacts, that would have been included in an EIR, should it have been required. The results of the Project-specific analysis concluded that all air quality impacts would be within the scope of the impacts analyzed in the PEIR. That is, no new or substantially increased impacts would occur as a result of the Project as compared to those analyzed in the PEIR. The same is true for GHG (see Section 3.7, Greenhouse Gas Emissions, of the Environmental Checklist). A Project-specific quantitative impact analysis of GHG was provided in the Environmental Checklist, with detailed modeling and calculations provided in Appendix A of the Environmental Checklist. As with the air quality analysis, the Project-specific analysis concluded that all GHG impacts would be within the scope of the impacts analyzed in the PEIR.

Based on the above, there is no evidence in the comment that indicates the Environmental Checklist did not appropriately tier from the Certified PEIR.

Comment SAFER-11

Even if a proposed project was “within the scope” of a PEIR, tiering still has no application if the proposed Project has not previously been subject to review.” (*Friends of College of San Mateo Gardens v. San Mateo* (2016) 1 Cal.5th 937, 950 (“*San Mateo Gardens*”).)

A decision to proceed under CEQA’s subsequent review provisions must necessarily rest on a determination — whether implicit or explicit — that the original environmental document has some informational value. (*Id.* at 951.) Only if the original environmental document has some informational value despite the proposed changes, changes in circumstances or new substantial information does the agency proceed to decide under CEQA’s subsequent review provisions whether such changes or substantial new information will require major revisions to the original environmental document because of the involvement of new, previously unconsidered significant environmental effects. (1 Cal.5th at 952.) Given the lack of specificity in the General Plan PEIR, staff cannot reasonably claim that document addressed [*sic*] i.e., provided some informational value regarding the potential environmental impacts of the proposed Project’s 1,077 residential units plus retail.

Response to Comment SAFER-11

This comment states that even if a proposed project was “within the scope” of a PEIR, tiering still has no application if the proposed Project has not previously been subject to review. First, the cited case is inapposite because it concerns an initial study and a mitigated negative declaration and “not a tiered EIR,” unlike here. (*Friends of Coll. of San Mateo Gardens v. San Mateo Cnty. Cmty. Coll. Dist., I* (2016) Cal. 5th 937, 960.) The comment further contends that the PEIR does not offer informational value regarding the potential environmental impacts of the proposed Project’s 1,077 residential units plus retail. This comment is erroneous in that the PEIR was prepared as a Program EIR pursuant to CEQA Section 15152, whereby subsequent projects that are consistent with the General Plan 2045 may tier from the PEIR, relying on the environmental analysis and mitigation measures it contains in order to streamline environmental review or to focus on project-specific environmental effects not considered in the PEIR, if any. The PEIR was subject to a 45-day review and comment period and was ultimately certified by the City in October 2024. The Certified PEIR evaluated the site as containing land uses consistent with the Mixed-Use High land use and zoning designation, to which the Project’s proposed uses would be consistent without any need

for a General Plan or Zoning Change Map amendment. Therefore, the Certified PEIR did in fact provide informational value to which the Project's impact were compared against.

Based on the above, there is no evidence in the comment that indicates the Environmental Checklist did not appropriately tier from the Certified PEIR.

Comment SAFER-12

As the California Supreme Court held, “[i]f no EIR has been prepared for a nonexempt project, but substantial evidence in the record supports a fair argument that the project may result in significant adverse impacts, the proper remedy is to order preparation of an EIR.” (*Communities for a Better Env't v. South Coast Air Quality Mgmt. Dist.* (2010) 48 Cal.4th 310, 319-320.) “Significant environmental effect” is defined very broadly as “a substantial or potentially substantial adverse change in the environment.” (CEQA § 21068; see also Guidelines § 15382.) An effect on the environment need not be “momentous” to meet the CEQA test for significance; it is enough that the impacts are “not trivial.” (*No Oil, Inc. v. City of Los Angeles* (1974) 13 Cal.3d 68, 83.) “The ‘foremost principle’ in interpreting CEQA is that the Legislature intended the act to be read so as to afford the fullest possible protection to the environment within the reasonable scope of the statutory language.” (*Communities for a Better Env't v. Cal. Resources Agency* (2002) 103 Cal.App.4th 98, 109.)

The EIR is the very heart of CEQA. (*Bakersfield Citizens for Local Control v. City of Bakersfield* (2004) 124 Cal.App.4th 1184, 1214; *Pocket Protectors v. City of Sacramento* (2004) 124 Cal.App.4th 903, 927.) The EIR is an “environmental ‘alarm bell’ whose purpose is to alert the public and its responsible officials to environmental changes before they have reached the ecological points of no return.” (*Bakersfield Citizens*, 124 Cal.App.4th at 1220.) The EIR also functions as a “document of accountability,” intended to “demonstrate to an apprehensive citizenry that the agency has, in fact, analyzed and considered the ecological implications of its action.” (*Laurel Heights Improvements Assn. v. Regents of University of California* (1988) 47 Cal.3d 376, 392.) The EIR process “protects not only the environment but also informed self-government.” (*Pocket Protectors*, 124 Cal.App.4th at 927.)

According to the “fair argument” standard applicable to environmental review under CEQA § 21151, an EIR is required if any substantial evidence in the record indicates that a project may have an adverse environmental effect—even if contrary evidence exists to support the agency’s decision. (Guidelines § 15064(f)(1); *Pocket Protectors*, 124 Cal.App.4th at 931.) The “fair argument” standard creates a “low threshold” favoring environmental review through an EIR rather than through issuance of negative declarations or notices of exemption from CEQA. (Id. at 928.) An effect on the environment need not be “momentous” to meet the CEQA test for significance; it is enough that the impacts are “not trivial.” (*No Oil, Inc.*, at 13 Cal.3d at 83.) In short, the “fair argument” standard is virtually the opposite of the typical deferential standard accorded to agencies. (*Kostka & Zishcke, Practice Under CEQA*, §6.29, pp. 273-274.)

Despite the extremely limited time period to review the CEQA Clearance document and compare it to the PEIR and Initial Study, it is clear that the PEIR lacked the specificity necessary to serve as the CEQA document for the proposed Project. CEQA simply requires more. The City must conduct a proper, detailed analysis to show to the public it has investigated and mitigated to the extent feasible the myriad impacts staff’s own Initial Study identified. There is a fair argument based on staff’s own substantial evidence from the 2024 Initial Study that the Project requires preparation of an EIR.

Response to Comment SAFER-12

This comment states that the PEIR lacked the specificity necessary to serve as the CEQA document for the proposed Project. The comment asserts that the City must conduct a proper, detailed analysis to show to the public it has investigated and mitigated to the extent feasible the myriad impacts staff's own Initial Study identified. The commenter states that there is a fair argument based on staff's own substantial evidence from the 2024 Initial Study that the Project requires preparation of an EIR.

The commenter is referred to Response to Comments SAFER-2, and SAFER-7 to SAFER-11 for responses that address the Project's Initial Study and the City's decision to prepare an Environmental Checklist that tiers from the Certified Culver City General Plan 2045 and Zoning Code Update PEIR. As discussed therein, there is no substantial evidence nor any fair argument basis in the comments that indicate the Environmental Checklist did not appropriately analyze impacts from the Project via an environmental document that tiers from the Certified PEIR.

Comment SAFER-13**IV. CONCLUSION**

For the above reasons, the Planning Commission should decline to recommend the City Council approve the Project and the CEQA Clearance document, and instead direct staff to prepare and circulate an EIR for public review. The City may not rely on the General Plan PEIR as the final CEQA analysis for the massive proposed Project.

Response to Comment SAFER-13

This conclusionary comment requests the Planning Commission to decline to recommend the City Council approve the Project and the CEQA Clearance document, and instead direct staff to prepare and circulate an EIR for public review, citing that the City may not rely on the General Plan PEIR as the final CEQA analysis for the Project. As discussed in the responses above, none of the issues raised in this comment letter provide substantial evidence that the Environmental Checklist is inadequate. Therefore, an EIR to address concerns raised in this comment letter is not necessary.

Attachments

Attachment 1 – Original Lozeau Drury LLP Comment Letter

ATTACHMENT 1



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VIA E-MAIL: peer.chacko@culvercity.gov

November 12, 2025

Culver City Current Planning Division
ATTN: Peer Chacko
9770 Culver Boulevard, 2nd Floor,
Culver City, CA 90232

Re: Comments on Proposed Mixed-Use Project at 5757 Uplander Way (Case No. P2024-0190-SPR/TPM)

Honorable Members of the Planning Commission:

This comment letter was prepared on behalf of the Supporters Alliance for Environmental Responsibility (“SAFER”), an organization with members living and/or working in and around Culver City, regarding the proposed mixed-use project at 5757 Uplander Avenue in Culver City, California (“Project”). This massive Project would construct 1,077 residential units, including 78 “very low-income” units, 5,772 square feet of ground floor commercial space and 1,383 parking spaces. The developer, B9 Sequoia, Culver City Owner LP (“Developer”), filed two SB 330 applications, first on February 2, 2024 and then again on April 11, 2025, both times invoking vesting rights to development standards in place on those dates.

For the November 12, 2025 Planning Commission meeting, staff is recommending that the Commission approve the Project absent any project-specific environmental review under the California Environmental Quality Act (“CEQA”) on grounds that the Project is “within the scope” of the City’s December 2024 Programmatic Environmental Impact Report (PEIR). The PEIR analyzed the environmental effects of the City’s 2045 General Plan and updated zoning code at a very high level, but did not attempt to analyze impacts associated with the construction and operation of any specific development project. Ignoring this significant deficiency, staff now points to an October 2025 “CEQA Clearance” document to assert the Project is a later activity consistent with the PEIR and “no further environmental analysis is required.” (CEQA Clearance, at p. 1-2.)

Staff is wrong that an EIR is not required for the Project. Staff’s own earlier 1,177-page Initial Study enumerated the Project’s many potentially significant environmental impacts

requiring a project-specific EIR. Conversely, the General Plan's PEIR was never intended to analyze or mitigate any particular project's myriad environmental effects, and staff's CEQA Clearance document, despite its length, proves this point. The CEQA clearance document points to generalities and aspirational policies to claim it has analyzed the Project's effects and any impacts would be mitigated. That approach is refuted below.

For the Planning Commission's public meeting, the City has asked the public to review and comment on documents that total nearly 5,000 pages across the PEIR, Initial Study and newly-available "CEQA Clearance" document. In fact, the public was afforded just over two days to review the 2,628-page CEQA Clearance document before the November 12, 2025 meeting.

The Planning Commission should not condone an end run around meaningful public participation by depriving residents a reasonable opportunity to review and comment on the proposed Project. SAFER urges the Planning Commission to reject staff's recommendation, and instead direct staff to prepare a project-specific EIR to circulate for public review and comment prior to any Project approval.

PROJECT DESCRIPTION

The Project would construct three new seven-story mid-rise buildings (nearly 90 feet tall) consisting of 1,077 residential units (including 78 very low-income units) and 5,772 square-feet of retail space. The Project proposes 131,834 square-feet of open space, including 36,516 square-feet of public open space. The Project also proposes 1,382 vehicular parking spaces (1,362 residential and 20 commercial) located within a combination of subterranean (up to two levels) and podium parking levels, and 305 bicycle parking spaces.

The developer has requested entitlements for:

- Zone Change Map Amendment to change zoning from Mixed-Use High (MU-HD) to Planned Development (PD);
- General Plan Amendment related to various General Plan policies and standards in effect as of February 2, 2024, when the Project's preliminary application was submitted;
- Comprehensive Plan to develop standards for the new PD Zone District; Density and Other Bonus Incentives (DOBI) to allow increased density with affordable units incorporated into the Project, as well as a height incentive;
- Approval for Extended Hours of Construction (CCMC Section 9.07.035.C.1); and
- Vesting Tentative Parcel Map and Final Map to consolidate the existing four Project Site parcels and subsequently divide the Project Site into three parcels, each to contain one of the three Project buildings.¹

¹ See Culver City Initial Study For the 5757 Uplander Project (December 2024).

LEGAL STANDARD

CEQA contains a strong presumption in favor of requiring a lead agency to prepare an EIR. That presumption is reflected in the fair argument standard. Under the fair argument standard, a lead agency must prepare an EIR whenever substantial evidence found in the whole record before the agency supports a fair argument that a project may have a significant effect on the environment. (*See* CEQA § 21082.2; *Laurel Heights Improvement Ass'n v. Regents of the University of California* (1993) (“Laurel Heights II”) 6 Cal. 4th 1112, 1123; *No Oil, Inc. v. City of Los Angeles* (1974) 13 Cal.3d 68, 75, 82; *Quail Botanical Gardens v. City of Encinitas* (1994) 29 Cal.App.4th 1597, 1602.)

Staff is proposing that the City rely on CEQA Guidelines § 15168(c)(2) to avoid project-level CEQA review on grounds the Project would be within the scope of the PEIR prepared for the City’s 2045 General Plan. In other words, staff proposes to “tier” any necessary environmental review from the PEIR. In general, tiering refers to using the analysis of more general matters contained in a programmatic EIR with later EIRs and negative declarations on narrower projects, then incorporating by reference the general discussions from the broader EIR. This process works to concentrate the later EIR or negative declaration solely on the issues specific to the later project." (*See* CEQA Guidelines § 15152(a).)

PEIRs are prepared for a series of actions that are related geographically or are part of a continuing program. (Guidelines §15168.) A PEIR is used for purposes of: (1) avoiding multiple EIRs, (2) simplifying later environmental review, and (3) consideration of broad programmatic issues. (*See, e.g.,* Cal. Practice under CEQA, Cont. Ed. Bar 2d ed. (2016) §10.14B.) Importantly, the agency must examine each activity to determine whether additional environmental review is required. (*Id.* at § 10.16a.)

Whether subsequent environmental review is necessary requires a two-step process. First, the agency considers whether the activity is covered by a PEIR by analyzing whether the activity will result in environmental effects that were not examined in the PEIR. (CEQA Guidelines §15168(c)(1).) Central here is whether a later action is within the scope of the PEIR. To make that determination, a lead agency must consider the following:

- (1) the consistency of the later activity with the type of land use allowed;
- (2) the planned density and building intensity;
- (3) the geographic area analyzed for environmental impacts; and,
- (4) covered infrastructure as described in the program EIR.

(CEQA Guidelines §15168(c)(2).)

If the agency determines the activity is covered by a PEIR, it must evaluate the proposed activity to determine whether any new environmental effects could occur, or new mitigation measures would be required due to events occurring after the program EIR was certified. (CEQA Guidelines §15168(c)(2).)

The above determination is a factual question based on substantial evidence found in the record. (CEQA Guidelines §15168(c)(2).) Agencies often prepare a written checklist to determine whether the environmental effects are within the scope of the PEIR. (CEQA Guidelines § 15168(c)(4).) If the agency finds that the project is within the scope of the PEIR, and that no new effects could occur and no new mitigation measures would be required under Guidelines section 15162, the agency can approve the project without any new environmental document. (CEQA Guidelines §15168(c)(2).)

If the project is not within the scope of the PEIR, review is not governed by section 21166's substantial evidence standard. Instead, the agency must determine whether the later project might cause significant environmental effects not considered in the program EIR, and a tiered EIR must be prepared if there is substantial evidence that the project arguably may have such effects. (*Sierra Club v. County of Sonoma* (1992) 6 Cal.App.4th 1307, 1321.)

DISCUSSION

I. TO DATE, STAFF HAS ISSUED CONTRADICTORY ANALYSES ON THE PROPOSED PROJECT'S POTENTIALLY SIGNIFICANT ENVIRONMENTAL IMPACTS.

For the Planning Commission meeting, staff is now claiming **no** further CEQA review is required because the Project is “within the scope” of the City’s 2024 General Plan PEIR. A chronology of relevant events illustrates why the Project needs further investigation beyond the PEIR’s analyses.

- **February, 2024:** the developer submitted its preliminary application pursuant to SB 330 ensuring the Project was subject only to those ordinances and policies in effect when the completed preliminary application was submitted.²
- **August, 2024:** City issued Final PEIR for the General Plan 2045 and Zoning Code Update Project.
- **October, 2024:** General Plan 2024 takes effect.³
- **December, 2024:** City’s Initial Study for 5757 Uplander Avenue Project finding the Project would cause numerous potentially significant impacts on the environment requiring an EIR.

² December 2024 Initial Study at p. 1 *citing* Govt. Code §§ 65589.5(o) and 65941.1(d).

³ <https://www.culvercity.gov/Services/Building-Development/General-Plan>

- **April 2025:** the developer re-submits its preliminary application under SB 330 thereby “invoking vesting rights to development standards in place at that date.”⁴
- **October 2025:** Staff issued its “5757 UPLANDER PROJECT CEQA Guidelines Sections 15168(c) Clearance.”

In less than one year, staff has prepared nearly 4,000 pages of contradictory and irreconcilable environmental analyses for the same Project. In the December 2024 Initial Study, staff found the Project would cause numerous potentially significant impacts requiring an EIR. Then just a few months later, staff reversed course, issuing a “CEQA Clearance” document which purports to “address the environmental effects of the 5757 Uplander Project,” and claiming the PEIR “anticipated development on the Project Site.”⁵

The City cannot now simply disregard its own Initial Study’s in-depth impact analysis unequivocally calling for project-specific CEQA review on grounds the City finalized a high level PEIR for its 2024 General Plan. The fact is, no aspect of this massive 8.3-acre, nine-story project with 1,077 residential units, 5,772 square-feet of retail and 1,383 parking spaces has ever been subject to CEQA’s legal requirements for an EIR. Therefore, the City may not evade a Project EIR by asserting it would be within the scope of the PEIR pursuant to CEQA Guidelines § 15168(c)(2).

II. THE CITY’S 2024 INITIAL STUDY IDENTIFIED NUMEROUS POTENTIALLY SIGNIFICANT ENVIRONMENTAL EFFECTS REQUIRING PREPARATION OF AN EIR.

Prior to issuing the PEIR, City staff outlined the Project’s myriad environmental effects in its December 6, 2024, Initial Study pursuant to CEQA Guidelines §15168(c)(1), finding that the Project “may have a significant effect on the environment, and an environmental impact report is required.” (2024 Initial Study at p. EC-3.) Specifically, the initial study determined that the proposed Project had the potential to degrade the quality of the environment for the following environmental topics:

- Aesthetics (conflicts with applicable zoning or other regulations governing scenic quality);
- Air Quality (all aspects except for odors);
- Cultural Resources (archaeological resources);
- Energy;
- Geology and Soils (paleontological resources);
- Greenhouse Gas Emissions;
- Hazards and Hazardous Materials (emergency response);

⁴ Draft Planning Commission Resolution, No. 2025-P013 at p. 1 (Nov. 12, 2025.)

⁵ CEQA Clearance Document at p.1-1.

- Land Use and Planning (consistency with plans and policies);
- Noise (all aspects except for aircraft noise);
- Population and Housing (population growth);
- Public Services (fire protection, police protection, schools and parks);
- Recreation;
- Transportation;
- Tribal Cultural Resources; and,
- Utilities and Service Systems (water supply/infrastructure, electric and natural gas facilities).

Staff most certainly was aware of, if not involved in, the preparation of the PEIR while it was drafting the Project's Initial Study, and still concluded that "[e]ach of the topics determined to have the potential for significant impacts in this Initial Study will be subject to further evaluation in the EIR, including evaluation of the potential for cumulatively significant impacts. (Initial Study at pp. B-41-42.) Now less than one year later staff is inexplicably asserting no project-specific CEQA analysis is required based on a questionable "comparative analysis of project impacts" from the General Plan PEIR.

III. AN EIR MUST BE PREPARED FOR THE PROPOSED PROJECT BECAUSE THE PEIR WAS NOT INTENDED TO ADDRESS PROJECT-SPECIFIC CONSTRUCTION AND OPERATIONAL IMPACTS.

The City is allowed to tier project-specific CEQA review to a first-tier programmatic EIR, but it may not evade second tier review when, as here, the administrative record is replete with information that a later project could cause potentially significant environmental effects. Therefore, the question is not whether to prepare an EIR; instead, the question is the scope of the EIR the City must prepare for public review and comment. (CEQA § 21068.5; Guidelines § 15152(d).)

The public had little more than 2 days to review the 2,628-page CEQA Clearance document and compare it to the 1,177-page Initial Study, and the 900-page PEIR. Nevertheless, even a brief examination of staff's conflicting documents reveals that (1) the General Plan PEIR cannot supplant vital project-specific CEQA analysis; and (2) given staff's own conflicting conclusions in the record, an EIR is required.

The City's PEIR analyzed the full range of CEQA topics and found that implementation of the General Plan would result in significant and unavoidable impacts on (1) Air Quality, (2) Cultural Resources, (3) Noise, and (4) Transportation. (PEIR's Notice of Completion; DEIR Chap. 6.) Staff cannot plausibly claim that the General Plan PEIR adequately addressed these significant impacts at the project-specific level, and that the City is unable to propose any additional Project alternatives or feasible measures to mitigate the Project's future construction and operational impacts.

The PEIR was clear that it did not evaluate any specific projects, and could not speculate on the impacts caused by future projects. For example, in the PEIR's Air Quality analysis, it emphasized that it did not assess currently proposed or identified projects, and therefore "the exact nature of potential development was unknown, and determining localized [air quality] impacts from operational activities is speculative. Therefore, the analysis of localized impacts was discussed only qualitatively in the PEIR." (PEIR at p. 4.2-31-32)

Likewise, in terms of construction-related air quality impacts, the PEIR acknowledged "construction has the potential to create regional air quality impacts," But "as there are no specific projects currently proposed under the General Plan and Zoning Code Update and there is no knowledge as to timing of construction, location or the exact nature of future projects, analysis of construction emissions would be speculative at best. Information regarding specific development projects, including specific buildings and facilities proposed to be constructed, construction schedules, quantities of grading, and other information would be required in order to provide a meaningful estimate of emissions. Since this information is unknown, emissions modeling is not feasible. (PEIR at p. 4.2-39.)

Similarly, the PEIR disclaimed mitigating local air quality impacts: "There is no information regarding specific development projects, including specific buildings and facilities proposed to be constructed, construction schedules, quantities of grading, and other information that would be required in order to provide a meaningful estimate of emissions. Since this information is unknown, emissions modeling is not feasible and would be speculative at best. Applicants of future project developments under the Project would be required to conduct CEQA analyses, if necessary, in order to determine significance based on the individual project's specifics." (PEIR at p. 4.2-39.)

Neither did the PEIR attempt to quantify project-specific greenhouse gas emissions: "All future projects developed under the General Plan 2045 would be required to comply with applicable USEPA, CARB and SCAQMD emissions standards, rules, and regulations. In addition, applicable CEQA analysis, as required, would determine significance based on the individual project specifics." (PEIR at p. 4.7-45.)

This is a small sample of the instances the PEIR acknowledged it was not intended to address and mitigate future projects' impacts, because, unsurprisingly, general plan PEIR's look at broad policies and regulatory consistency, not future development projects. General Plan PEIRs, by their nature, lack the specificity necessary to inform the public of the unique impacts posed by future projects in their communities. In short, the PEIR was not drafted to serve as the foundation for staff's CEQA Clearance document. This is especially true given the size and intensity of the proposed Project as evidenced by staff's 2024 Initial study.

Even if a proposed project was "within the scope" of a PEIR, tiering still has no application if the proposed Project has not previously been subject to review." (*Friends of College of San Mateo Gardens v. San Mateo* (2016) 1 Cal.5th 937, 950 ("*San Mateo Gardens*").)

A decision to proceed under CEQA's subsequent review provisions must necessarily rest on a determination — whether implicit or explicit — that the original environmental document has some informational value. (*Id.* at 951.) Only if the original environmental document has some informational value despite the proposed changes, changes in circumstances or new substantial information does the agency proceed to decide under CEQA's subsequent review provisions whether such changes or substantial new information will require major revisions to the original environmental document because of the involvement of new, previously unconsidered significant environmental effects. (1 Cal.5th at 952.) Given the lack of specificity in the General Plan PEIR, staff cannot reasonably claim that document addressed *i.e.*, provided some informational value regarding the potential environmental impacts of the proposed Project's 1,077 residential units plus retail.

As the California Supreme Court held, “[i]f no EIR has been prepared for a nonexempt project, but substantial evidence in the record supports a fair argument that the project may result in significant adverse impacts, the proper remedy is to order preparation of an EIR.” (*Communities for a Better Env't v. South Coast Air Quality Mgmt. Dist.* (2010) 48 Cal.4th 310, 319-320.) “Significant environmental effect” is defined very broadly as “a substantial or potentially substantial adverse change in the environment.” (CEQA § 21068; see also Guidelines § 15382.) An effect on the environment need not be “momentous” to meet the CEQA test for significance; it is enough that the impacts are “not trivial.” (*No Oil, Inc. v. City of Los Angeles* (1974) 13 Cal.3d 68, 83.) “The ‘foremost principle’ in interpreting CEQA is that the Legislature intended the act to be read so as to afford the fullest possible protection to the environment within the reasonable scope of the statutory language.” (*Communities for a Better Env't v. Cal. Resources Agency* (2002) 103 Cal.App.4th 98, 109.)

The EIR is the very heart of CEQA. (*Bakersfield Citizens for Local Control v. City of Bakersfield* (2004) 124 Cal.App.4th 1184, 1214; *Pocket Protectors v. City of Sacramento* (2004) 124 Cal.App.4th 903, 927.) The EIR is an “environmental ‘alarm bell’ whose purpose is to alert the public and its responsible officials to environmental changes before they have reached the ecological points of no return.” (*Bakersfield Citizens*, 124 Cal.App.4th at 1220.) The EIR also functions as a “document of accountability,” intended to “demonstrate to an apprehensive citizenry that the agency has, in fact, analyzed and considered the ecological implications of its action.” (*Laurel Heights Improvements Assn. v. Regents of University of California* (1988) 47 Cal.3d 376, 392.) The EIR process “protects not only the environment but also informed self-government.” (*Pocket Protectors*, 124 Cal.App.4th at 927.)

According to the “fair argument” standard applicable to environmental review under CEQA § 21151, an EIR is required if any substantial evidence in the record indicates that a project may have an adverse environmental effect—even if contrary evidence exists to support the agency's decision. (Guidelines § 15064(f)(1); *Pocket Protectors*, 124 Cal.App.4th at 931.) The “fair argument” standard creates a “low threshold” favoring environmental review through an EIR rather than through issuance of negative declarations or notices of exemption from CEQA. (*Id.* at 928.) An effect on the environment need not be “momentous” to meet the CEQA test for significance; it is enough that the impacts are “not trivial.” (*No Oil, Inc.*, at 13 Cal.3d at

83.) In short, the “fair argument” standard is virtually the opposite of the typical deferential standard accorded to agencies. (Kostka & Zishcke, *Practice Under CEQA*, §6.29, pp. 273-274.)

Despite the extremely limited time period to review the CEQA Clearance document and compare it to the PEIR and Initial Study, it is clear that the PEIR lacked the specificity necessary to serve as the CEQA document for the proposed Project. CEQA simply requires more. The City must conduct a proper, detailed analysis to show to the public it has investigated and mitigated to the extent feasible the myriad impacts staff’s own Initial Study identified. There is a fair argument based on staff’s own substantial evidence from the 2024 Initial Study that the Project requires preparation of an EIR.

IV. CONCLUSION

For the above reasons, the Planning Commission should decline to recommend the City Council approve the Project and the CEQA Clearance document, and instead direct staff to prepare and circulate an EIR for public review. The City may not rely on the General Plan PEIR as the final CEQA analysis for the massive proposed Project.

Sincerely,

A handwritten signature in blue ink, appearing to read "Richard Drury". The signature is fluid and cursive, with a long horizontal stroke at the end.

Richard Drury