


COMMENTS	RESPONSES
<div data-bbox="210 272 636 337" data-label="Image"> </div> <div data-bbox="735 240 926 264" data-label="Section-Header"> <p>Comment Letter O3a</p> </div> <div data-bbox="371 360 697 423" data-label="Text"> <p>396 HAYES STREET, SAN FRANCISCO, CA 94102 T: (415) 552-7272 F: (415) 552-5816 www.smwlaw.com</p> </div> <div data-bbox="730 360 858 423" data-label="Text"> <p>WINTER KING Attorney king@smwlaw.com</p> </div> <div data-bbox="504 474 627 500" data-label="Text"> <p>June 20, 2017</p> </div> <div data-bbox="207 532 382 560" data-label="Section-Header"> <p><u>Via Electronic Mail</u></p> </div> <div data-bbox="205 573 504 712" data-label="Text"> <p>Ms. Ashley Smith Land Use & Environmental Planner Planning & Development Services 5510 Overland Avenue, Suite 310 San Diego, CA 92123 Ashley.Smith2@sdcounty.ca.gov</p> </div> <div data-bbox="315 725 917 820" data-label="Text"> <p>Re: <u>Harmony Grove Village South Draft Environmental Impact Report (PDS2015-GPA-15-002; PDS2015-SP-15-002; PDS2015-TM-5600; PDS2015-REZ-15-003; PDS2015-MUP-15-008; PDS2015-ER-15-08-006.)</u></p> </div> <div data-bbox="205 839 350 863" data-label="Text"> <p>Dear Ms. Smith:</p> </div> <div data-bbox="205 880 909 1042" data-label="Text"> <p>This firm represents the Elfin Forest Harmony Grove Town Council in matters related to the County's consideration of the proposed Harmony Grove Village South project ("Project" or "HGVS"). The purpose of this letter is to inform the County that the Draft Environmental Impact Report ("DEIR") for the Project violates the minimum standards of adequacy under the California Environmental Quality Act ("CEQA"), Public Resources Code § 21000 et seq., and the "CEQA Guidelines," California Code of Regulations, title 14, § 15000 et seq.</p> </div> <div data-bbox="205 1055 928 1286" data-label="Text"> <p>As described below, the Elfin Forest Harmony Grove Town Council is deeply concerned about the far-ranging impacts the Project will have on environmental resources, land use planning, and public safety. After years of negotiations and hard work, the County and the communities of Elfin Forest and Harmony Grove agreed upon a plan for development in the region that struck a fair balance between conserving the area's outstanding natural resources and rural beauty while allowing substantial new development that was properly sited and mitigated, including public investment of millions of dollars in open space in the project vicinity, recognizing both the habitat value and the extreme fire risk which renders the area unsuitable for dense housing. Now, however, the County is contemplating approval of a Project that would permanently</p> </div> <div data-bbox="945 1076 1008 1099" data-label="Text"> <p>O3a-1</p> </div>	<div data-bbox="1050 164 1432 194" data-label="Section-Header"> <p>Response to Comment O3a-1</p> </div> <div data-bbox="1050 198 2009 613" data-label="Text"> <p>The comment overall addresses general subject areas but does not raise specific issues regarding those subject areas. Therefore, no more specific response can be provided or is required. The comment also expresses the opinions of the commentator only and as such the comment will be included as part of the record and made available to the decision makers prior to a final decision on the proposed Project. With respect to comments regarding the Project's General Plan/Community Plan Amendments please see the Global Response to Project Consistency with General Plan Policy LU-1.4 for a full discussion relevant to this issue. Specific to the summary climate-change comment, this letter includes specific focused discussion of this issue in Response to Comment O3a-41 through Response to Comment O3a-49, below.</p> </div>

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<p style="text-align: center;">Comment Letter O3a</p> <p>Ashley Smith June 20, 2017 Page 2</p> <p>destroy that balance. For example, the proposed Project would build a new village beyond the existing Village Limit Line and outside established sewer service boundaries. It would create urban sprawl, by introducing 453 units where only 220 are allowed under the County's General Plan, and substantially increases traffic congestion.</p> <p>Not only would approval of the Project betray the trust and confidence of the communities that just worked so closely with the County to develop a community plan, it would also violate state Planning and Zoning Law and the Subdivision Map Act. As detailed below and in our prior correspondence with the County, this urban-scale Project is patently inconsistent with numerous provisions of the General Plan, Community Plan, and Zoning Ordinance.</p> <p>In addition, the DEIR for the Project fails to provide the public and decision makers with crucial information about the Project, its impacts, alternatives, and feasible mitigation measures, in direct violation of CEQA. For example, the DEIR's analysis of climate change impacts for this large, car-dependent subdivision, relies on a methodology that has been invalidated repeatedly by the courts and contradicts the County's own general plan policies. The Legislature and the Supreme Court have provided guidance on how to analyze that contribution, but the DEIR ignores those rules. As described further below and in the Supreme Court's decision in <i>Center for Biological Diversity v. California Dept. of Fish & Wildlife</i> (2015) 62 Cal.4th 204, environmental impact reports ("EIRs") for new developments like this one must acknowledge their heightened responsibility for meeting the State's ambitious (but achievable) emissions-reduction goals.</p> <p>In another striking example, the DEIR fails to provide an adequate evaluation of the Project's fire hazard impacts. The Project, along with the previously approved Harmony Grove Village project, would add thousands of new residents to the area that has been designated Limited Agriculture and Rural Residential. In an emergency, such as a wildfire or earthquake, evacuation would require use of Country Club Drive, which is the only safe route available for ingress/egress to the Project site. DEIR at 1-2; Harmony Grove Wildland Urban Interface Fire Emergency Plan, Rohde & Associates (Apr. 14, 2016) at 2 ("Rohde Fire Emergency Plan"), <i>available at</i> www.sandiegocounty.gov/content/dam/sdc/pds/ProjectPlanning/hgvs/Harmony%20Groves%20Village%20South%20Public%20Review/PDS2015-GPA-15-002-WUIFERP_v3.pdf. Yet, the DEIR fails entirely to evaluate safety hazards related to evacuating these new residents in an emergency, as well as the risks the Project introduces to the safe evacuation of the surrounding residents. This is not a mere</p> <p style="text-align: right;">SHUTE, MIHALY & WEINBERGER LLP</p>	<p>Response to Comment O3a-2</p> <p>The County disagrees that the EIR failed to evaluate safety hazards related to the Project and that the Rohde Report suggests that Country Club Drive is the only safe route available for ingress/egress to the Project site. Fire safety is addressed in Section 3.1.3, <i>Hazards and Hazardous Materials</i> as well as Section 3.1.8, <i>Public Services</i>. The Rohde Report does state that Country Club Drive is the fastest route to safety, on Page 15 it also states:</p> <p style="padding-left: 40px;"><i>Concern had been expressed that only one route was proposed for access/egress to the proposed development site rather than the code required construction of two, and that a variance would be requested/required for the project to move forward. In contrast, the consultant staff and public safety officials who participated in the field tour of the site unanimously agreed that the site has 4 potential routes of egress during evacuation, two with strong viability. All participants expressed comfort that the proposed variance for the 800-foot single access road was acceptable.</i></p> <p>Please see the Global Responses to Fire Hazards Impact Analysis and Adequacy of Emergency Evacuation and Access for a thorough analysis on this topic.</p>

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<p style="text-align: right;">Comment Letter O3a</p> <p>Ashley Smith June 20, 2017 Page 3</p> <p>technical violation of CEQA, it is a dangerous, callous failure to consider the real effects of this oversized Project.</p> <p>Similarly, the DEIR's analysis of the Project's traffic impacts employs outdated traffic data and methodology that skews the analysis of project-related vehicle trip increases, thus masking significant impacts. In turn, reliance on an inaccurate traffic analysis undermines the DEIR's air quality and climate change analyses.</p> <p>As a result of the DEIR's numerous and serious inadequacies, there has been no meaningful public review of the Project, and there cannot be such review unless and until the DEIR is wholly revised. The County decision makers cannot reasonably consider approval of the proposed Project without an adequate understanding of its environmental costs and potential alternatives.</p> <p>This letter is submitted along with the reports prepared by Neal Liddicoat, P.E., of MRO Engineers, Inc., attached as Exhibit A ("MRO Report"), and Dr. Matthew Rahn, Ph.D., M.S., J.D., of Rahn Conservation Consulting, LLC, attached as Exhibit B ("Rahn Report"). We respectfully refer the County to the aforementioned attached reports, both here and throughout these comments, for further detail and discussion of the DEIR's inadequacies. We request that the County reply to each of the comments in this letter and to each of the comments in the attached reports.</p> <p>I. Background</p> <p>Just a few years ago, the County invested a substantial amount of time and millions of taxpayer dollars updating its General Plan "to establish a blueprint for future land development projects in the unincorporated County that meets community desires and balances the environmental protection goals with the need for housing, agriculture, infrastructure, and economic vitality." General Plan EIR at S-2. At the same time, the County developed the Elfin Forest and Harmony Grove Community Plan ("Community Plan" or "CP") as a subarea plan of the San Dieguito Community Plan.</p> <p>This years-long process, which involved countless hours of community meetings, culminated in a General Plan and Community Plan that carefully selected growth areas in the Harmony Grove community while assiduously protecting the rural character of the remaining land. The Elfin Forest and Harmony Grove communities worked hard to develop the Community Plan and have worked for years to enforce it. The communities were willing to accept their share of growth in the form of Harmony Grove</p> <p style="text-align: right;">  </p>	<p>Response to Comment O3a-3</p> <p>The County disagrees that the Project's traffic impact analysis employs outdated traffic data and methodology. Please see detailed Response to Comment O3a-19.</p> <p>Response to Comment O3a-4</p> <p>The County acknowledges the comment but disagrees. The County finds the EIR provides full discussion, relevant detail and analysis, and is adequate under CEQA. The County also finds that the document supported full and informed review. Specific to obligations to respond under CEQA, his comment does not raise specific issues regarding the content of the EIR. A comment that does not raise a specific environmental issue does not require a response. Under the California Environmental Quality Act (CEQA), the lead agency is obligated to respond to timely comments with "good faith, reasoned analysis" (CEQA Guidelines 15088[c]). These responses "shall describe the disposition of the significant environmental issues raised ... [and] giv[e] reasons why specific comments and suggestions were not accepted" (CEQA Guidelines, 15088[c]). To the extent that specific comments and suggestions are not made, specific responses cannot be provided and, indeed, are not required (<i>Browning-Ferris Industries of California, Inc. v. City Council of the City of San Jose</i> [1986] 181 Cal.App.3d 852 [Where a general comment is made, a general response is sufficient]).</p> <p>Response to Comment O3a-5</p> <p>Please see Response to Comment O3b for a response to Exhibit A ("MRO Report") and Response to Comment O3c for a response to Exhibit B ("Rahn Report"). As primary sources for traffic and fire-related comments in this letter, those reports and responses to comments provided for those reports are cross-referenced in a number of the responses below.</p> <p>Response to Comment O3a-6</p> <p>The Project is amending the General Plan/Community Plan by expanding an existing or planned village in accordance with the requirements set forth in Policy LU-1.4.</p>

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	<p>The Regional Categories Map and Land Use Maps are graphic representations of the Land Use Framework and the related goals and policies of the General Plan (Chapter 3). General Plan Policy LU-1.4 specifically permits expansions of villages. Therefore, the language in the General Plan clearly allows for future amendments to the Land Use Map and Regional Categories Map in such instances. Please see the Global Response to Project Consistency with General Plan Policy LU-1.4 for a full discussion relevant to this issue.</p> <p>With respect to the Community Plan, the hierarchical relationship between the General Plan and the County’s many community plans is described in General Plan Policy LU-2.2; that makes it clear that General Plan policies take precedence over community plan policies and that community plans cannot be interpreted in a manner that would undermine the policies of the General Plan. General Plan Policy LU-2.2 states:</p> <p style="padding-left: 40px;"><i>Community Plans are part of the General Plan. These plans focus on a particular region or community within the overall General Plan area. They are meant to refine the policies of the General Plan as they apply to a smaller geographic region and provide a forum for resolving local conflicts. As legally required by State law, Community Plans must be internally consistent with General Plan goals and policies of which they are apart. They cannot undermine the policies of the General Plan. Community Plans are subject to adoption, review, and amendment by the Board of Supervisors in the same manner as the General Plan.</i></p> <p>Therefore, even though community plans are an integral part of the County’s General Plan, these documents must still be internally consistent with the General Plan’s goals and policies of which they are a part. This means that community plans must be read and interpreted in the context of the goals and policies set forth in the General Plan and cannot be interpreted in isolation. Although Community Plans are an important component of the General Plan, General Plan Policy LU-1.4 specifically permits expansions of villages.</p> <p>The logic behind the commenter’s assertion would lead to the conclusion that no general plan amendments would be allowed. However, the General Plan on</p>

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	<p>page 2-7 recognizes the need to accommodate future growth by planning and facilitating housing in existing and planned villages. The General Plan states:</p> <p><i>As growth continues in the region, the County will accommodate a reasonable share in the unincorporated County in a manner that sustains the natural setting, characteristics, and qualities that distinguish the County, its communities, and rural places as special places to live. The County will implement this guiding principle by planning and facilitating housing in and adjacent to existing and planned villages.</i></p> <p>Also, the General Plan on page 1-15 states that it is intended to be a dynamic document, and numerous policies in the General Plan accommodate planning for future growth, such as M-2.1 (require development projects to provide road improvements), M-3.1 (require development to dedicate right-of-way), S-3.1 (require development to be located to provide adequate defensibility), COS-2.2 (requiring development to be sited in least biologically sensitive areas) and Policy LU 1.2 (establishment of a new village) and Policy LU-1.4 (expansion of an existing or planned village).</p>

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<p style="text-align: center;">Comment Letter O3a</p> <p>Ashley Smith June 20, 2017 Page 4</p> <p>Village, in exchange for strict and enforceable restrictions barring high-density, urban style development elsewhere. DEIR at 1-3.</p> <p>Now the County is contemplating a proposal that would up-end the delicate balance struck in the Community Plan: an urban-scale, dense residential development (i.e., 457 dwelling units and 5,000 square feet of commercial use) in an area designated by the General Plan for agricultural and rural uses with a maximum of 220 dwelling units. DEIR at 1-3. Approval of this Project would undermine the General Plan update and betray the community's trust in the County's process.</p> <p>The County may not ignore the Community Plan that the County and community worked so hard on. Rather, it must uphold the clear, mandatory policies of the General Plan and Community Plan that protect the Elfin Forest/Harmony Grove community from creeping urbanization and developments such as IIGVS. In short, the proposed Project is irreparably inconsistent with the General Plan and Community Plan and the County must reject it on this basis alone.</p> <p>In addition, the DEIR provides no evidence that hundreds of additional housing units are needed in the Harmony Grove area. According to area residents, construction of houses in the Harmony Grove Village development only began in 2013, years behind the anticipated schedule of full build-out in 2008. DEIR at 1-26. Moreover, the region has multiple planned housing projects in the area that will result in the construction of more than 15,494 housing units in the area. DEIR at 1-34. Thus, this is not a case where the County could justify approving a project with significant environmental impacts due to a need for more housing.</p> <p>County decision makers have a responsibility to represent the long term interest of the entire community and not just the short term interest and gain of a few individuals. In this case, that responsibility includes achieving a balance between the protection of resources and quality of life of the established community and approval of additional development outside the carefully considered General Plan envelope. As discussed throughout this letter, the County determined years ago that the proposed Project site would be designated for rural residential uses to preserve environmental resources and the rural character of the Elfin Forest and Harmony Grove communities. The proposed Project is inconsistent with this vision. For this reason the Elfin Forest Harmony Grove Town Council urges the County to rework the proposed development to better address these inconsistencies and to reflect the recently adopted General Plan.</p> <p style="text-align: right;">SHUTE, MIHALY & WEINBERGER LLP</p>	<p>Response to Comment O3a-7</p> <p>It is important to note that a private property owner can propose any lawful use of their property and have it evaluated for environmental impacts. Although one of the Project's objectives is to provide housing, a showing of a deficit in housing capacity or shortage of housing is not required in order for the County to consider approval of a project. Please see Response to Comment O3a-6 above.</p> <p>The County concurs that Harmony Grove Village (HGV) is building out and that the cumulative projects list totals approximately 15,500 housing units. However, the numbers cited include County, City of Escondido, and City of San Marcos numbers. In fact, the comment fails to cite the very next sentence from the EIR, "Specifically within County jurisdiction, the cumulative projects (including the Proposed Project) would result in a total of 2,403 units in the Project site vicinity."</p> <p>With respect to the need for additional housing units, the San Diego Association of Governments (SANDAG) Regional Housing Needs Assessment shows that although the County has planned for the necessary number of housing units over the assessment period, the County is behind in the number of approvals one would expect per year if housing availability is averaged over the planning period. Without approval of a substantial number of residential units over the next few years, the County will have a housing shortage. The County has responsibility for providing a percentage of projected required housing. As noted in a recent study,^[1] the County has only issued building permits for 26 percent of the 22,412 units allocated to it by the state in its Regional Housing Needs Allocation process. The lack of housing supply can be considered to contribute to scarcity and high housing prices that put a strain on the general welfare of County residents. Guiding Principle 1 of the County General Plan (Chapter 2, pages 2-6 and 2-7) calls for the County to accommodate a reasonable share of regional growth. Accordingly, given the current widespread regional housing scarcity, the County finds increasing housing supply to be within the general welfare of County residents.</p>

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	<p>[1] http://www.sdchamber.org/wp-content/uploads/2017/03/Housing-Score-Card.pdf (incorporated herein by this reference, such report is available for public review at the aforementioned cite.</p>

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<p style="text-align: right;">Comment Letter O3a</p> <p>Ashley Smith June 20, 2017 Page 5</p> <p>II. The Project Cannot Be Approved Because It Violates State Planning and Zoning Law.</p> <p>The Project violates state Planning and Zoning Law in two distinct ways. First, the proposed amendments to local land use rules are incompatible with the General Plan. Second, even if the proposed amendments were valid, the proposed development would still violate numerous local land use regulations and policies. Thus, the County must reject the proposed amendments.</p> <p>A. Land Use Decisions Must Be Consistent with the General Plan.</p> <p>The state Planning and Zoning Law requires development decisions to be consistent with the jurisdiction's general plan. <i>See Resource Defense Fund v. County of Santa Cruz</i> (1982) 133 Cal.App.3d 800, 806 ("propriety" of land use and development decisions depends on consistency with the general plan); <i>Families Unafraid to Uphold Rural El Dorado County v. Bd. of Supervisors ("FUTURE")</i> (1998) 62 Cal.App.4th 1332, 1336 ("The consistency doctrine [is] the linchpin of California's land use and development laws; it is the principle which infuses the concept of planned growth with the force of law."). As the "constitution" for future development, the general plan provides the overarching framework for a region's development. <i>Leshner Communications, Inc. v. City of Walnut Creek</i> (1990) 52 Cal.3d 531, 540.</p> <p>It is an abuse of discretion to approve a project that "frustrate[s] the General Plan's goals and policies." <i>Napa Citizens for Honest Gov. v. Napa County</i> (2001) 91 Cal.App.4th 342, 379. A project need not present an "outright conflict" with a general plan provision to be considered inconsistent. <i>Id.</i> Rather, the determinative question is whether the project "is compatible with and will not frustrate the General Plan's goals and policies." <i>Id.</i> Courts will invalidate a project approval that is inconsistent with fundamental, mandatory, and clear general plan policies, regardless of whether the project is consistent with other general plan policies. <i>FUTURE</i>, 62 Cal.App.4th at 1341-42; <i>Endangered Habitats League, Inc. v. County of Orange</i> (2005) 131 Cal.App.4th 777, 783.</p> <p>B. The Proposed Land Use Amendments Are Invalid Because They Are Incompatible and Inconsistent with the General Plan.</p> <p>The DEIR acknowledges that the proposed development is inconsistent with the current General Plan, Community Plan, and Zoning Ordinance. DEIR at 1-33. Thus, the Project proposes amendments to each of these. <i>Id.</i> The amendments would: re-</p> <p style="text-align: right;">O3a-8</p> <p style="text-align: right;">SHUTE, MIHALY & WEINBERGER LLP</p>	<p>In addition, there is no commitment to solely place any specific number of the 22,412 projected units on any precise property within the County, however, this particular location, on an already disturbed site near employment centers and shopping opportunities in the cities of Escondido and San Marcos, and in proximity to SR-78, I-15, and the Nordahl Transit Station, is consistent with General Plan policies to site growth adjacent to existing amenities and not extend built environments into pristine areas of the County.</p> <p>Response to Comment O3a-8</p> <p>The County disagrees with the comment that the Project is incompatible with the General Plan and would create internal inconsistencies in the General Plan. Please see Response to Comment O3a-6 and O3a-7 above and the Global Responses to Project Consistency with General Plan Policy LU-1.4 and General Plan/Community Plan Amendments CEQA Impact Analysis.</p>

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<p style="text-align: center;">Comment Letter O3a</p> <p>Ashley Smith June 20, 2017 Page 6</p> <p>classify the Project area from Semi-Rural to Village; extend the HGV boundary significantly, to encompass the entire proposed development area and surrounding open space; eliminate numerous strict limitations on growth from the Community Plan; and change the Project area from an agricultural, open space, and large-lot rural residential land use designation to a designation that allows dense residential, retail/commercial, utilities/institutional, and recreational uses. <i>Id.</i> at 1-4, 1-33, 3.1.6-42. The proposed amendments are incompatible with other General Plan provisions and would create internal inconsistencies in the General Plan. Accordingly, they cannot be approved.</p> <p>1. The Proposed Amendments Are Incompatible with the General Plan's Guiding Principle for Development.</p> <p>The General Plan establishes the Community Development Model as the guiding principle for development in the County. San Diego County General Plan (Aug. 2011) ("GP") at 2-8. The General Plan uses three regional land use categories to implement the Model: Village, Semi-Rural, and Rural. <i>Id.</i> at 2-8, 3-6. In the County's version of the Model, dense Village cores are surrounded by areas of less intense Semi-Rural and Rural use. <i>Id.</i></p> <p>The Land Use Element of the General Plan allocates land uses based on the Community Development Model. <i>Id.</i> at 3-2. In particular, Policy LU-1.1 directs the County to assign land use designations "in accordance with the Community Development Model," and Policy LU-1.2 prohibits "leapfrog development which is inconsistent with the Community Development Model." <i>Id.</i> at 3-23. Similarly, Policy LU-2.5 ("Identify and maintain greenbelts between communities to reinforce the identity of neighboring communities.") promotes defined communities, rather than sprawl, and Policy LU-2.6 directs the County to use "buffers or other techniques" to maintain separation between unincorporated communities and neighboring jurisdictions. <i>Id.</i> at 3-25.</p> <p>Pursuant to the Community Development Model, the General Plan and Community Plan currently designate HGV as a dense Village, surrounded by Semi-Rural and Rural uses. GP, San Dieguito Regional Category Map; CP at 25. The Community Plan notes that the HGV Boundary shown on County land use maps "is a growth boundary that identifies land to which development should be directed." CP at 27. It also states that "[a]reas outside this limit line are not intended to expand and should retain the original Harmony Grove rural residential and agricultural character." <i>Id.</i> These land use designations place a Semi-Rural buffer between HGV and neighboring Escondido, as directed by the General Plan. GP, San Dieguito Regional Category Map, 3-25 (Policies LU-2.5, LU-2.6).</p> <p style="text-align: center;">SHUTE, MIHALY & WEINBERGER LLP</p>	<p style="text-align: center;">O3a-8</p>

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<p style="text-align: right;">Comment Letter O3a</p> <p>Ashley Smith June 20, 2017 Page 7</p> <p>Because these land use designations were established to conform to the Community Development Model and direct growth to HGV, not the areas outside it, amendments that allow the opposite result are incompatible with the General Plan and cannot be adopted. <i>Napa Citizens</i>, 91 Cal.App.4th at 379. The redesignation of the Project area from Semi-Rural to Village would allow dense development outside HGV, rather than the Semi-Rural and Rural buffer required by the Community Development Model. Likewise, the A70 (Limited Agriculture) zoning for most of the Project area conforms to the Community Development Model by limiting the area outside HGV to agricultural, open space, and large-lot rural residential uses. <i>See</i> DEIR at 3.1.6-9. The shift to S-88 (Specific Plan), which would allow for dense residential, retail/commercial, utilities/institutional, and open space/recreation uses, would also be inconsistent with the Community Development Model. <i>See id.</i> In addition, the amendments would extend the HGV Boundary all the way to Escondido, eliminating the buffer between HGV and this neighboring jurisdiction. Figure II.1, Proposed Regional Categories, HGVs. The State Planning and Zoning Laws prohibit such inconsistencies. <i>Napa Citizens</i>, 91 Cal.App.4th at 379; <i>FUTURE</i>, 62 Cal.App.4th at 1341-42; <i>Endangered Habitats League</i>, 131 Cal.App.4th at 783.</p> <p>2. The Proposed Designation of the Project Area as “Village” Conflicts with General Plan Policies that Promote Safety.</p> <p>Two other land use policies in the General Plan prohibit the proposed shift of the Project area land use category from Semi-Rural to Village. As detailed below, the Project would place urban development in an area designated a Very High Fire Hazard Severity Zone, where existing conditions pose a significant fire threat. DEIR at 3.1.4-7. General Plan Policy LU-6.10 imposes a mandatory requirement that development be located to protect property and residents from risks of such hazards. Policy LU-6.11 is even more specific: it directs the County to “[a]ssign land uses and densities in a manner that minimizes development in extreme, very high and high fire threat areas.” Converting the Project area from Semi-Rural to Village would allow significantly more density in a very high fire threat area – precisely the type of land use assignment the General Plan prohibits.</p> <p>3. The Proposed Community Plan Amendments Would Create Internal Inconsistencies.</p> <p>The 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.” Gov. Code § 65300.5; <i>Sierra Club v. Kern County</i></p> <p style="text-align: right;">SHUTE, MIHALY & WEINBERGER LLP</p>	<p>Response to Comment O3a-9</p> <p>The County disagrees with the comment that expands Policies LU-6.10 and LU-6.11 to “prohibit” the County from converting areas that are located in a Very High Fire Hazard Severity Zone from Semi-Rural to Village. Policy LU-6.10 provides that development be located and designed to protect property and residents from the risks of natural and man-induced hazards. Policy LU-6.11 provides that land uses and densities be assigned in a manner that minimizes development in extreme, very high, and high fire threat areas or other unmitigable hazardous areas. There is nothing in either policy that prohibits development in areas designated as a Very High Fire Hazard Severity Zone, as exemplified by the location of the Harmony Grove Village adjacent to the Project site. As explained in the Safety Element of the General Plan, because most of the unincorporated County is located within very high or extreme fire threat areas, avoiding high threat areas is not possible (Figure S-1 [Fire Threat]). Therefore, policies focus on minimizing the impact of wildfires through land use planning techniques and other mitigation measures (General Plan, Safety Element, page 7-5)’ As such, Policies LU-6.10 and LU-6.11 respectively require that development be located and designed to protect property and residents from risks such as fire, and that land uses be assigned in a manner that minimizes development in “unmitigable” hazards areas. Development on the Project site has been located so as to provide substantial fuel management zones and minimize the risk of structural loss and life safety resulting from wildland fires consistent with Policy LU-6.10. Also, the Project does not fall into a situation where hazards are unmitigable. A Fire Protection Plan (FPP) has been prepared for the Project that has been reviewed and approved by both the Rancho Santa Fe Fire Protection District (RSFFPD) and the County. The plan provides standards for the development to protect property and residents from wildfire, and reduces the threat of wildfire by incorporating residential requirements exceeding code and substantial fuel management zones and plant materials resistant to fire. Therefore, the Project is consistent with the goals of these policies.</p> <p>Response to Comment O3a-10</p> <p>The County disagrees that the General Plan/Community Plan amendments would create internal inconsistencies. In fact, the amendment would help</p>

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	<p>eliminate potential inconsistency. Although the Community Plan may have expressed a desire to limit the number of urban residences that could be built within the communities of Harmony Grove and Elfin Forest, the strict interpretation of this Policy provided by some of the commenters would be inconsistent with General Plan Policies that allow existing or planned villages to be expanded or new villages to be established. Clearly, these General Plan policies indicate that land use designations were not intended to be locked in forever. There are also numerous other policies in the General Plan that contemplate that future growth will occur and provide direction with respect to its future planning; such as M-2.1 (require development projects to provide road improvements), M-3.1 (require development to dedicate right-of-way), S-3.1 (require development to be located to provide adequate defensibility), and COS-2.2 (requiring development to be sited in least biologically sensitive areas). The General Plan states that it is intended to be a dynamic document and must be periodically updated to respond to changing community needs (General Plan, p. 1-15). Even the Community Plan contemplates that future amendments to the Community Plan may occur when necessary to implement the plan (Community Plan, page 5). Please refer to Global Responses to General Plan/Community Plan Amendments CEQA Impact Analysis and Project Consistency with General Plan Policy LU-1.4 regarding Project consistency with the General Plan/Community Plan for additional discussion.</p>

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<p style="text-align: right;">Comment Letter O3a</p> <p>Ashley Smith June 20, 2017 Page 8</p> <p><i>Board of Supervisors</i> (1981) 126 Cal.App.3d 698, 704. Community Plans are “part of” the General Plan. GP at 3-2 to 3-3, 3-25. Thus, as the General Plan acknowledges, “Community Plans must be internally consistent with General Plan goals and policies of which they are a part. They cannot undermine the policies of the General Plan.” <i>Id.</i> at 3-25; <i>see</i> Gov. Code § 65300.5.</p> <p>The proposed amendments to the Community Plan would create impermissible inconsistencies within the General Plan. For example, the Project would eliminate the strict requirement that the number of urban homes not exceed the number of rural homes in the Community Plan area. Proposed Amendments to Community Plan (“PCP”) at 22, 33. This amendment would undermine General Plan Goal LU-2, which directs the County to maintain its rural character (GP at 3-24), and General Plan Policy LU-1.3, which emphasizes use of land use designations to “preserve surrounding rural lands” (<i>id.</i> at 3-23).</p> <p>In addition, the Project would replace the narrow language in Community Plan Policy SPA-2.2.6 that allows sewer services only for HGV, “without the possibility for expansion,” with a flexible provision that allows any “adequately sized” sewer treatment method to serve both HGV and the new Project area. PCP at 52. However, Community Plan Policy CM-10.2.1 “[r]equire[s] all proposed new development to use septic systems with one septic system per dwelling unit.” CP at 39. The proposed amendment to Policy SPA-2.2.6 would directly conflict with Policy CM-10.2.1, creating an impermissible inconsistency.</p> <p>Further, the deletion of language in the Community Plan acknowledging that the Village Development Pattern “was negotiated” (PCP at 22) would also undermine one of the key purposes of the Community Plan: to “provide a forum for resolving local conflicts” (GP at 3-25 (Policy LU-2.2)). As we noted in 2015, the Community Plan specifically recognizes that developers would want to erode the community’s hard-fought protections. Exhibit D, Letter from Erin Chalmers, Shute, Mihaly & Weinberger LLP to Marisa Smith, County of San Diego Planning and Development Services, re Harmony Grove Village South’s Inconsistency with the General Plan and Community Plan (June 29, 2015) (“SMW Letter”) at 1. After many years of negotiations and community advocacy, the community carefully selected areas where Harmony Grove would grow, while providing strong protections for the area’s rural character, including a firm limit on the urban to rural balance. <i>Id.</i> at 2. The proposed amendments would not only explicitly eliminate these compromises from the Community Plan, they would convert the Community Plan from “a forum for resolving local</p> <div style="text-align: right;"> <p>O3a-10</p> <p>O3a-11</p> <p>O3a-12</p> </div> <p style="text-align: right;">SHUTE, MIHALY & WEINBERGER LLP</p>	<p>Response to Comment O3a-11</p> <p>The commenter is correct that HGV is served by sewer. The Proposed Project would be an extension of the village, and as such, also would be eligible for sewer service. Also, please note that Policy CM 10.2.1 is the third tier of a three-part standard that applies to Elfin Forest, not Harmony Grove. It is a subset of Issue CM-10.2 and Goal CM-10.2. As is clear from Issue CM-10.2, which states: “septic systems <i>are the sole and preferred sewage management for Elfin Forest</i>, [emphasis added] because they ensure that Elfin Forest - Harmony Grove will remain a rural community. The issue relates to Elfin Forest and not Harmony Grove. The Project is not in Elfin Forest. Also, the Goal is for a sewage disposal system that “retains rural character.” The sewage treatment plant designed for HGV South references rural elements and would not conflict with rural character. The issue provides context for the reader, the goal addresses that issue, and the policy is secondary to the goal. One element should not be parsed out from the overall context. Here, the express statement is that Elfin Forest is the area within the larger community where the issue is most sensitive. The goal allows for any treatment available that will retain rural character. Although the Project is not located in a rural zone, the semi-rural elements of the community have been folded into Project design of the proposed Village extension, including architectural treatment of the WTWRF.</p> <p>Response to Comment O3a-12</p> <p>The County cannot “negotiate” or contract away its future right to exercise its land use authority as may be suggested by the commenters. Please refer to Global Responses to General Plan/Community Plan Amendments CEQA Impact Analysis and Project Consistency with General Plan Policy LU-1.4.</p>

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<p style="text-align: center;">Comment Letter O3a</p> <p>Ashley Smith June 20, 2017 Page 9</p> <p>conflicts” to a tool developers may use to pave over the community’s wishes. Such a result would frustrate the Community Plan purposes identified in the General Plan.</p> <p>In sum, while the Project applicant has attempted to squeeze the Project into the General Plan’s framework with a handful of amendments, these amendments bump up against overarching General Plan and Community Plan goals and policies aimed at preventing precisely the type of urban sprawl that the Project would bring to Harmony Grove. As a result, the proposed amendments cannot withstand scrutiny.</p> <p>C. The Project Cannot Be Approved Because It Is Inconsistent with Local Land Use Plans and Regulations.</p> <p>Even if the County could approve the proposed land use amendments, the proposed development would still violate numerous local land use policies and regulations. It is directly inconsistent with several provisions in the General Plan, Community Plan, and Zoning Ordinance. Numerous inconsistencies detailed in our 2015 letter are summarized here, and additional inconsistencies are identified.</p> <p>1. The Project Violates Mandatory Requirements in Policy LU-1.4.</p> <p>General Plan Policy LU-1.4 ensures conformity with the Community Development Model by strictly limiting the expansion of villages. GP at 3-24. New Village designations are “only” allowed on land “contiguous” with an existing or planned village and “only” if “all” of four distinct criteria are met. <i>Id.</i> As detailed in our 2015 letter, the Project fails this test because it is not contiguous with IIGV and does not meet “all” of the mandatory criteria. SMW Letter at 4-11.</p> <p>As explained above, the existing HGV Boundary is surrounded by Semi-Rural and Rural lands, as required by the Community Development Model. GP at 2-8, 3-6, San Dieguito Regional Category Map. The Project is not “contiguous” with this Boundary because it is not in actual contact with it. <i>Id.</i> at 5-9; Merriam-Webster Dictionary, https://www.merriam-webster.com/dictionary/contiguous (last visited May 23, 2017) (defining “contiguous” as “being in actual contact,” “touching along a boundary or at a point,” or “touching or connected throughout in an unbroken sequence”). The DEIR attempts to make the contiguity rule more generous by claiming that an expansion may be “physically adjacent <i>or</i> contiguous” with an existing village, rather than simply “contiguous.” DEIR at 3.1.6-24 (emphasis added). It also describes various components of HGV that are <i>near</i> the Project, but identifies none that actually</p> <p style="text-align: center;">SHUTE, MIHALY & WEINBERGER LLP</p>	<p>Response to Comment O3a-13</p> <p>Please see the Global Response to Project Consistency with General Plan Policy LU-1.4.</p>

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<p style="text-align: center;">Comment Letter O3a</p> <p>Ashley Smith June 20, 2017 Page 10</p> <p>share a border with or are even immediately next to the HGV Boundary. Word games and hand waving do not bring the Project within the meaning of Policy LU-1.4.</p> <p>In addition, one of the four mandatory criteria for an expansion is that it be “consistent with community character, the scale, and the orderly and contiguous growth” of the existing village. GP 3-24. As detailed in our previous letter, the character and scale of the Project clash with the surrounding rural, large-lot, equestrian-friendly community. SMW Letter at 10. The Project also interferes with the orderly and contiguous growth of HGV. The Community Development Model directs villages to concentrate density and higher intensity uses in the center of the village and transition to less intense uses near and outside the village boundary. GP at 2-9. The Project would locate new density outside the HGV Boundary, in a region that the Community Plan directs to reduce land use intensity. SMW Letter at 10. This change is not consistent with the orderly growth of HGV.</p> <p>Further, the Project fails to meet the requirement that the expansion be “compatible with environmental conditions and constraints, such as topography.” GP at 3.24. The proposed new village area would include 7.7 acres of steep slopes – approximately a fifth of the development. DEIR at 1-33 to 1-34. Accordingly, an expansion of HGV into this steep area is not compatible with the local topography.</p> <p>Because the Project is not contiguous with HGV and fails to meet several other mandatory requirements for village expansions, it directly conflicts with the General Plan and cannot be approved. <i>Napa Citizens</i>, 91 Cal.App.4th at 379.</p> <p>2. The Project Is Inconsistent with the Community Development Model.</p> <p>Like the proposed land use amendments, the proposed development itself is incompatible with the Community Development Model. General Plan Policy LU-1.1 directs the County to assign land use designations “in accordance with the Community Development Model.” GP at 3-23. Likewise, General Plan Policy LU-1.2 prohibits “leapfrog development” (defined as “Village densities located away from established villages”) that is inconsistent with the Community Development Model. <i>Id.</i></p> <p>The existing land use designations were selected to implement the Community Development Model and reflect the unique issues, character, and development objectives of the Community Plan area. <i>Id.</i> at 3-23 (Policy LU-1.1), 3-25 (Policies LU-2.1, LU-2.4). This means that to be consistent with the General Plan, HGV</p> <p style="text-align: center;">SHUTE, MIHALY & WEINBERGER LLP</p>	<p style="text-align: center;">O3a-13</p>

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<p style="text-align: center;">Comment Letter O3a</p> <p>Ashley Smith June 20, 2017 Page 11</p> <p>must be surrounded by Semi-Rural and Rural lands, not new urban development. <i>See</i> GP at 2-8. If the County approves the Project, which places new Village density well-outside the HGV village core, this will be inconsistent with the General Plan's directives.</p> <p>3. The Project Fails to Comply with Standards that Protect County Residents from Wildfire Threats.</p> <p>The Project site is located in a Wildland Urban Interface ("WUI") area, within a Very High Fire Hazard Severity Zone. DEIR at 3.1.4-7; Rahn Report at 1, 4-5. It is directly adjacent to hundreds of acres of protected biological open space which cannot be fuel-modified. The vegetation and habitat in this area are prone to brush fires, and the proximity of structures near this vegetation can facilitate the movement of fire. <i>Id.</i> at 4-5. As outlined in the Fire Protection Plan and detailed in the Rahn Report, there have been eighteen wildfires within three miles of the Project site since 1980. DEIR, Appendix L ("FPP") at 15; Rahn Report at 4. These fires burned more than 180,000 acres. FPP at 15; SMW Letter at 18-19.</p> <p>Placing the Project in this high-risk area will: increase and exacerbate people's exposure to fire hazards; create a need for new fire facilities; and locate structures and residents in areas highly susceptible to hazards. Rahn Report at 1.</p> <p>As discussed below, numerous local land use policies acknowledge the fire risks posed in this region and implement measures intended to avoid the highest risks and minimize harm to the public. The Project violates many of these policies. As a result, not only would approval of the Project be unlawful, it would likely put lives and property in jeopardy. <i>Id.</i> at 9-10, 15-16.</p> <p>(a) The Project Directly Conflicts with General Plan Policies that Guard against Fire Hazards.</p> <p>As the General Plan explains, fire threats are prevalent countywide, so County policies focus on minimizing the impact of wildfires through land use planning techniques and other mitigation measures. GP at 7-5. Reducing densities in the areas most susceptible to fire dangers is the most basic planning principle. Here, the Project proposes the opposite: it would change land use designations and <i>increase</i> density in areas where constraints and hazards are clearly documented, thereby placing more people at increased risk of wildland fire hazards.</p> <p style="text-align: right;">SHUTE, MIHALY & WEINBERGER LLP</p>	<p>Response to Comment O3a-14</p> <p>Please see Response to Comment O3c for a response to Exhibit B ("Rahn Report") and the Global Response to Fire Hazards Impact Analysis.</p> <p>Response to Comment O3a-15</p> <p>The County disagrees that the Project would conflict with General Plan Land Use and Safety Element policies related to fire hazards. The comment is correct in stating the Safety Element protects County residents with policies "that locate development away from hazardous areas." However, the County General Plan policies also focus on minimizing the impact of wildfires through land use planning techniques and other mitigation measures. The General Plan explains that such minimizing techniques are necessary because avoiding high threat areas is not possible as most of the unincorporated County is located within very high or extreme fire threat areas (Figure S-1 [Fire Threat], General Plan, Safety Element, page 7-5). Therefore, the commenter's suggestion that reducing density is the only acceptable land use planning technique in areas most susceptible to fire danger in the County would result in preventing development within most of the unincorporated County. It also ignores the focus on minimizing the impact of wildfires through mitigation measures and incorrectly implies that there is only one way to minimize the risks posed from wildland fires. In addition, the EIR does not neglect Policy S-1.1. Relevant to assignment of land use densities and designations in the general sense, this is a County responsibility as a land use agency. In order to carry out this responsibility, the County is engaged in a continuing process of analyzing proposed projects and their appropriateness of varied settings. The Project has been specifically reviewed relative to its incorporation and responsiveness to site specific constraints and hazards. In conjunction with S-1.1, applying the other policies of the General Plan such as Policy LU-6.10 and 6.11 would mean that development would be located on the Project site so as to minimize the risk of structural loss and life safety resulting from wildland fires. The Project would not be developed where hazards cannot be mitigated. Additional information relevant to fire concerns is provided below.</p> <p>The RSFFPD and the County have vetted the Project's FPP and related risk assessment and have accepted the FPP, thus concurring that the Project's location does not heighten its vulnerability to wildfire. The developed portions</p>

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	<p>of the Project are located on the lower elevations (more valley floor) instead of at ridgetops with adjacent shrub fuels, where wildfire typically burns more aggressively. Also, the Project is located adjacent to lower density fuel load landscapes that provide buffers from encroaching wildfire (HGV to the north, existing grass-dominated landscape to the northwest). Further, there is a fully staffed, Schedule A (full time staffing 24 hours per day, 7 days per week) RSFFPD fire station within a very short distance and response time to all portions of the Project. Importantly, the Project's location includes a robust fire-fighting response capability through various mutual and automatic aid agreements. Fire agencies that can respond quickly to wildfires in the region include RSFFPD, San Marcos Fire Department, Escondido Fire Department, and CAL FIRE. Vegetation fires require special apparatus and depending on weather and fuel conditions, may require a significant response. RSFFPD will be able to call on the full CAL FIRE response, which initially would include 5 to 10 Type III engines (depending on dispatch level), a Battalion Chief, three fixed-wing aircraft (two tankers and air attack), a dozer, two hand crews, and two helicopters. Extended fire events would result in a much larger response with thousands of firefighters and hundreds of engines, as well as additional aircraft.</p> <p>Please refer to Response to Comment O3a-9 regarding Policies LU-6.10 and 6.11. Please also see Global Response to Fire Hazards Impact Analysis.</p>

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<p style="text-align: right;">Comment Letter O3a</p> <p>Ashley Smith June 20, 2017 Page 12</p> <p>The DEIR acknowledges that, to avoid hazards associated with fires, the Project “must be consistent with” numerous General Plan Land Use and Safety Element policies. DEIR at 3.1.6-19. The Safety Element protects County residents with policies “that locate development away from hazardous areas.” GP at 7-2. While the DEIR cites several of these relevant safety policies, it neglects the overarching Policy S-1.1, which seeks to “[e]nhance[] public safety and the protection of public and private property” by directing the County to “[m]inimize the population exposed to hazards by assigning land use designations and density allowances that reflect site specific constraints and hazards.” <i>Id.</i> at 7-4. Likewise, the Land Use Element and maps ensure land use designations will direct development away from hazards. <i>Id.</i> at 7-2. Policy LU-6.11, which the DEIR identifies as relevant, states: “Protection from Wildfires and Unmitigable Hazards. Assign land uses and densities in a manner that minimizes development in extreme, very high and high fire threat areas.” <i>Id.</i> at 3-29. Similarly, Policy LU-6.10, which the DEIR fails to cite, “[r]equire[s] that development be located . . . to protect property and residents from the risks of natural and man-induced hazards.” <i>Id.</i></p> <p>Because the Project places dense, urban development in a Very High Fire Hazard Severity Zone, it directly conflicts with these policies. Further, because these conflicts stem from the location of the Project, they cannot be resolved with fire safety measures in a Fire Protection Plan.</p> <p>(b) The Project violates the County’s secondary egress requirements, and no evidence supports an exception.</p> <p>Development regulations – as well as common sense – require more than one point of access for a community as large as that proposed here. Numerous local, state, and federal fire safety standards emphasize the importance of multiple ingress/egress routes. Rahn Report at 8-10. Both the General Plan and the County Fire Code apply this requirement to developments in the County.</p> <p>The General Plan requires developments to include secondary access routes, to facilitate emergency services and evacuation. Policy M-1.2 directs the County to “provide both primary and secondary access/egress routes that support emergency services during fire and other emergencies.” GP at 4-12. The Fire Hazards section of the General Plan similarly states the County will “[r]equire development to include multiple access/egress routes when necessary to ensure adequate safety.” <i>Id.</i> at 7-7. Policy S-3.5 states: “Access Roads. Require development to provide additional access roads where necessary to provide for safe access of emergency equipment and civilian evacuation</p> <p style="text-align: right;">O3a-15</p> <p style="text-align: right;">O3a-16</p> <p style="text-align: right;">SHUTE, MIHALY & WEINBERGER LLP</p>	<p>Response to Comment O3a-16</p> <p>Please see the Global Responses to Fire Hazards Impact Analysis and Adequacy of Emergency Evacuation and Access.</p> <p>Specifically regarding Policies M-1.2, S-3.5 and S-2.6, these policies are directed at County-wide application and are not specifically project related . Each of these policies focuses on secondary access and/or safe evacuation in emergency, with S-3.5 requiring “additional access roads when necessary to provide for safe access of emergency equipment and civilian evacuation concurrently.” Secondary access is not required in every instance by S-3.5, but is only required where necessary. S-2.6 requires the development and implementation of an effective evacuation program for areas of risk in the event of a natural disaster. Policy M 1.2 reflects the County’s desire to provide an interconnected public road network with multiple connections that improve efficiency by incorporating shorter routes between trip origin and destination, disperse traffic, reduce traffic congestion in specific areas, and provide both primary and secondary access/egress routes that support emergency services during fire and other emergencies. Further, the Fire Code allows for modifications (Sec 96.1.104.8) subject to specific findings. The HGV South modification has been determined by the County and RSFFPD to meet the necessary specific findings, as detailed in the HGV South FPP Section 5.2.1 and described below.</p> <p>The Proposed Project would widen Country Club Drive to three lanes and provide multiple additional fire protection and traffic measures in lieu of secondary access. This would improve the function of the existing intersection with Harmony Grove Road and provide for additional capacity to expedite emergency access out of or into the site. It would provide additional emergency evacuation and three separate access ways within the Project. (These access roads are part of a looped interior road system that ensures that the northern roadway can be accessible by all residents.) This widening would benefit the Project, as well as other residents south of Harmony Grove Road in case of emergency.</p>

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<p style="text-align: right;">Comment Letter O3a</p> <p>Ashley Smith June 20, 2017 Page 13</p> <p>concurrently.”¹ <i>Id.</i> at 7-8; <i>see also id.</i> at 7-5 (Policy S-2.6: “Effective Emergency Evacuation Programs. Develop, implement, and maintain an effective evacuation program for areas of risk in the event of a natural disaster.”); SMW Letter at 21-22.</p> <p>The County Fire Code puts these General Plan directives into action by requiring that developments meet numerous, strict standards to protect health and safety. In particular, the Fire Code limits the length of dead-end roads for fire safety purposes. Fire Code § 503.1.3. Dead-end roads,² including all dead-end roads accessed from other dead-end roads, must not exceed a maximum length of 800 feet for parcels zoned for less than 1 acre. This ensures that residents can escape even if one road is blocked and that emergency personnel may access a site via multiple routes.</p> <p>As detailed in our previous letter and the Rahn Report, the requirement for safe egress is absolutely crucial. Nonetheless, the Project proposes to have a dead-end road that is approximately a mile long – more than five times longer than the maximum allowed by the Fire Code. <i>See</i> FPP at 20; DEIR at 3.1.4-20. Accordingly, some Project residents would have to drive nearly a mile before they have a choice of directions to escape. Emergency vehicles would also have to access the Project on the same road that residents are using to attempt to evacuate. Rahn Report at 9.</p> <p>While the Fire Code allows modifications to its requirements in certain, narrow circumstances, a modification to the secondary egress requirement is wholly inappropriate here. Rahn Report at 9-10; SMW Letter at 20-21. A modification to Fire Code requirements is only allowed where: strict compliance is “impracticable,” “the modification is in compliance with the intent and purpose” of the Fire Code, and the modification “does not lessen health, life and fire safety requirements.” Fire Code § 96.1.104.8. The DEIR and Fire Protection Plan do not demonstrate that strict compliance with the dead-end rule is “impracticable.” Rahn Report at 9, 16. Further, they offer only conclusory claims that the proposed alternative measures would provide an equivalent level of safety, without any empirical evidence. <i>Id.</i></p> <p>In addition, as we previously noted, the Town Council is concerned that the County might be unduly motivated by funding issues to approve a modification to the egress standard. SMW Letter at 25. The Project is slated to be served by the planned</p> <hr/> <p>¹ Though the DEIR cites almost every General Plan policy supporting Goal S-3 (“Minimized fire hazards”), the DEIR omits this key policy. <i>See</i> DEIR at 3.1.6-19.</p> <p>² A dead-end road is “[a] road that has only one point of vehicular ingress/egress, including cul-de-sacs and looped roads.” Fire Code § 96.1.202.</p> <p style="text-align: right;">SHUTE, MIHALY & WEINBERGER LLP</p>	<p>Although not providing secondary access as normally configured, there also would be four ingress and egress routes available north of Escondido Creek (Rohde & Associates 2016). Therefore, there is no conflict with Policies M-1.2, S-3.5, and S-2.6. The courts have consistently held that a project need not be a perfect match with each and every policy, but needs only to be consistent overall with the General Plan (<i>Friends of Lagoon Valley v. City of Vacaville</i> [2007] 154 Cal.App.4th 807, 817; <i>see also Sequoyah Hills Homeowners Assn. v. City of Oakland</i> [1993] 23 Cal.App.4th 704, 719, 29 Cal.Rptr.2d 182, consistency is defined as “compatibility” and not strict adherence to every policy in the general plan).</p> <p>The comment regarding the speculative motive to approve the Proposed Project is noted but does not raise specific issues regarding the content of the EIR. As such, it does not require further response.</p>

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<p style="text-align: right;">Comment Letter O3a</p> <p>Ashley Smith June 20, 2017 Page 14</p> <p>Harmony Grove Village fire station, which is currently underfunded. <i>See</i> DEIR at 3.1.4-22; 3.1.9-9. Approving the Project would provide more homes—and accordingly more funding—for this fire station, thereby helping address this funding shortfall. <i>Id.</i> at 3.1.9-9 (HGV fire station requires additional funding to cover annual operating costs and the Project would provide funding “to help close the financial gap that currently exists.”). Although the County should certainly consider all reasonable ways to address the funding shortfall, the County must not place budget issues before public safety.</p> <p>The measures proposed to substitute for the secondary egress are untested and would use the new community as guinea pigs, rather than ensuring their safety. <i>Id.</i> Even if a modification to the dead-end road maximum could ever be appropriate in a Very High Fire Hazard Severity Zone like the Project area, the information included in the DEIR and FPP fall far short of the bar. Thus, the Project would violate General Plan and Fire Code provisions that require a secondary egress to protect public safety.</p> <p>III. Approval of the Project Would Violate the Subdivision Map Act.</p> <p>The proposed Project requires approval of a tentative subdivision map. <i>See</i> DEIR at 1-31. As a result, the County must comply with the Subdivision Map Act. This statute requires that a tentative map approval be consistent with the local general plan. <i>See</i> Gov. Code §§ 66473.5; 66474; <i>see also Friends of “B” Street v. City of Hayward</i> (1980) 106 Cal.App.3d 988, 998 (Subdivision Map Act expressly requires consistency with general plan). Approval of a project that is inconsistent with the general plan violates the Subdivision Map Act and may be enjoined on that basis. <i>See Friends of “B” Street</i>, 106 Cal.App.3d at 998 (“City approval of a proposed subdivision ... may be enjoined for lack of consistency of the subdivision map with the general plan.”).</p> <p>As detailed above and throughout this letter, the Project is inconsistent with various goals and policies set forth in the County’s General Plan. <i>See, e.g.,</i> Section II, <i>supra</i>. Because approval of the Project would violate the general plan consistency requirements of the Subdivision Map Act, the Project application must be denied.</p> <p>IV. The DEIR’s Description of the Project and Environmental Setting Are Flawed.</p> <p>A. The Project Description Is Misleading.</p> <p>The DEIR presents a misleading project description that paints the proposed Project as a continuation and natural outgrowth of Harmony Grove Village. The</p> <p style="text-align: right;">SHUTE, MIHALY & WEINBERGER LLP</p>	<p>Response to Comment O3a-17</p> <p>The County disagrees that the Project is inconsistent with the General Plan as detailed in the Global Response to Project Consistency with General Plan Policy LU-1.4 and General Plan/Community Plan Amendments CEQA Impact Analysis. Therefore, the Project is not in violation of the Subdivision Map Act.</p> <p>Response to Comment O3a-18</p> <p>The County disagrees that the EIR Project Description is flawed or misleading or that the Project is not contiguous to the adjacent HGV. The name of the Project describes a geographic and neighborhood location. The comment is incorrect that the Project is described as “infill” on the cited pages. That word does not occur in either the Summary or Chapter 1.0 of the EIR, regardless of page. The comment is correct that the presence of HGV, including the completed parks and planned Equestrian Ranch across the street from HGV South, provides physical context for Project analysis. Please see the Global Response to Project Consistency with General Plan Policy LU-1.4.</p>

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<p style="text-align: right;">Comment Letter O3a</p> <p>Ashley Smith June 20, 2017 Page 15</p> <p>DEIR states that “The presence of HGV, as well as the improvements already built or committed to as part of HGV, provides the physical context through which to view the Proposed Project.” DEIR at 1-2. Even the name of the proposed Project (i.e., Harmony Grove Village South) appears to be chosen to purposely confuse decision-makers and the public, and to suggest that it is part of the already approved project to the north.</p> <p>The DEIR also describes the Project as “infill development” that would complete the fourth quadrant of the cross-road intersection occupied by Harmony Grove Village. DEIR at ES-3 to ES-4, 1-26. These statements imply that Harmony Grove Village somehow sets the stage for the proposed Project and that HGV is planned to complete Harmony Grove Village. However, the two projects are completely separate and unrelated. Development of the Project is not a natural evolution of the existing community, but rather a new subdivision of 450 units inconsistent with the rural densities designated on the site that would alter the site from rural to urban scale uses. <i>See</i> CP at 27 (HGV Boundary limits urban development to areas within the Boundary; “[a]reas outside this limit line are not intended to expand and should retain the original Harmony Grove rural residential and agricultural character.”); <i>see also</i> GP, San Dieguito Regional Category Map, 3-25 (Policies LU-2.5, LU-2.6) (existing General Plan land use designations ensure a buffer between HGV and Escondido). Urban densities on this site were specifically rejected during the visioning workshops for the entire valley led by County staff as part of the General Plan update process. Instead the community and County staff agreed to site all of the new dense housing north of Escondido Creek at the Harmony Grove Village site.</p> <p>B. The DEIR Uses an Improper Baseline for Assessing Project Impacts.</p> <p>Under CEQA, a lead agency must establish an appropriate baseline against which to assess whether a project’s environmental effects are likely to be significant. <i>Neighbors for Smart Rail v. Exposition Metro Line Construction Authority</i> (2013) 57 Cal.4th 439, 447. “The key [to determining the proper baseline] is the EIR’s role as an informational document.” <i>Id.</i> at 453. The lead agency must “employ a realistic baseline that will give the public and decision makers the most accurate picture practically possible of the project’s likely impacts.” <i>Id.</i> at 459. This baseline normally reflects “the existing physical conditions in the affected area, that is, the real conditions on the ground.” <i>Communities for a Better Environment v. South Coast Air Quality Management Dist.</i> (2010) 48 Cal.4th 310, 321 (citations omitted). Accordingly, agencies cannot use allowable development as the baseline for environmental review, when such development has not been realized. <i>Id.</i> at 320-22. However, under certain circumstances, adjustments</p> <p style="text-align: right;">SHUTE, MIHALY & WEINBERGER LLP</p>	<p>Response to Comment O3a-19</p> <p>The County agrees with the general statements regarding identification of baseline, that it generally reflects the existing condition, that its purpose is to establish the most appropriate basis against which to assess whether Project impacts could be significant, and that in some instances adjustments “may be necessary to prevent misinforming or misleading the public and decision makers.” The County disagrees with the comment that baseline data used in the traffic study is not appropriate or would otherwise violate CEQA. Please see the Global Response Baseline Conditions, which addresses this question overall. However, addressing just the issue of traffic, it was determined that assuming solely existing conditions would result in skewing Project analyses.</p> <p>In order for the traffic analysis to be informative and not misleading, it was clear that all of HGV’s roadway improvements were completed or nearing completion and as such should be included in describing the underlying roadway conditions. These roadway improvements would provide additional capacity at a number of the impacted locations. Therefore, the addition of HGV’s traffic volumes to the overall street system both in the County and the City of Escondido would reduce the available capacity area-wide that would otherwise be available for the Proposed Project, creating a more accurate and conservative picture of the Project’s likely impacts. It eliminated any artificial capacity that would have appeared available based on existing traffic loads, but which was actually already allocated to the approved and building out HGV; and therefore clarified the additional loading that HGV South traffic would put on the existing system. Assuming traffic counts based solely on existing uses at that time would have created a misleading picture of existing conditions that would continue to change on a monthly (or perhaps even shorter periods of time) as sales ensued and residents moved in. To demonstrate that the study was conservative, and did not underestimate existing conditions, 2017 validation counts were undertaken. Please see the Response to Comment O3a-29 of this letter, which specifically addresses this issue.</p>

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	<p>Relative to the Harmony Grove Spiritualist Association (HGSA), the assumption that it would rebuild was based on conversations both with HGSA residents and County staff following the Cocos fire. The current EIR assumptions related to HGSA do not significantly affect substantive analysis relative to the Project and its setting given its small size and location at the far extent of Country Club Drive.</p>

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<p style="text-align: right;">Comment Letter O3a</p> <p>Ashley Smith June 20, 2017 Page 16</p> <p>to the baseline may be “necessary to prevent misinforming or misleading the public and decision makers.” <i>Neighbors for Smart Rail</i>, 57 Cal.4th at 448, 451.</p> <p>The DEIR’s treatment of the baseline violates two fundamental requirements of CEQA. First, under <i>Communities for a Better Environment v. South Coast Air Quality Management Dist.</i> (2010) 48 Cal.4th 310, agencies should not rely on permit levels to determine baseline conditions. Rather, the baseline should reflect existing conditions on the ground. Second, if an agency deviates from the existing baseline conditions scenario, it must provide substantial evidence to demonstrate why an analysis of the project compared to existing conditions would be misleading. <i>Neighbors for Smart Rail v. Exposition Metro Line Construction Authority</i> (2013) 57 Cal.4th 439.</p> <p>Here, the DEIR improperly relied on anticipated, future development of Harmony Grove Village and the Harmony Grove Spiritualist Association to determine the baseline for impacts generated by the Project. The DEIR makes clear that the baseline does not rely on existing conditions on the ground, but instead relies on full build-out conditions—that do not actually exist—to assess project impacts. DEIR at 1-27, 1-29. Moreover, the DEIR fails to provide the required evidence and analysis explaining why the use of a true, existing conditions baseline would be misleading. The result is a skewed analysis that minimizes the Project’s impacts. To provide the “most accurate picture” of the Project’s impacts, the County must use the existing conditions on the ground at the time the Notice of Preparation was published as the baseline for its environmental analysis. <i>See Neighbors for Smart Rail</i>, 57 Cal.4th at 448, 459.</p> <p>1. The DEIR Should Evaluate the Impacts of the Project Against Existing Conditions, Not Future, Permitted Levels Of Development.</p> <p>An environmental document must include an accurate account of the physical environmental conditions under which a project will be carried out. These conditions “normally constitute the baseline” against which the significance of impacts is measured. CEQA Guidelines §15125(a). The baseline describes the environment <i>without</i> the project; its function is to allow the agency to determine what will happen to the environment if the project is approved. As the California Supreme Court has explained, “[t]o decide whether a given project’s environmental effects are likely to be significant, the agency must use some measure of the environment’s state <i>absent the project.</i>” <i>Communities for a Better Environment v. South Coast Air Quality Management Dist.</i> 48 Cal.4th at 315 (emphasis added).</p> <p style="text-align: right;">SHUTE, MIHALY & WEINBERGER LLP</p>	<p>Response to Comment O3a-20</p> <p>The comment uses the concepts of “permitted” development and “building out” development as synonymous terms. This is not appropriate to the discussion. This is not a case of assuming “permitted” development. That term usually applies to a baseline assuming that future, speculative, and unknown uses could be in place simply because those uses would be allowed under a plan or permit. In this case, at the time of issuance of the Project’s NOP (2015), most of the buildable portion of the HGV site was graded, Country Club Drive had been widened, Harmony Grove Road and Harmony Grove Village Parkway had been newly constructed, and Harmony Grove Road had been realigned and was in the process of being improved. Overall, roadway widths had been widened, additional lanes were present, and striping was completed on these wider roadways. Vertical construction of HGV was underway and home sales had begun. Other HGV infrastructure (sewer facility) and public park areas were completed. Sales are ongoing, and residents are moving in. What would be most speculative at this point (as well as earlier in the process) would be to assume that the developer would suddenly stop implementing the parts of that project that will provide payment for all the up-front development costs that had already been expended. Please see the Global Response Baseline Conditions as well as Response to Comment O3a-19.</p> <p>With respect to the comment that the Project-generated traffic is the result of an inflated baseline, which results in an underestimation of Project-related traffic impacts, the County disagrees. Instead, the County finds that the baseline volumes used in the analysis conservatively overstate current traffic loading in the study area. As noted above, if only the traffic utilizing area roadways had provided baseline for the Project traffic study, the roadway capacity that had already been improved or newly constructed by HGV as part of its build out along Harmony Grove Road, Country Club Drive and Harmony Grove Village Parkway, would have provided an apparent and substantial excess capacity, which the Project traffic could have filled during modeling, with the result that Project impacts would have been underestimated.</p>

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<p style="text-align: right;">Comment Letter O3a</p> <p>Ashley Smith June 20, 2017 Page 17</p> <p>Given the particular facts surrounding a project, an agency must determine, “in the first instance, exactly how the existing physical conditions <i>without the project</i> can most realistically be measured.” <i>See id.</i> at 328 (emphasis added). Selecting the appropriate baseline is crucial to ensuring that a project’s impacts are fully disclosed and analyzed, as required by CEQA. <i>See Woodward Park</i>, 150 Cal.App.4th at 707 (baseline requirement “protect[s] the fundamental essence of an EIR, its evaluation of a project’s environmental impacts”). Selecting an improper baseline “can only mislead the public as to the reality of the impacts and subvert full consideration of the actual environmental impacts which would result.” <i>Environmental Planning and Information Council of W. El Dorado County v. County of El Dorado</i> (1982) 131 Cal.App.3d 350, 357 (“EPIC”).</p> <p>Here, the DEIR’s reliance on permitted, rather than actual levels of site use and occupancy, violates CEQA. The DEIR acknowledges that, at the time the NOP was published (August 2015), Harmony Grove Village was not constructed, much less occupied, and that Harmony Grove Spiritualist Association (comprised of a church, residences, and associated buildings) was burned by wildfire in May 2014. DEIR at 1-27, 1-29. In addition, area residents report that, since the NOP, only approximately 30 dwelling units in Harmony Grove Village are occupied. The DEIR provides no information on Harmony Grove Village’s actual current level of occupation. Yet, the DEIR assumed that all the vehicle trips previously approved for Harmony Grove Village in 2008—thousands of daily weekday trips from more than 700 dwelling units—would serve as the baseline for the Project’s impacts. DEIR at 2.2-5.</p> <p>Construction and occupation of the remainder of the Harmony Grove Village residences is subject to market conditions, and is thus, speculative. Given that those trips were not occurring at the time of the Notice of Preparation (“NOP”), this assumption is based on speculation of a theoretical future condition rather than the existing traffic condition. The result is that Project-generated traffic is compared to an inflated baseline, which results in an underestimation of Project-related traffic impacts. This approach runs contrary to legal precedent, as well as to the fundamental purposes of CEQA.</p> <p>2. The DEIR Lacks Support For Establishing a Baseline Based Upon Theoretical Future Conditions.</p> <p><i>Communities for a Better Environment</i> establishes that the baseline must be consistent with the major purposes underlying CEQA: public disclosure and mitigation of a project’s environmental impacts. <i>Id.</i> at 322; <i>see also Woodward Park Homeowners Association</i>, 150 Cal.App.4th at 707. As a result, an agency cannot select a baseline that</p> <p style="text-align: right;">SHUTE, MIHALY & WEINBERGER LLP</p>	<p>Response to Comment O3a-21</p> <p>Please see Response to Comment O3a-19. Please see the Global Response Baseline Conditions. Regarding the final point in this comment, it is agreed that assuming HGV traffic pushes Project traffic closer to thresholds. This is exactly what is meant by conservative—by adding Project traffic to a baseline assuming HGV results in any Project exceedances being seen as direct impacts that require direct mitigation, rather than simply contributing to a cumulative condition.</p>

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<p style="text-align: right;">Comment Letter O3a</p> <p>Ashley Smith June 20, 2017 Page 18</p> <p>provides “an illusory basis for a finding of no significant adverse effect.” <i>Communities for a Better Environment</i>, 48 Cal.4th at 322. The Supreme Court reiterated this holding in <i>Neighbors for Smart Rail v. Exposition Metro Line Construction Authority</i> (2013) 57 Cal.4th 439, 453, where it found that agencies must support the decision to deviate from an existing conditions baseline by demonstrating that it would result in a misleading view of a project’s impacts.</p> <p>As discussed above, an agency’s choice of baseline must allow it to realistically describe <i>both</i> the existing environmental conditions and the impacts of the project. Thus, an agency’s choice of baseline should both accurately characterize the existing environment and allow the agency to analyze and mitigate the full scope of a project’s impacts. The DEIR evaluates conditions for the permitted levels for Harmony Grove Village but fails to evaluate existing environmental conditions.</p> <p>The DEIR states that incorporating full traffic loading that will result from Harmony Grove Village into the existing baseline provides “the most accurate and most conservative (most impactful) assessment of traffic and traffic-reliant technical issues, such as noise, air quality and GHG.” DEIR at 2.1.6-2. However, to the extent that the Harmony Grove Village traffic makes area intersection operating conditions worse, the effect would be to create a more conservative version of existing conditions (i.e., intersection levels of service would be closer to exceeding the adopted threshold). The DEIR fails to provide substantial evidence in support of its decision to deviate from an existing conditions baseline.</p> <p>V. The DEIR’s Analysis of and Mitigation for the Impacts of the Proposed Project Are Inadequate.</p> <p>The EIR is “the heart of CEQA.” <i>Laurel Heights Improvement Assn. v. Regents of University of California</i> (1988) 47 Cal.3d 376, 392 (citations omitted). It is “an environmental ‘alarm bell’ whose purpose it is to alert the public and its responsible officials to environmental changes before they have reached ecological points of no return. The EIR is also intended to demonstrate to an apprehensive citizenry that the agency has, in fact, analyzed and considered the ecological implications of its action.” <i>Id.</i> (citations omitted). Where, as here, the environmental review document fails to fully and accurately inform decision-makers, and the public, of the environmental consequences of proposed actions, it does not satisfy the basic goals of the statute. <i>See</i> Pub. Resources Code § 21061 (“The purpose of an environmental impact report is to provide public agencies and the public in general with detailed information about the effect that a proposed project is likely to have on the environment. . . .”).</p> <p style="text-align: right;">SHUTE, MIHALY & WEINBERGER LLP</p>	<p>Response to Comment O3a-22</p> <p>The County disagrees that the EIR fails to adequately analyze the Project’s environmental impacts. Moreover, the comment is general and does not raise specific issues regarding the content of the EIR. Please see Response to Comment O3a-23 through O3a-51 for responses to specific issues raised.</p>

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<p style="text-align: right;">Comment Letter O3a</p> <p>Ashley Smith June 20, 2017 Page 19</p> <p>The evaluation of a proposed project's environmental impacts is the core purpose of an EIR. <i>See</i> CEQA Guidelines § 15126.2(a) ("An EIR shall identify and focus on the significant environmental effects of the proposed project"). It is well established that the County cannot defer its assessment of important environmental impacts until after the project is approved. <i>Sundstrom v. County of Mendocino</i> (1988) 202 Cal.App.3d 296, 306-07.</p> <p>As explained below, the DEIR fails to analyze the Project's numerous environmental impacts, including those affecting land use, transportation and circulation, air quality, climate change, and public health and safety. In addition, in numerous instances, the EIR also fails to adequately analyze the Project's cumulative impacts. These inadequacies require that the DEIR be revised and recirculated so that the public and decision-makers are provided with a proper analysis of the Project's significant environmental impacts and feasible mitigation for those impacts. <i>See</i> CEQA Guidelines § 15002(a)(1) (listing as one of the "basic purposes" of CEQA to "[i]nform governmental decision makers and the public about the potential, significant environmental effects of proposed activities").</p> <p>A. The DEIR Fails to Address Environmental Impacts that Will Likely Result from the Proposed Land Use Amendments.</p> <p>CEQA requires agencies to study the environmental impacts of discretionary project approvals, including projects that will weaken land use policies and regulations designed to avoid or mitigate environmental effects. Pub. Resources Code § 21100; <i>Inyo Citizens for Better Planning v. County of Inyo</i> (2009) 180 Cal.App.4th 1, 9-10. "Projects" subject to environmental review include the adoption and amendment of general plans. CEQA Guidelines § 15378(a)(1); <i>City of Redlands v. County of San Bernardino</i> (2002) 96 Cal.App.4th 398, 409. For example, in <i>Inyo Citizens</i>, the court found that, because a land use plan could be interpreted as a development moratorium, an EIR was required to consider the environmental impacts of an amendment that would remove the moratorium. 180 Cal.App.4th at 9-10.</p> <p>In particular, under well settled law, an EIR must analyze a planning amendment's maximum development potential, not an estimated or desired level of development. Specifically, the evaluation of a general plan amendment must include consideration of all future development permitted by the amendment. <i>City of Redlands</i>, 96 Cal.App.4th at 409. Environmental review of potential development allowed by planning enactments must occur regardless of whether additional impediments to that development remain. <i>Christward Ministry v. Super. Ct.</i> (1986) 184 Cal.App.3d 180, 194-</p> <p style="text-align: right;">SHUTE, MIHALY & WEINBERGER LLP</p>	<p>Response to Comment O3a-23</p> <p>Please see the Global Responses to General Plan/Community Plan Amendments CEQA Impact Analysis (particularly under the heading "Secondary Effects of Plan Amendments" and Project Consistency with General Policy LU-1.4.</p>

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<p style="text-align: right;">Comment Letter O3a</p> <p>Ashley Smith June 20, 2017 Page 20</p> <p>95; <i>City of Carmel-by-the-Sea v. County of Monterey</i> (1986) 183 Cal.App.3d 229, 235, 241-42 (EIR must be prepared for rezoning, even if no expanded use of the property is proposed).</p> <p>The proposed land use amendments associated with this Project would loosen development restrictions intended to strictly control growth in the unincorporated County, with far-reaching impacts. For example, the Project would extend the HGV Boundary well beyond the proposed development area for the Project. Figure II.2, Proposed Regional Categories, HGVS. Although the Project does not designate the entire area within the Boundary as Village land, the Community Plan's growth directive turns on the Boundary, not the Village land designation. PCP at 29 (HGV Boundary "is a growth boundary that identifies land to which development should be directed"). This means that future growth could be directed throughout the HGV Boundary area. In addition, the proposed Community Plan amendments eliminate the requirement that urban homes not outnumber the rural homes. <i>Id.</i> at 22, 33. So while the Community Plan currently imposes an absolute cap on the pace of urban growth, the qualitative policies in the proposed amendments would allow substantially more urbanization, with a wide range of environmental impacts, including impacts related to wildland fire hazards, traffic, air quality, and climate change.</p> <p>If the County had approved only the land use plan amendments, without the proposed development, the County would have been required to analyze the potentially significant impacts of the full range of potential development allowed by those amendments. CEQA Guidelines § 15378(a)(1). The fact that the Project also includes a specific development does not change this obligation. Nonetheless, the DEIR systematically fails to consider the broad potential environmental impacts of development allowed by the proposed amendments. Failure to disclose this critical information violates CEQA.</p> <p>B. The DEIR Fails to Adequately Analyze Fire Hazards.</p> <p>The fire hazards caused by and affecting development in the Project area cannot be overstated. As recent years have demonstrated, wildfires dramatically alter the environment in California, pose a tremendous risk of injury and death, and cause billions of dollars of damage to buildings and infrastructure. The Project site, in particular, is located in a Very High Fire Hazard Severity Zone and has burned regularly: the site itself burned in the 1997 Del Dios Fire and the 2014 Cocos Fire reached the northwest edge of the property. FPP at 14. In addition, the area immediately surrounding the Project site has</p> <p style="text-align: right;">SHUTE, MIHALY & WEINBERGER LLP</p>	<p>Response to Comment O3a-24</p> <p>Please see the Global Responses to Fire Hazards Impact Analysis and Adequacy of Emergency Evacuation and Access. Please also see Response to Comment O3c for a response to Exhibit B ("Rahn Report").</p>

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<p style="text-align: center;">Comment Letter O3a</p> <p>Ashley Smith June 20, 2017 Page 21</p> <p>suffered from eighteen fires since the 1980s – a fire frequency of less than two years. <i>Id.</i> at 15; Rahn Report at 4.</p> <p>The proposed Project would expand the WUI, contributing to even greater fire risks. Rahn Report at 4-5. The environmental destruction wrought by wildfires is exacerbated by development in the WUI, which unwisely places people and structures directly in the line of fire. <i>Id.</i> at 5. Further, the threat of wildfire is increasing. <i>Id.</i> at 12-15. In the coming decades, climate change will alter temperatures, winds, precipitation, and species, with potentially substantial fire hazard impacts. <i>Id.</i> Because of the severe fire risks, one would expect the DEIR to thoroughly examine the potential for the Project to exacerbate hazardous conditions and identify comprehensive measures to reduce this risk. It does not.</p> <p>1. The DEIR Improperly Concludes Inconsistencies with Fire Hazard Policies Are Not a Significant Impact.</p> <p>As explained above, the DEIR fails to acknowledge that the Project is inconsistent with the land use policies regarding fire hazards and safe evacuations. These inconsistencies constitute significant environmental impacts. <i>See</i> CEQA Guidelines, Appendix G; DEIR at 3.1.4-19 to 3.1.4-20 (significant impacts related to fire hazards would occur if the Project cannot demonstrate compliance with all applicable fire codes; Project does not comply with Fire Code § 503.1.3). The Project’s proposed alternatives to strict compliance with Fire Code section 503.1.3 are premature and unlawful mitigation measures that cannot be used to avoid identifying this significant impact. <i>See Lotus v. Department of Transportation</i> (2014) 223 Cal.App.4th 645, 658 (rejecting EIR that relied on project modifications to find no significant impact, instead of identifying significant impacts and considering mitigation measures).</p> <p>2. The DEIR’s Conclusion that the Project Will Not Increase Fire Hazards Is Unsupported.</p> <p>The DEIR’s analysis of the Project’s fire hazards is also inadequate. The Project would result in a significant impact if it would expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands. CEQA Guidelines, Appendix G § VIII(h); FPP at 19. The DEIR and FPP conclude that, because the Project would convert ignitable fuels into a developed landscape, the Project would not significantly increase fire hazards. DEIR at 3.1.4-26; FPP at 19.</p> <p style="text-align: right;">SHUTE, MIHALY & WEINBERGER LLP</p>	<p style="text-align: center;">O3a-24</p>

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<p style="text-align: center;">Comment Letter O3a</p> <p>Ashley Smith June 20, 2017 Page 22</p> <p>This conclusion is not supported by substantial evidence. To the contrary, the Project would expose current and future residents in the area to a significant risk of injury or death involving wildland fires. Rahn Report at 6-12. The Project would place nearly 500 residences in wildlands that have burned regularly. All residences are potential ignition sources, regardless of fire hardening measures. <i>Id.</i> at 6. Further, allowing development at “Village” densities exacerbates the risk of fire compared to existing patterns of development. The benefits of fuel modification do not outweigh these added risks. “[W]hen a proposed project risks exacerbating those environmental hazards or conditions that already exist, an agency must analyze the potential impact of such hazards on future residents or users.” <i>Cal. Building Industry Assn. v. Bay Area Air Quality Management Dist.</i> (2015) 62 Cal.4th 369, 377. The DEIR failed to do so.</p> <p>3. The DEIR Fails to Propose Feasible Mitigation Measures to Reduce Project-related Fire Hazards.</p> <p>An EIR is inadequate if it fails to suggest feasible mitigation measures, or if its suggested mitigation measures are so undefined that it is impossible to evaluate their effectiveness. <i>San Franciscans for Reasonable Growth v. City and County of San Francisco</i> (1984) 151 Cal.App.3d 61, 79. Of course, the County may not use the inadequacy of its impacts review to avoid mitigation: “The agency should not be allowed to hide behind its own failure to collect data.” <i>Sundstrom v. County of Mendocino</i> (1988) 202 Cal.App.3d 296, 36. Building dense residential development on steep hillside areas with limited ingress/egress is not a trivial issue; the County General Plan and CEQA mandate that these impacts be fully evaluated and minimized. <i>Id.</i></p> <p>Here, as described above, the Project would exacerbate risks from wildfire hazards to existing residents and introduce new hazards in terms of providing inadequate emergency evacuation routes. These risks constitute a significant impact requiring the County to identify feasible mitigation measures and alternatives to minimize them. The DEIR describes project features to protect the proposed development in case of fire. These features include ignition and ember resistant construction materials and methods for roof assemblies, walls, vents, windows, and appendages, as mandated by San Diego County Consolidated Fire and Building Codes. DEIR at 3.1.4-26. These methods of hardening structures would provide some measure of protection in the case of fire. <i>Id.</i> The same hardening methods proposed for the Project would also provide some level of protection to existing homes. Therefore, the DEIR should identify the same mitigation for existing residences to the west and east of the Project to minimize wildfire hazard risks.</p> <p style="text-align: center;">SHUTE, MIHALY & WEINBERGER LLP</p>	<p style="text-align: center;">O3a-24</p>

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<p style="text-align: right;">Comment Letter O3a</p> <p>Ashley Smith June 20, 2017 Page 23</p> <p>C. The DEIR's Traffic Analysis Is Incomplete and Inadequate.</p> <p>The DEIR's analysis of transportation impacts fails to achieve CEQA's most basic purpose: informing governmental decision-makers and the public about the potential significant environmental effects of a proposed activity. CEQA Guidelines § 15002(a). CEQA additionally requires "adequacy, completeness, and a good-faith effort at full disclosure" in an EIR. CEQA Guidelines § 15003(i). The DEIR's analysis of the Project's traffic impacts fails to meet these standards.</p> <p>In fact, the DEIR's analysis of Project-related traffic impacts contains numerous deficiencies that must be remedied in order for the public and decision-makers to fully understand the Project's impacts. The MRO Report prepared by Neal Liddicoat, provides detailed comments on the shortcomings in the DEIR's transportation impacts analysis. We incorporate the MRO Report into these comments. Some of the DEIR's most troubling errors identified in the MRO Report are described below.</p> <p>Specifically, the evaluation of the Project's transportation and traffic impacts must be revised to address: (1) use of an inadequate study area; (2) use of obsolete traffic volume data; (3) deficient level of service ("LOS") analysis; (4) deficient freeway analysis; (5) deficient sight distance analysis; (6) failure to adequately analyze construction traffic impacts; and (7) failure to adequately analyze impacts to public safety. These issues, and other deficiencies, are discussed in greater detail below and in the MRO Report.</p> <p>1. The DEIR Uses an Inadequate Study Area.</p> <p>The DEIR fails to adequately analyze the Project's traffic impacts in part because it artificially limits the study area, in clear violation of CEQA. The California Supreme Court has emphasized that "an EIR may not ignore the regional impacts of a project approval, including those impacts that occur outside of its borders; on the contrary, a regional perspective is required." <i>Citizens of Goleta Valley</i>, 52 Cal.3d at 575. An EIR must analyze environmental impacts over the entire area where one might reasonably expect these impacts to occur. See <i>Kings County Farm Bureau</i>, 221 Cal.App.3d at 721-23. This principle stems directly from the requirement that an EIR analyze all significant or potentially significant environmental impacts. Pub. Resources Code §§ 21061, 21068. An EIR cannot analyze all such environmental impacts if its study area does not include the geographical area within which these impacts would occur.</p> <p style="text-align: right;">SHUTE, MIHALY & WEINBERGER LLP</p>	<p>Response to Comment O3a-25</p> <p>Responses to Comments O3b-4, O3b-5, O3b-10, O3b-12, and O3b-13 address traffic data timing, study area, LOS analysis, freeway analysis methodology, and sight distance, respectively. These issues are also addressed below where specific questions have been pulled forward from Response to Comment O3b. Please refer to Response to Comment O3a-29 regarding traffic volumes, O3a-26 for information on the study area, O3a-30 regarding LOS analysis methodology, and O3a-32 regarding sight distance. Response to Comment O3a-33 addresses construction impacts, and Response to Comment O3a-34 addresses public safety.</p> <p>Response to Comment O3a-26</p> <p>The commenter states that the traffic study area is inadequate and does not consider the potential impact that the Project could have based on a "regional perspective." The comment does not specify what is meant by "regional perspective," other than that studies cannot ignore impacts occurring "outside of its borders" and to voice concern regarding potential effects with respect to I-15 and I-78. Therefore, the following specific response is provided.</p> <p>Specific to identifying the local street study area, the traffic study area for this Project was established by the County in accordance with its Traffic Guidelines and in accordance with normal process regarding traffic effects under the jurisdiction of sister agencies (abutting cities). Traffic loading analysis did not stop at the County's boundary, as indicated by identification of traffic impacts within the City of Escondido. Those impacts and the proposed mitigation have been reviewed by the City. The I-15 freeway lies within Caltrans jurisdiction.</p> <p>Caltrans reviewed the Project TIA and provided comments during the public review process and did not request such analyses be performed.</p> <p>Despite the lack of need for additional study, a supplemental analysis of the I-15 segment was conducted as requested. No new significant Project impacts were calculated. This issue was raised as part of the attached Comment Letter O3b. The analysis is demonstrated in Attachment D to the final TIA, looking at I-15 mainline analysis.</p>

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<p style="text-align: center;">Comment Letter O3a</p> <p>Ashley Smith June 20, 2017 Page 24</p> <p>If the proposed Project were approved, the new development would add a substantial amount of new traffic on Interstate 15 ("I-15"). The Project will generate hundreds of trips each day. Despite this anticipated increase in traffic, the DEIR includes only two freeway segments in the study area, both of which are on State Route 78 ("SR 78"). MRO Report at 3. The DEIR provides no analysis of impacts to traffic operations on I-15. <i>Id.</i> As explained in the MRO Report, this is particularly inappropriate given that I-15 will indisputably carry a substantial amount of Project traffic. <i>Id.</i> at 3-4.</p> <p>In addition, the DEIR provides no analysis of freeway system capacity on either SR 78 or I-15 to safely and effectively accommodate vehicles entering and exiting these freeways. <i>Id.</i> at 4. Such an analysis would address conditions at the locations where ramps meet the freeway and evaluate the effects of delays at these locations on traffic upstream and downstream of the junction. <i>Id.</i> This analysis is especially important in this case because the DEIR indicates that certain affected freeway segments (e.g., SR 78 west of Nordahl Road) will operate at an unacceptable level of service under cumulative conditions, thus increasing the likelihood that deficient operations will occur at the ramp-freeway junctions as well. DEIR at 2.2-39; MRO Report at 4.</p> <p>Finally, the DEIR did not analyze impacts to the intersections of Country Club Drive/Private Drive A and Country Club Drive/Private Drive C. Such a limited study area is insufficient to evaluate the impacts of the proposed Project. At a minimum, a revised DEIR should expand the study area to include evaluation of the following mainline segments of I-15:</p> <ul style="list-style-type: none"> • I-15 between W. Valley Parkway and W. 9th Avenue (both directions), and • I-15 south of W. 9th Avenue (both directions). <p>In addition, merge/diverge analyses must be performed at:</p> <ul style="list-style-type: none"> • SR 78 Westbound/Nordahl Road On-ramp, • SR 78 Westbound/Nordahl Road Off-ramp, • SR 78 Eastbound/Nordahl Road On-ramp, • SR 78 Eastbound/Nordahl Road Off-ramp, • I-15 Northbound/W. Valley Parkway On-ramp, <p style="text-align: right;">SHUTE, MIHALY & WEINBERGER LLP</p>	<p>In addition, the EIR traffic study analyzes the SR-78 freeway mainlines and Nordahl Road interchange. As shown in the analysis, acceptable LOS C operations are forecasted with the addition of Project traffic in the near-term condition. While LOS F(0) operations are forecasted on SR-78 westbound, west of Nordahl Road, the Project's contribution to the LOS F(0) conditions is less than significant. The analysis of SR-78 was included to be consistent with other nearby development projects' traffic studies.</p> <p>Response to Comment O3a-27</p> <p>The County disagrees with this comment. The traffic study area for this Project was established by the County in accordance with its Traffic Guidelines. The commenter is requesting a merge/diverge analysis. However, in San Diego County (District 11), merge/diverge analyses are not required or included in traffic studies prepared for local development projects, as the measure of effectiveness is not subject to any locally published significance criteria thresholds. When Caltrans District 11 has required merge/diverge analyses, it has been for the purposes of confirming specific design recommendations for freeways yet to be constructed. As such, a merge/diverge analysis was not requested by Caltrans, is not required in District 11, and is therefore not included in the traffic study. Moreover, as previously mentioned, Caltrans provided comments during the public review process and did not request such analyses be performed. See also Response to Comment O3b-6.</p> <p>Response to Comment O3a-28</p> <p>The County disagrees with this comment. With respect to the comment regarding the intersection at the two identified private driveways, the EIR/TIA conducted a peak-hour level of service (LOS) analysis for the Project driveways: Private Drive A and Private Drive C, both intersecting with Country Club Drive. Per Section 11.1 of the EIR traffic study, the center turn lane along Country Club Drive will store vehicles turning left onto the Project access streets, thus removing them from the free flow of traffic destined to the existing residences on Country Club Drive. Stop signs would be installed at the Project access roads, and Country Club Drive would flow uninterrupted. With these geometric conditions, acceptable LOS A operations are calculated at the Project access intersections and no excessive queuing would occur. This issue was</p>

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<p style="text-align: right;">Comment Letter O3a</p> <p>Ashley Smith June 20, 2017 Page 25</p> <ul style="list-style-type: none"> • I-15 Northbound/W. Valley Parkway Off-ramp, • I-15 Southbound/W. Valley Parkway On-ramp, • I-15 Southbound/W. Valley Parkway Off-ramp, • I-15 Northbound/W. 9th Avenue On-ramp, • I-15 Northbound/W. 9th Avenue Off-ramp, • I-15 Southbound/W. 9th Avenue On-ramp, and • I-15 Southbound/W. 9th Avenue Off-ramp. <p>Finally, the following two intersections must be analyzed:</p> <ul style="list-style-type: none"> • Country Club Drive/Private Drive A, and • Country Club Drive/Private Drive C. <p>By not analyzing the Project's regional impacts, the DEIR leaves the public and decision-makers in the dark as to the Project's regional traffic impacts. The revised DEIR must evaluate impacts to the afore-mentioned roadway segments, ramp-freeway junctions, and intersections.</p> <p>2. The DEIR Relies on Obsolete Traffic Volume Data.</p> <p>The DEIR bases its intersection analysis results on traffic counts obtained in 2014. MRO Report at 2-3. Therefore, the traffic counts used in the DEIR are roughly three years old, which violates both the CEQA's baseline requirements and San Diego County policy. <i>See</i> CEQA Guidelines § 15125(a); County of San Diego Report Format and Content Requirements – Transportation and Traffic at 1. In addition, use of the outdated traffic data violates accepted practice within the traffic engineering profession. Specifically, the Institute of Transportation Engineers specifies that "... traffic volume data should generally be no older than 1 year." 2006 Institute of Transportation Engineers (ITE), Transportation Impact Analyses for Site Development at 19; MRO Report at 3.</p> <p>As explained in the MRO Report, use of current traffic volume data (both new peak period counts and up-to-date Caltrans data for peak hour conditions) will result in substantially different (and almost certainly worse) delay and level of service results</p> <p style="text-align: right;">O3a-28</p> <p style="text-align: right;">O3a-29</p> <p style="text-align: right;">SHUTE, MIHALY & WEINBERGER LLP</p>	<p>raised as part of Comment Letter O3b. A supplemental analysis provides the results of the LOS analysis, as demonstrated in Attachment E to the final TIA. With respect to the additional merge/diverge analyses see Response to Comment O3a-27. With respect to expanding the study areas see Response to Comment O3a-26.</p> <p>Response to Comment O3a-29</p> <p>The County disagrees with this comment. The comment asserts that the baseline traffic volumes used in the EIR traffic study analysis are "obsolete" and violate County of San Diego "policy," as well as "accepted practice within the traffic engineering profession." The comment goes on to cite specific passages from the County of San Diego's <i>Report Format and Content Requirements – Transportation and Traffic</i> document, as well as the ITE's <i>Transportation Impact Analyses for Site Development</i> as evidence of these policies and violations. The citations themselves are contrary to the comment's assertion that there are policy violations. For example, with respect to the cited County requirements, the commenter's emphasis is that an assessment "...is typically based upon traffic counts that are less than two years old..." However, the remaining portion of that policy goes on to state that traffic counts that are more than two years old can be validated if it can be demonstrated that traffic volumes have not significantly changed since prior counts were taken. The County's Traffic Guidelines clearly state that "These are intended to serve as a guideline and are not intended to replace sound traffic engineering judgment." In fact, the standard of practice by the County is to assess the validity of existing or baseline counts. It is important to note that neither of the other reviewing agencies (City of Escondido, Caltrans) had comments about the age of the counts on the EIR traffic study.</p> <p>Similarly, the ITE document is neither a policy nor a guideline used in San Diego County for the purposes of assessing validity of existing traffic volumes. Again, the commenter's own citation "...traffic volume data should generally be no older than 1 year." would mean that the validity of existing or baseline counts are to be based on sound traffic engineering judgment and the circumstances at hand.</p>

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	<p>The County disagrees that local policies or national practices have been violated. Lead agencies always retain the ability to tailor analytical data specific to the Project. This issue also was raised as part of Comment Letter O3b. Particularly in this case, the tailoring has resulted in a very conservative assessment, as discussed below. A supplemental analysis provides the results of the LOS analysis.</p> <p>As demonstrated in Attachment A to the final TIA, validation counts were conducted on all 14 street segments in the study area analyzed in the EIR traffic study to determine if existing counts are higher or lower than the baseline counts used in the EIR traffic study, upon which the Project impacts are based. These counts included the six segments in the City of Escondido, and the eight segments in the County of San Diego. The 24-hour average daily trip (ADT) counts were conducted on Thursday, October 5, 2017, when local schools were in session.</p> <p>The results showed that as compared to the traffic counts used in the EIR traffic analysis, the 2017 counts were lower on 11 of the 14 roadway segments, supporting that the traffic assessment was conservative when it was run, and consistent with the belief that the analysis would appropriately reflect roadway conditions and capacity by the time that Project traffic would be added to area roads. Throughout the study area, the average reduction in traffic between 2017 validation counts as compared to the EIR traffic study counts is 23 percent. For the three segments that were observed to have higher traffic in 2017, the maximum increase was 10 percent (on one segment) with the other two segments being higher by 4 percent and 8 percent. A general guideline used by traffic engineers is that traffic volumes on a given roadway can vary day-to-day by as much as 10 percent, which would be within the margin of error, and therefore within expected variation. In the context of a validation comparison, a 10 percent increase on 1 of 14 segments would not indicate that the baseline volumes were obsolete, especially with an overall average reduction throughout the study area of 23 percent. Thus, the baseline volumes remain valid as compared to existing 2017 data, and the corresponding analysis results also remain conservative.</p>

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	<p>Please also see Response to Comment O3a-19 and O3b-4.</p>

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<p style="text-align: right;">Comment Letter O3a</p> <p>Ashley Smith June 20, 2017 Page 26</p> <p>than presented in the DEIR. MRO Report at 3. Had the DEIR used current data in its analysis, it would have revealed significant impacts that have not been disclosed.</p> <p>Traffic volumes represent “the most critical input parameter” in evaluating level of service. <i>Id.</i> at 3. If the traffic analysis uses the wrong numbers, it will misrepresent the environmental setting and project impacts. <i>Id.</i> Thus, the traffic impacts of the Project must be reanalyzed using up-to-date traffic volume data, and the DEIR must be revised to reflect the corrected analysis.</p> <p>3. The DEIR’s Level of Service Analysis Is Faulty.</p> <p>The DEIR’s analysis of intersection LOS relies on outdated methodologies and inappropriate and inaccurate assumptions and relies on outdated data to perform level of service calculations. MRO Report at 5. First, the LOS analysis was based on the year 2000 version of the Highway Capacity Manual (“HCM”) rather than the more recent year 2010 version. <i>Id.</i> The 2010 HCM was released in 2011, six years prior to the completion of the traffic study for this DEIR. Therefore, we see no reason why the DEIR is relying on outdated data. The use of outdated data significantly undermines the accuracy of the DEIR’s description of existing traffic conditions in the Project area, thereby calling into question the adequacy of the entire analysis.</p> <p>The analysis of impacts to intersection LOS is further hampered by the DEIR’s use of an outdated version of the Synchro software. MRO Report at 5. As the MRO Report explains, the DEIR analysis uses an outdated version of the software that came out almost 11 years ago. <i>Id.</i> Newer versions of the software incorporate new features that take current conditions into consideration. Therefore, the use of outdated software is inappropriate and could significantly understate the impacts of the Project. <i>Id.</i></p> <p>The DEIR’s failure to use current methodologies and data and to fully describe the assumptions used results in an inaccurate analysis of traffic impacts and undermines CEQA’s purpose of fully informing the public of the Project’s environmental impacts. <i>See Laurel Heights I</i>, 47 Cal.3d at 404.</p> <p>4. The DEIR’s Freeway Analysis Is Inadequate.</p> <p>Both the DEIR and the Transportation technical appendix to the DEIR purport to employ Caltrans guidance to conduct the freeway analysis. However, the DEIR misstates Caltrans guidance document. MRO Report at 6-7. The DEIR’s road segment and freeway analyses are based on comparing the existing or estimated traffic volumes to</p> <p style="text-align: right;">SHUTE, MIHALY & WEINBERGER LLP</p>	<p>Response to Comment O3a-30</p> <p>The Synchro software utilizes the HCM methodology and data input to calculate intersection delay and LOS. In response to the comment, the Project’s traffic consultant, LLG, conducted an intersection analysis using Synchro version 10.0, which utilizes the HCM 2010 methodology and data. Application of the HCM 2010 methodology and the latest version 10.0 show that changes to level of service and delay vary; however, the changes do not result in new or different significant impacts, and the conclusions of significance remain identical to the EIR traffic study analysis. This issue also was raised as part of the attached Comment Letter O3b. The results are demonstrated in Attachment F to the final TIA, which shows the results of this analysis and the supporting Synchro analyses. The recalculation of Project effects in Synchro version 10 confirms the prior results and thus the accuracy of the original TIA.</p> <p>For information purposes, the reason the TIA analysis used the HCM 2000 parameters for conducting LOS and intersection delay analysis was that the Project was the third of three substantial projects in the immediate area. The first of the projects was Harmony Grove Village, which was approved and is under construction. The analysis for that project was conducted using HCM 2000 methodology. Subsequently, the traffic analysis (approved December 2015) for the Valiano project was prepared using the same HCM 2000 methodology. (The Valiano project is currently awaiting hearing and approval by the Board of Supervisors.) The NOP for HGV South was issued in August 2015, prior to the approval of the Valiano traffic study; therefore, as both studies were being conducted concurrently for the same intersection locations, the HCM 2000 was considered the appropriate analysis methodology. Efforts were made to maintain consistency to the extent possible among the three projects’ analyses, since they share over 50 percent of the same study area intersections and two of the studies (Valiano and HGV South) had the potential to be under concurrent County review. The County guidelines do not specify the version of Synchro or the HCM to be used in the analysis of study area locations, but use of the HCM 2000 methodology ensures that the Project’s analysis is consistent with the County’s General Plan Mobility Element EIR traffic study, as well as other traffic analyses prepared for the County. It is important to note that while versions of the HCM are updated periodically, wholesale changes to chapters</p>

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	<p>such as those referenced in the comment do not occur. Subtle changes to signalized and unsignalized methodologies are present, but have not been observed to result in substantive changes when compared with HCM 2000. In fact, the primary changes from HCM 2000 to HCM 2010 relate to the introduction of new methodologies to evaluate multi-modal transportation, application of microsimulation analysis, and the presentation of active traffic management—none of which affect the analysis in this EIR.</p> <p>Response to Comment O3a-31</p> <p>The comment suggests that based on the Caltrans statewide guidelines appended to the comment letter, an HCM-methodology freeway analysis should have been conducted instead of the V/C method used in the EIR traffic study. It is true that the HCM method involves more variables. However, the comment is incorrect. The Project is in Caltrans District 11 jurisdiction, and therefore subject to Caltrans District 11 direction. The Caltrans Guide for the Preparation of Traffic Impact Studies (Section V) lists analyses that are typically performed for different state-owned facilities, and states that HCM <i>or operational analysis</i> may be conducted. With regard to “operational analysis,” it is up to direction from the lead agency, Caltrans, and those preparing the traffic study to decide which type of analysis to prepare. Caltrans District 11 is a signatory agency to the regional SANTEC/ITE Guidelines for Traffic Impact Studies in the San Diego Region. The regional significance criteria for freeway impacts listed in this document use change in V/C to determine significant freeway impacts (Table 1, Page 10). Therefore, it is the industry standard to perform the V/C freeway analysis within Caltrans District 11. As previously mentioned, Caltrans provided comments during public review of the EIR and technical reports, and made no comments requesting the type of freeway analysis requested in the comment.</p> <p>=</p>

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<p style="text-align: right;">Comment Letter O3a</p> <p>Ashley Smith June 20, 2017 Page 27</p> <p>an assumed capacity value (i.e., volume/capacity ratio or V/C ratio) instead of using the appropriate HCM procedure. The Caltrans Guide for the Preparation of Traffic Impact Studies, clearly indicates that freeway analyses should be conducted using the HCM procedures.</p> <p>The two methods vary considerably. As MRO explains, the V/C ratio evaluation is simplistic compared with the HCM method such that the nature and quantity of inputs required for the latter analysis yields a more accurate representation of study area freeway segments. <i>Id.</i> at 8. Thus, by employing the V/C ratio evaluation, the DEIR fails to disclose the actual physical characteristics of area roadways and local traffic flow patterns.</p> <p>5. The DEIR Presents a Deficient Sight Distance Analysis</p> <p>A sight distance analysis is intended to determine whether a driver has a clear line of sight to see far enough in each direction to ensure that it is safe to turn onto the roadway. Other sight distance considerations relate to whether a driver approaching the access intersections would have adequate time and distance to stop, if necessary, in reaction to other vehicles and whether a driver making a left turn into the site can adequately see oncoming traffic.</p> <p>As explained in detail in the MRO Report, the DEIR presents an incomplete analysis and conflicting information about sight distance at the site. For example, the DEIR states that a design speed exception is requested to reduce the design speed of Country Club Drive adjacent to Cordrey Lane to limit roadway speed to 27.5 miles per hour or less. DEIR 2.2-14; MRO Report at 9. However, elsewhere the DEIR states that there would be adequate, unobstructed sight distance in both directions from future private roads along Country Club Drive in compliance with County Public Road Design Standards. <i>Id.</i> This statement is, of course, inconsistent with the need for the design speed exception. Moreover, MRO's evaluation of the sight distance analysis revealed that the design speed exception, if approved, would result in sight distances that are not only inconsistent with County standards but would result in undisclosed, significant traffic hazard impacts.</p> <p>Similarly, the DEIR's sight distance study reveals concerns about the intersection of Harmony Grove Road and Country Club Drive. As described in the MRO Report, numerous potential obstructions exist at the corner (e.g., signal poles, utility poles, signs, landscaping, and utility boxes) that would affect sight distance. The DEIR's</p> <p style="text-align: right;">SHUTE, MIHALY & WEINBERGER LLP</p>	<p>Response to Comment O3a-32</p> <p>The County disagrees there would not be adequate sight distance at Project intersections. The Project would not significantly impact safe movement. Nonetheless, a slightly reduced speed exception was requested to provide an even safer condition. This is because the amount of reaction time permitted while driving is in large part based on a combination of when a driver sees another vehicle or person/object, how far the vehicle is from another static or moving object, and how fast they are each moving. In this instance the road is curving and there is also a small hill. The slightly slower speed requested (and approved by the County) permits drivers a few extra seconds to react.</p> <p>Relative to the southernmost Project entry, engineering review of the TM and Project site visits supported County approval of the deviation. This in turn supported Project design of the County Club Drive transition presented in the DEIR as part of Project design. The cited text regarding conformance with County standards and requirements is an introductory statement for the reader, prior to the specific elements that follow. Once the design exception was approved, it became part of the Project, and analysis assumed its implementation. Regardless, a basic purpose of CEQA is informational. Full disclosure of the deviation was made and included in Appendix D so that it could be reviewed by commenters on the DEIR, as has occurred.</p> <p>In addition, and in response to this comment, additional review cited in the DEIR has been undertaken. Please see Attachment G to the TIA. As noted in that document, the existing roadway segment identified in the design exception would extend from the southernmost Project driveway westerly for approximately 320 feet, the distance from the driveway to where Project improvements to Country Club Drive transition back to existing roadway. Based on substandard roadway features related to: (1) lane-width, (2) road surfacing width, (3) paved shoulder width, (4) parkway width, and (5) maximum desirable grade, the road has a functional speed of approximately 25 miles per hour (mph).</p> <p>Also, as described in the Attachment G memorandum, a 7-day speed survey of actual driving practice was undertaken in March 2018. The 85th percentile was 22.1 mph, with the maximum average driving speed 25.8 and the minimum average driving speed during that period 8.6 mph. These low speeds are</p>

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	<p>consistent with anticipated conditions based on the roadway characteristics, and well within the design speed proposed for the Project.</p> <p>With the Project, there would not be sight distance constraints between the Project driveway traffic and westbound traffic, as both are on the same side of the crest (hill). For eastbound drivers, and with respect to the sight distance between eastbound Country Club Drive traffic as it comes over the hill and traffic entering or exiting the Project, as noted above, the available sight distance is a function of approach speed and object height.</p> <p>Consistent with the approved design exception, the Project would construct and improve the profile of Country Club Drive by lengthening the crest vertical curve, improving the stopping sight distance of a 6-inch object to 27.5 mph. This improvement would meet the County's sight distance requirements at this location. It also addresses the transition from the full width Rural Residential Collector improvements southernmost Project driveway to the existing nonconforming roadway to the west. Project improvements would provide a 30-mph stopping sight distance for a pedestrian or a vehicle at this Project driveway, consistent with observed existing speed conditions and the County's sight distance requirements. As shown, the observed 85th percentile eastbound speed is 22.1 mph, which is well below the 27.5 mph design speed provided by the design exception.</p> <p>It is also noted that the Project would underground currently above-ground utilities along Project frontage, and also would coordinate landscaping installation and maintenance at Project entries to retain open sight lines (e.g., shrubs will not exceed County-specified allowable heights and trees will be placed so that trimming of understory can maintain sightlines).</p> <p>Sight lines would be open at the Harmony Grove Road and Country Club Drive intersection in both directions. The Project would not be installing any uses that could block views at the Country Club Drive and Harmony Grove Road intersection, where abutting uses are owned by others. The Project would improve the intersection by additionally "squaring it off," as the Project would eliminate the angle at which Country Club Drive currently accesses the</p>

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	<p>intersection from the south, which would potentially contribute to more open sight lines. The intersection itself additionally controls traffic flow due to its signal. It is anticipated that traffic will follow the signal demands to slow, stop and go—thereby eliminating cross-traffic conflicts. Finally, it is noted that some of the existing “visual noise” noted in the comment at this intersection may now be gone following completion of the County equestrian park located in the southwest quadrant of the intersection.</p>

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<p style="text-align: right;">Comment Letter O3a</p> <p>Ashley Smith June 20, 2017 Page 28</p> <p>sight distance analysis does not take these obstructions into account so that obstructions to sight distance have not been disclosed or analyzed. <i>Id.</i> at 11.</p> <p>6. The DEIR Fails to Analyze Project Construction Traffic.</p> <p>The DEIR omits any analysis of construction traffic impacts. Instead, it includes a conclusory statement that Project construction would be phased so that no capacity impacts would result. However, this statement is unsupported. MRO Report at 11. The DEIR provides no information on the amount of traffic generated during each phase of construction and no evaluation of impacts during peak-hour conditions, as is standard practice. <i>Id.</i> A proper evaluation of construction traffic impacts would identify the number of construction worker vehicles and the volume of heavy trucks in each phase. Moreover, this omission implicates other sections of the DEIR, including air quality and greenhouse gases. A revised DEIR must analyze construction period traffic and identify feasible mitigation measures for any potentially significant impacts.</p> <p>7. The DEIR Fails to Adequately Analyze the Project's Impacts on Emergency Access.</p> <p>The DEIR describes an existing public safety issue in the Project area related to adequate emergency and evacuation access. DEIR at 1-2. The DEIR specifies that “during wildfire (or other emergency) evacuation events, the two-lane crossing provides substantial logistical challenges to providing emergency vehicle access while evacuating residents and large animals from the area.” <i>Id.</i> Given this description of the potentially life-threatening conditions at the site, one would expect a thorough analysis of the potential for the Project to exacerbate the existing public safety risks. But here too, the DEIR’s analysis falls far short.</p> <p>As discussed in detail in section II.C., above, the Project’s proposed single ingress/egress is inconsistent with County requirements. DEIR at 1-18. In addition, while Country Club Drive would connect the development to Harmony Grove Road to the north, it is a dead-end road at the western end, with no second connection to the regional road network. DEIR at Figure 1-6a, Site Plan. Moreover, a County assessment and fire emergency plan for the area identified other access routes as unsafe. Rohde Fire Emergency Plan. Specifically, the Evacuation Plan in the risk assessment specified the following:</p> <p style="padding-left: 40px;">Do not use dirt roads/truck trails for evacuation! Move north via Country Club Dr. as the primary route, or east via Harmony Grove Village Pkwy.</p> <p style="text-align: right;">SHUTE, MIHALY & WEINBERGER LLP</p>	<p>Response to Comment O3a-33</p> <p>The County disagrees with this comment. Project phasing shows the majority of construction activities occurring prior to any dwelling units being occupied. See, for example, the information provided on Tables 7 in both the Air Quality and Greenhouse Gas studies, which shows that architectural coatings (final finishes) do not begin until 4 months preceding complete construction end. It is during this period that some homes may be occupied; if finishes, sales, and occupation all occur. This is similar to HGV, in that mass grading and backbone infrastructure were accomplished prior to homes being occupied.</p> <p>According to Real Estate Economics’ new home market survey spanning the entire greater San Diego market area, dated “Third Quarter 2017,” HGV reports 259 sales and 162 closings. Averaging closings over the 10 quarters since homes went up for sale in May 2015, the average number of closings per month is identified as 16.2 residential units. In the most conservative scenario, if the Project sold and closed on 22 homes during the 4-month period starting when architectural finishes begin to be applied, then the following activities could also be occurring: building construction, paving and architectural coating. Based on the CalEEMod calculations provided during DEIR review for construction worker trips, these three categories of activity would total 430 workers and vendor trips during the overlapping period (see Section 3.0, Construction Detail, of Appendix A to EIR Appendix J, as well as a summary Table O3a-1 provided below). Based on residential trips associated with the Project (10 trips per home per day), 220 residential trips could occur under a reasonable sales assumption (based on an average of the past six 10 quarters of sales closings of HGV, located contiguous to the site).</p> <p>Please also note that construction activities generally require workers to be on site when construction begins (often at 7:00 AM). This is usually before peak-hour trips that result in the greatest congestion. Specific to this Project, the most impactful construction traffic is generally related to soil import/export, as it can require numerous trucks added to off-site ADT on an ongoing basis during grading activities. As stated in EIR Chapter 1.0, <i>Project Description</i>, the Project has been designed for grading to balance on site. As a result, no import or export</p>

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	<p>truck activity is anticipated that could significantly adversely impact traffic volumes on roads currently operating at capacity.</p> <p>As clarified above, even when three potentially overlapping phases (including the building construction phase with the largest number of worker and vendor trips) are combined with potential occupied residences, it would not generate more traffic than the approximately 4,500 ADT the Project will generate once constructed. Similarly, in the most conservative scenario, if the construction periods that overlap with each other are added together, it would generate fewer ADT than any of the residential triggers required for off-site roadway mitigation as identified in Subchapter 2.2 of the EIR and not assumed as Project design. As such, no capacity impacts are anticipated to occur during any construction phase. All appropriate work zone traffic control plans would be prepared to ensure efficient ingress/egress of trucks and equipment, and to maintain access to the degree possible to Country Club Drive during construction. Similarly, no significant impacts related to construction-period vehicular impacts would occur to air quality.. This response is incorporated into the Final EIR through the integration of comments and responses. No additional changes are required to EIR text. The reader is referred to Response to Comment O3a-41 regarding greenhouse gases (GHGs).</p>

COMMENTS	RESPONSES																																															
	<table><tr><th colspan="4">Table O3a-1</th></tr><tr><th colspan="4">MODELED CONSTRUCTION SCHEDULE AND ASSOCIATED TRIPS</th></tr><tr><th rowspan="2">Construction Activity</th><th colspan="3">Construction Period</th></tr><tr><th>Start</th><th>End</th><th>Associated Worker / Vendor Trips</th></tr><tr><td>Site Preparation and Blasting</td><td>07/01/2018</td><td>09/30/2018</td><td>20</td></tr><tr><td>Backbone Infrastructure</td><td>10/01/2018</td><td>03/31/2019</td><td>15</td></tr><tr><td>Road Construction</td><td>10/01/2018</td><td>03/31/2019</td><td>120*</td></tr><tr><td>Grading</td><td>04/01/2019</td><td>06/30/2019</td><td>20</td></tr><tr><td>Bridge Construction</td><td>04/01/2019</td><td>03/31/2020</td><td>356</td></tr><tr><td>Building Construction</td><td>07/01/2019</td><td>09/30/2021</td><td>356</td></tr><tr><td>Parking Lot Paving</td><td>05/01/2021</td><td>09/30/2021</td><td>15</td></tr><tr><td>Architectural Coating</td><td>05/01/2021</td><td>09/30/2021</td><td>59</td></tr></table> <p>Source: CalEEMod (output data is provided in Appendix A to both the AQ and GHG technical studies)</p> <p>*Road Construction is further broken into four sub-phases. The greatest trip generating portion is associated with grading, which would only total 40 modeled trips.</p> <p>Response to Comment O3a-34</p> <p>The comment mischaracterizes the statement in the DEIR and takes its meaning completely out of context. The statement that the two-lane crossing provides substantial logistical challenges for emergency vehicle access while evacuating residents and large animals refers to the existing condition. Nevertheless, the EIR provides a thorough discussion of the Project’s evacuation system and no safety problem was determined to be caused by the physical changes to the Project. Please also see the Global Response to Adequacy of Emergency Evacuation and Access.</p> <p>The comment also provides text from the Wildland Fire Risk Analysis Report (Rohde & Associates 2016) out of context and then utilizes it to suggest that there is only one possible evacuation route available in the Harmony Grove area,</p>	Table O3a-1				MODELED CONSTRUCTION SCHEDULE AND ASSOCIATED TRIPS				Construction Activity	Construction Period			Start	End	Associated Worker / Vendor Trips	Site Preparation and Blasting	07/01/2018	09/30/2018	20	Backbone Infrastructure	10/01/2018	03/31/2019	15	Road Construction	10/01/2018	03/31/2019	120*	Grading	04/01/2019	06/30/2019	20	Bridge Construction	04/01/2019	03/31/2020	356	Building Construction	07/01/2019	09/30/2021	356	Parking Lot Paving	05/01/2021	09/30/2021	15	Architectural Coating	05/01/2021	09/30/2021	59
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COMMENTS	RESPONSES
	<p>Country Club Drive, and that even it is not safe. Again, please see the Global Response to Adequacy of Emergency Evacuation and Access.</p>

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<p style="text-align: right;">Comment Letter O3a</p> <p>Ashley Smith June 20, 2017 Page 29</p> <p>(only if fire is not in Escondido Creek threatening this route). Do not use Harmony Grove Rd. either east or west of Harmony Grove unless certain it will not be compromised by fire.</p> <p><i>Id.</i> at 2. In other words, the only safe route for emergency evacuation is via Country Club Drive, particularly in the event that a wildfire channels down the creek canyon. Yet, despite this clear directive, the DEIR proposes to rely on the very routes the risk assessment says to avoid to evacuate area residents. DEIR at 3.1.4-23.</p> <p>Further, though the same risk assessment identifies the evacuation of equine and other large animals in the older parts of Harmony Grove and Eden Valley as “special hazards” (Rohde Fire Emergency Plan at 1), nowhere does the FPP or the DEIR disclose and analyze the evacuation challenges and potential for road blockage posed by multiple horse trailers evacuating on a two-lane road. During the 2014 Cocos fire evacuation was especially challenging due to incoming horse trailers from animal rescue organizations assisting with large animal evacuations and emergency vehicles. The revised DEIR should model a full evacuation of all residents and livestock in order for the public and decision makers to be able to fairly gauge the true project impacts on safety.</p> <p>The DEIR’s approach poses a potential emergency access issue, particularly in the event of a fire along Country Club Drive (for example) between the Project site and Harmony Grove Road. People and animals on the Project side of the fire would be trapped, with no escape route. The DEIR relies on the rationale that an enhanced roadway and improved creek crossing would provide adequate emergency access. DEIR at 1-6. However, as discussed above and in the MRO Report, the DEIR fails to provide a credible analysis that demonstrates adequate roadway capacity will be available to accommodate emergency vehicle access and emergency evacuation of residents and animals. MRO Report at 2.</p> <p>In the event of a wildfire in a maximum potential area build-out scenario involving concurrent ignition points, such as by arson or in a fire siege as occurred in 2014, Country Club Drive would be the only safe egress for evacuating more than 2,500 homes (i.e., combined existing residences in Elfin Forest and Harmony Grove, existing and proposed residences in HGV and HGVs, and proposed residences in the Valiano project). See Rohde Fire Emergency Plan at 6; Harmony Grove Village South Wildfire Risk Analysis, Rohde & Associates (Apr. 2016) at 14-15. Assuming each of the residences has three vehicles (as does the FPP), there would be approximately 7,500 vehicles evacuating the area. Given the vehicular capacity of 1,500 on Country Club</p> <p style="text-align: right;">SHUTE, MIHALY & WEINBERGER LLP</p>	<p>Response to Comment O3a-35</p> <p>Animal evacuations present a host of challenges that may affect the overall successful movement of people and their possessions out of harm’s way. For example, livestock owners do not always have the means to load and trailer their livestock out of the area. Further, most wildfire evacuation relief shelters or commercial lodging facilities do not allow people to bring in pets or other animals. Sorensen and Vogt (2006) indicate that an issue receiving increasing attention is what evacuees do with pets or other animals such as livestock when they leave their homes and whether having pets or animals impacts their decision to evacuate. Large animal evacuations are an integral component of the Unified San Diego County Emergency Services Organization and County of San Diego Operational Area Emergency Operations Plan (EOP 2014). Department of Animal Services and the San Diego Humane Society are both participating agencies that during an emergency. Per the Evacuation Annex of this document:</p> <p style="padding-left: 40px;"><i>The San Diego County Department of Animal Services (DAS) has plans in place to transport and shelter pets in a disaster under Annex O of the OA EOP, including the Animal Control Mutual Aid Agreement. Animal Control Officers, the San Diego Humane Society, and private animal care shelters will assist in the rescue, transport, and sheltering of small and large animals. In addition, potential volunteer resources and private groups should be identified and tracked in WebEOC. Only non-emergency resources and personnel, such as public and private animal services agencies, will be used to rescue and transport animals during an evacuation effort. In most cases, DAS and the OA EOC will coordinate and attempt to collocate animal shelters with people shelters.</i></p> <p>Animal owners in rural areas are anticipated to plan for these events and create contingencies when evacuation may not be possible. This applies with or without development of larger communities.</p> <p>The Project’s FPP (Page 37) commits the HGV South Project to prepare a Wildland Fire Evacuation Plan for the community and its residents. The Project-specific Wildland Fire Evacuation Plan would be prepared to County standards,</p>

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	<p>using the consistent planning tools, language, and maps so that it is user-friendly to residents and can be integrated to County and City-level emergency planning efforts. This evacuation plan would include easy-to follow maps and instructions for residents to prepare their own “Ready, Set, Go!” action plans and would be prepared prior to occupation of the site’s structures. (Note, however, that there will not be livestock allowed in the Project so there would be no additional animal trailers associated with the Project.) However, community evacuation requires planning coordination on a regional level and is not within the preview of the Project, such coordination is the responsibility of the Office of Emergency Services and Law Enforcement Agencies.</p> <p>Response to Comment O3a-36</p> <p>The scenario described was evaluated and is described in the Project’s FPP (pages 41 and 42). This is a short-notice evacuation and the HGV South Project would provide options to its residents and to existing residents south of the Project that are not currently available.</p> <p>The Wildfire Safety Assessment (WSA) identified four routes of escape north of Escondido Creek that exist for evacuation from the Proposed Project site and the valley in general, two with strong viability. Country Club Drive and Harmony Grove Village Parkway were determined to offer good escape alternatives to the north and east, respectively. (The WSA is incorporated herein and available for the public on the County’s website for the Project at http://www.sandiegocounty.gov/content/dam/sdc/pds/ProjectPlanning/hgvs/Harmony%20Grove%20Village%20South%20Public%20Review/HARMONY%20GROVE%20VILLAGE%20SOUTH%20WILDFIRE%20RISK%20ANALYSIS.pdf.) The WSA also determined that shelter-in-place was a viable option should there be threats along evacuation routes.</p> <p>In any event, as evacuations are fluid events and the incident command, law enforcement, and County Office of Emergency Services (OES) would jointly enact evacuations based on fire behavior. The Project will work with evacuation coordinators at the San Diego County OES and San Diego Sheriff’s offices. As pointed out in the Project FPP, a key to any evacuation of a large number of people is controlling the intersections downstream of the evacuating population. To that end, evacuation routes available to HGV South will be identified and</p>

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	<p>prioritized and key intersections mapped and shared with OES and the Sheriff's office. Integration of this information into pre-planned evacuation scenarios will assist these agencies in mobilizing the necessary number of officers to control these key intersections for movement of HGV South residents during an emergency situation.</p> <p>HGV South also provides the contingency option to temporarily refuge on site. In this scenario, it would be likely that fire and law enforcement officials would direct the existing residents to evacuate to HGV South's club house or, if Country Club Drive is passable, across Harmony Grove Road into HGV. In either case, the post-Project build-out condition improves the wildfire evacuation safety of existing residents. Therefore, the development of HGV South will result in additional options for existing residents and HGV South residents and potentially animals, should a wildfire or other emergency block ingress/egress along Country Club Drive.</p> <p>With respect to the comment raised regarding the adequate roadway capacity of Country Club Drive to evacuate all residents and their animals, the following response is presented. In an evacuation scenario, it is assumed that drivers would not make multiple trips to and from their homes as is considered when ADT is calculated. Instead, the number of trips per unit would be one-way (outbound only) and would be determined by the number of vehicles present on the site, and the number of drivers available to operate them. The existing homes in the vicinity are on large lots and may have square footages that allow for larger households (including more drivers). Therefore, it could be assumed that on average there could be four vehicles/unit. By contrast, the Project will construct smaller units on smaller lots; therefore, an estimate of three vehicles/unit is made. It is estimated that there are approximately 50 dwelling units within the vicinity along both roadways. Were all 50 existing lots to evacuate, this would result in 200 vehicles. Were all approximately 450 Project lots to evacuate, this would result in 1,350 vehicles. Together, both existing plus Project units could generate approximately 1,550 outbound vehicle trips. These outbound trips would likely occur over a period of several hours, depending on the evacuation event.</p>

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	<p>The comment regarding evaluation of a region-wide mass evacuation from the area is noted. It is not feasible to construct roadways near populated areas that can quickly move the number of people that may need to use them in a short timeframe during a region-wide mass evacuation. Even the multi-lane freeways, like I-5, I-8, and I-15 in San Diego County become congested for hours each morning and evening during the commute, and following accidents. Mass evacuations due to any type of emergency cannot be based on short timeframes because the roadways cannot accommodate the number of people that would use them. This concept applies to the Harmony Grove area and was considered in the Project's FPP analysis and confirmed by the RSFFPD, Rohde & Associates, and the County. If an emergency does not allow enough time to safely evacuate the Project's residents, then a contingency plan will be available. This contingency plan is not available to all communities that are not built and maintained to highly ignition resistant levels. However, this concept is becoming an important evacuation component in new communities in Southern California and offers a safety net for the possibility that evacuation of all residents is not possible. However, please also note that region-wide plans (i.e, region-wide evacuation plans) are not subject to individual development CEQA documents; these are greater planning efforts. As stated in the EIR,</p> <p><i>The Unified San Diego County Emergency Services Organization has the primary responsibility for preparedness and response activities, and addresses disasters and emergency situations within the unincorporated area of San Diego County. The County of San Diego Office of Emergency Services (OES) serves as staff to the Unified Disaster Council (UDC), the governing body of the Unified San Diego County Emergency Services Organization.</i></p> <p><i>Emergency response and preparedness plans include the Operational Area Emergency Response Plan and the San Diego County Multi-Jurisdictional Hazard Mitigation Plan. Both of these plans develop goals and objectives for OES in regards to large-scale natural or man-made disasters.</i></p> <p><i>The Operational Area Emergency Plan provides guidance for emergency planning and requires subsequent plans to be</i></p>

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	<p><i>established by each jurisdiction that has responsibilities in a disaster situation. The Multi-Jurisdictional Hazard Mitigation Plan provides the framework for emergency response throughout the County, including at the Project site. It includes an overview of the risk assessment process, identifies hazards present in the jurisdiction, hazard profiles, and vulnerability assessments. The plan also identifies goals, objectives, and actions for each jurisdiction in the County of San Diego, including all cities and the County unincorporated areas (EIR pg. 3.1.4-14 to 3.1.4-15).</i></p> <p>The Project is consistent with the framework of emergency response as required in the above plans, as well as the goals, objectives, and actions required by the County.</p> <p>Please also see the Global Response to Adequacy of Emergency Evacuation and Access.</p>

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<p style="text-align: right;">Comment Letter O3a</p> <p>Ashley Smith June 20, 2017 Page 30</p> <p>Drive between Mt. Whitney Road and Hill Valley Drive, it could take as long as four to six hours to evacuate all of the residents. This would constitute a significant impact that has not been evaluated in the DEIR. A revised DEIR must include this analysis.</p> <p>In addition, in contravention to the Evacuation Plan for the area, the DEIR relies in part on an alternative emergency access route (i.e., Alternative 4) using a privately owned dirt road that connects with Johnston Road. DEIR at 3.1.4-20 and 3.14-21. The DEIR acknowledges that this route does not meet fire code requirements due to non-conforming width, surface, and grade and dismisses secondary access via this alternative as infeasible. DEIR at 3.1.4-21. Instead, the DEIR concludes that the Project “meets the intent of the code through a layered and redundant fire protection and evacuation system.” DEIR at 3.14-21. However, as explained in the Rahn report, the DEIR fails to provide any evidence to support this conclusion. Rahn Report at 10. The DEIR appears to acknowledge its own failure because, even though the privately owned off-site road and Johnston Road do not provide code-conforming secondary access, the DEIR states that this access would be available for evacuation in an emergency. <i>Id.</i>; DEIR at 3.1.4-23; FPP at 38 (§ 5.2.1.2).</p> <p>The DEIR’s approach is inadequate for multiple reasons. First, the unimproved, unpaved dirt road connecting Country Club Drive to Johnston Road is only accessible for four-wheel drive vehicles and unsuitable for emergency equipment, typical passenger vehicles, and large animal trailers. <i>See</i> Exhibit E (photographs of private roadway). Use of this road would pose its own safety hazards, which have not been evaluated in the DEIR. Second, the extremely steep terrain and sensitive habitat in the area make improvement of the road difficult if not impossible. Lastly, even if the road could be improved, it is privately owned so that easements from the landowners would be required. The DEIR acknowledges these limitations and concludes that “there is not a secondary access road solution that would conform to code requirements. FPP at 32 (§ 5.2.1.2). However the DEIR contradicts itself and claims that this secondary access could be made available in an emergency. For the reasons stated above, this conclusion is completely unsupported and misleading. A revised EIR must provide a comprehensive evaluation of the feasibility of improving this road for use as a secondary access, including likely impacts on biological resources from construction, aesthetics, and potentially archeological resources, since no survey was conducted outside the project footprint yet DEIR asserts there would be none.</p> <p>Finally, the DEIR fails to include modeling of evacuating traffic all the way to safety. As explained in the Rahn Report, the DEIR should have analyzed a comprehensive, worst-case evacuation scenario accounting for the total time that would</p> <p style="text-align: right;">SHUTE, MIHALY & WEINBERGER LLP</p>	<p>Response to Comment O3a-37</p> <p>The comment regarding the Project’s reliance on Johnston Road as a potentially available emergency access route is incorrect and requires clarification. The feasibility of secondary access to the north, south, east, and west of the Project site was analyzed with both County staff and RSFFPD input. However, secondary access routes have proven infeasible based upon this evaluation (FPP, Appendix C), which included an evaluation of eight alternatives for secondary access. Alternative 4, which would require improving a privately owned off-site road that connects with Johnston Road and eventually intersects with Citracado Parkway to the east of the HGV South Project, was determined to be the most feasible of the options but with limitations. The result of Alternative 4 analysis indicated that even if access easements could be obtained, improvements to Johnston Road would result in a useable access way, but that it would not strictly conform to the Fire Code as a secondary access and a modification/variance to the County’s roadway standards would need to be granted (FPP Appendix C).</p> <p>Since secondary access was determined to be infeasible, the potential for impairment of a single road by vehicle congestion, condition of terrain, climatic conditions, or other factors was evaluated. The Project developed an alternative approach for secondary access that meets the intent of the code through the implementation of a list of specifically developed measures and features as described in the FPP.</p> <p>In any event, Johnson Road was identified as an existing road that would provide access in an emergency but was not relied upon as a way to provide secondary access. This is all addressed in greater detail in Global Response Fire Hazards Impact Analysis and Adequacy of Emergency Evacuation and Access.</p> <p>Response to Comment O3a-38</p> <p>Please see Response to Comment O3a-36 for more discussion of the Project’s evacuation analysis and approach, and responsibility for regional evacuations.</p>

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<p style="text-align: right;">Comment Letter O3a</p> <p>Ashley Smith June 20, 2017 Page 31</p> <p>be required to evacuate the entire surrounding community that ultimately uses Country Club Drive to Auto Park Way that addresses the population of the proposed Project along with that of Harmony Grove Village, Eden Valley, Hidden Hills, Harmony Grove and Elfin Forest. Rahn Report at 9.</p> <p>8. The DEIR's Buildout Conditions Analysis Is Inadequate.</p> <p>As explained in the MRO Report, County guidelines require that the DEIR include a level of service analysis under buildout conditions with the Project. MRO Report at 13. The DEIR fails to perform such an analysis. A revised EIR should include an analysis of full buildout conditions, including a buildout analysis of impacted freeway roadway segments. <i>Id.</i></p> <p>D. The DEIR Fails to Adequately Analyze the Project's Air Quality Impacts Relating to Obstructing Implementation of the Regional Air Quality Strategy.</p> <p>The DEIR provides a superficial analysis of the Project's potential to obstruct implementation of the Regional Air Quality Strategy ("RAQs") before concluding this impact would be significant and unavoidable. DEIR at 2.6-5-7, 2.6-16. The emissions inventory in the San Diego Air Pollution Control District's ("SDAPCD") RAQs is based on regional population, housing, and employment projections. As the DEIR explains, because the Project is not included in the County's demographic projections, its criteria air pollutant emissions were not included in the RAQs. <i>Id.</i> As a result, the DEIR concludes that the Project's potential to cause a delay in the ability of the region to attain the California and federal ambient air quality standards and related cumulative impacts constitute significant impacts. We do not dispute the DEIR's conclusion that these impacts are significant. The DEIR errs, however, because it does not reveal the severity of these impacts or identify potential mitigation measures.</p> <p>CEQA does not allow an agency to simply conclude that an impact is significant and unavoidable and move on. An agency's rote acknowledgement that impacts are "significant" does not cure its EIR's failure to analyze the issue. As the court stated in <i>Galante Vineyards v. Monterey Peninsula Water Mgmt. Dist.</i>, "this acknowledgment is inadequate. 'An EIR should be prepared with a sufficient degree of analysis to provide decision makers with information which enables them to make a decision which intelligently takes account of environmental consequences . . .'" (1997) 60 Cal.App.4th 1109, 1123 (quoting <i>Santiago County Water Dist. v. Cty. of Orange</i> (1981) 118 Cal.App.3d 818, 831); see also <i>Mira Monte Homeowners Assn. v. County of</i></p> <p style="text-align: right;">SHUTE, MIHALY & WEINBERGER LLP</p>	<p>Response to Comment O3a-39</p> <p>A buildout Year 2035 street segment LOS analysis of Mobility Element roadways is provided in the traffic study, consistent with County guidelines. Projects that propose to change the County's General Plan, Mobility Element, or zoning above the current density or intensity are required to provide a buildout analysis (see EIR Subchapter 2.2). The purpose of this analysis is to conclude whether the proposed land use changes are consistent with the County's Mobility Element. If not, a project may be required to make changes to the Mobility Element. As shown in the EIR traffic study, no changes are needed to Mobility Element roadways. A freeway analysis under buildout conditions is not required per County guidelines.</p> <p>In addition, please see Response to Comment O3a-26.</p> <p>Response to Comment O3a-40</p> <p>The County respectfully disagrees with this comment. While concurring that the EIR finds a temporary significant impact relative to consistency with the RAQS, the statement regarding the EIR's finding is incorrect and strongly contested. In two adjacent sentences the comment states both that the EIR "does not reveal the severity of the impacts" and that "we do not dispute the DEIR's conclusion that these impacts are significant," which proves the prior sentence wrong. The comment, with references to specific pages in the EIR, then goes on to manufacture an EIR conclusion that does not exist, as it misstates the conclusion rationale of the RAQS analysis. For purposes of clarity, the conclusion in the EIR on page 2.6-7 has been re-written to state:</p> <p><i>Although the Project is not in compliance with the 2016 RAQS because the Project is amending the General Plan, it is in compliance with the air quality standards as described below, and would not result in a significant air quality impact with regards to construction- and operational-related emissions of ozone precursors or criteria air pollutants. Therefore it is unlikely that the additional units from the Project would interfere with the SDAPCD's goals for improving air quality in the SDAB. Impacts associated</i></p>

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	<p><i>with conformance to regional air quality plans would be potentially significant. (Impact AQ-1a)</i></p> <p>The analysis makes it clear that Project implementation is <i>not</i> expected to delay the ability of the region to attain California air quality goals. In fact, the impact is not related to air quality exceedances, but to plan conformance. The actual air quality effects are detailed in EIR Subchapter 2.6, <i>Air Quality</i>, Section 2.6.2.2, <i>Conformance to Federal and State Ambient Air Quality Standards</i>, which expressly addresses existing and projected air quality violations, and measures impacts against the County thresholds. No existing or future Project-related exceedance was identified.</p> <p>This is relevant to the mitigation proposed for the RAQS planning document impact, addressed in the second paragraph of the comment. Because the impact is not related to the environmental effects of the Project, but is rather a “paper” inconsistency, the impact requires a “paper” mitigation measure. This would be accomplished through ensuring that the appropriate RAQS update incorporates the proposed change to the General Plan assumptions (see Mitigation Measure M-AQ-1a). The update would bring both plans into conformance. Again, no mitigation relative to actual emissions is required. The decision-makers have all the information necessary to make a decision, and the public is fully informed about Project emissions.</p>

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<p style="text-align: right;">Comment Letter O3a</p> <p>Ashley Smith June 20, 2017 Page 32</p> <p><i>Ventura</i> (1985) 165 Cal.App.3d 357, 365 (an EIR is meant to protect “the right of the public to be informed in such a way that it can intelligently weigh the environmental consequences of a[] contemplated action.”). Here, the DEIR’s failure to inform the public and decision makers just how far the Project would set the region off course from achieving the California and national air quality standards is a fatal flaw.</p> <p>Nor does the DEIR propose mitigation capable of addressing these impacts. The document identifies a single mitigation measure, which merely calls for the Project’s anticipated growth to eventually be included in the next update of the RAQ. DEIR at 2.6-17. This approach to mitigation implies that the County considers the Project’s inconsistency with the RAQs to be a mere bureaucratic hurdle; the measure is meaningless as it does <i>nothing</i> to reduce the criteria air pollutant emissions that would accompany the Project. The most effective way to reduce air pollution impacts is to reduce emissions from mobile sources. As discussed below, the DEIR fails to propose any substantive mitigation for the Project’s mobile source emissions.</p> <p>E. The DEIR Fails to Adequately Evaluate and Mitigate the Project’s Contribution to Climate Change.</p> <p>Analysis of greenhouse gas emissions is particularly important with regard to climate change because existing conditions are such that we have already exceeded the capacity of the atmosphere to absorb additional greenhouse (“GHG”) emissions without risking catastrophic and irreversible consequences. Therefore, even seemingly small additions of GHG emissions into the atmosphere must be considered cumulatively considerable. <i>See Communities for Better Environment v. Cal. Resources Agency</i> (2002) 103 Cal.App.4th 98, 120 (“the greater the existing environmental problems are, the lower the threshold for treating a project’s contribution to cumulative impacts as significant.”); <i>see also Center for Biological Diversity v. National Highway Traffic Safety Admin.</i> (9th Cir. 2007) 508 F.3d 508, 550 (“we cannot afford to ignore even modest contributions to global warming.”).</p> <p>Additionally, an EIR must identify feasible mitigation measures to mitigate significant environmental impacts. CEQA Guidelines § 15126.4. Under CEQA, “public agencies should not approve projects as proposed if there are feasible alternatives or feasible mitigation measures available which would substantially lessen the significant environmental effects of such projects” Pub. Resources Code § 21002.</p> <p>Despite the fact that the Project would result in an anticipated 4,500 daily car trips and residents that would drive more than 11 million miles each year, the DEIR</p> <p style="text-align: right;">SHUTE, MIHALY & WEINBERGER LLP</p>	<p>Response to Comment O3a-41</p> <p>The first paragraph of this comment states generally accepted concepts regarding GHGs. The County agrees with the comment. The second paragraph makes a blanket statement that an EIR “must identify feasible mitigation measures to mitigate significant environmental impacts,” and cites CEQA Guidelines Section 15126.4 as the source. The comment does not raise any specific issue regarding that analysis and, therefore, no more specific response can be provided or is required. It is noted, however, that the GHG technical discussion in the EIR for this Project received separate review and recirculation during February to March of 2018. Feasible mitigation measures have been identified for the Project which would take Project emissions to net zero. (See Mitigation Measures M-GHG-1 and M-GHG-2 as described in Subchapter 2.7, <i>Greenhouse Gas Emissions</i>, and Chapter 7.0, <i>List of Mitigation Measures and Project Design Features</i>, of the FEIR.)</p> <p>Relative to comments on the County CAP, the County disagrees with the commenter’s mischaracterization that the Sierra Club case and the County General Plan require the DEIR to analyze climate impacts pursuant to thresholds developed under the County’s Climate Action Plan (CAP). In fact, the Superior Court in <i>Sierra Club v. County of San Diego</i>, Case No. 2012-0101054/ <i>Golden Door Properties LLC v. County of San Diego</i>, Case No. 2016-0037402 (April 28, 2017) denied the Sierra Club’s request for an injunction prohibiting the County from processing and approving new large-scale developments on undeveloped land in San Diego County until the County approved a lawful CAP and thresholds.</p> <p>The commenter is correct in that the April 2017 Greenhouse Gas Emissions Analysis (Appendix J to the DEIR) evaluated the potential environmental impacts associated with the proposed Project’s emissions of greenhouse gases (GHG) using the 2016 Guidance Document and its County Efficiency Metric. During the public review period of the Project’s DEIR, the Superior Court in <i>Sierra Club v. County of San Diego</i>, Case No. 2012-0101054/ <i>Golden Door Properties LLC v. County of San Diego</i>, Case No. 2016-0037402 (April 28, 2017) ruled that the County’s Efficiency Metric may not be used to provide the</p>

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	<p>basis for CEQA review of GHG impacts for development proposals within the unincorporated County.</p> <p>As a result, a supplemental analysis (Supplement; included in current Appendix J) was prepared to utilize the significance criteria in Appendix G of the CEQA Guidelines related to GHG emissions to evaluate the Project's GHG emissions. The Project no longer relies on the County Efficiency Metric to determine whether or not the Project would have a significant effect on the environment. See Response to Comment O3a-42 below.</p>

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<p style="text-align: center;">Comment Letter O3a</p> <p>Ashley Smith June 20, 2017 Page 33</p> <p>concludes that the Project would not result in significant impacts related to climate change. DEIR at 3.1.3-7, 3.1.3-25. As detailed below, the DEIR's analysis is fundamentally flawed. It unlawfully relies on the County's July 2016 GHG guidance, which itself was recently ruled to be in violation of CEQA in <i>Sierra Club v. County of San Diego</i>, San Diego County Superior Court, Case No. 37-2012-00101054-CU-TT-CTL. See Exhibit G. As directed by the Sierra Club case and the County General Plan, the DEIR should have analyzed climate impacts pursuant to thresholds developed under the County's Climate Action Plan ("CAP"). But the County has failed to adopt a legally adequate CAP. In addition, the DEIR's analysis violates the California Supreme Court's direction in <i>Center for Biological Diversity v. Cal. Dept. of Fish & Wildlife</i> (2015) 62 Cal.4th 204 ("Newhall Ranch") because it relies on statewide thresholds without any evidence that they are relevant to individual projects.</p> <p>1. The County May Not Rely On Its July 2016 GHG Guidance Recommending Use of the Efficiency Metric to Determine Significance.</p> <p>The DEIR analyzes GHG impacts based on guidance that its Planning and Development Services department issued in July 2016. See DEIR at 3.1.3-14 to 3.1.3-15 (failing to mention the Guidance by name but relying on its recommended thresholds verbatim). This guidance sets forth the County's recommended CEQA threshold of significance for GHG emissions. See Exhibit F (County of San Diego, 2016 Climate Change Analysis Guidance (July 29, 2016) ("July 2016 GHG guidance")). However, the July 2016 GHG guidance and thresholds were not developed through a public review process or adopted by ordinance, resolution, rule, or regulation, as required by CEQA. CEQA Guidelines § 15064.7. For this among other reasons, the July 2016 GHG guidance is currently the subject of several pending lawsuits, including one in which the San Diego County Superior Court ruled the July 2016 GHG guidance violated CEQA and may not be relied on for approval of any pending or future development projects in the County. See Exhibit G.³</p> <p>Even absent the <i>Sierra Club</i> court's injunction, the County could not rely on its July 2016 GHG guidance because it is substantively invalid under <i>Newhall Ranch</i>. In that case, the Court held that, while a "Business As Usual" approach was not</p> <p>³ See also <i>Golden Door Properties, LLC v. County of San Diego</i> (SDSC Case No. 37-2016-00037402); <i>Cleveland National Forest Foundation et al. v. County of San Diego</i> (SDSC Case No. 37-2017-00001628); <i>Sierra Club v. County of San Diego</i> (SDSC Case No. 37-2017-00001635).</p> <p style="text-align: right;">SHUTE, MIHALY & WEINBERGER LLP</p>	<p>Response to Comment O3a-42</p> <p>The commenter is correct in that the April 2017 Greenhouse Gas Emissions Analysis (Appendix J to the DEIR) did originally evaluate the potential environmental impacts associated with the proposed Project's emissions of greenhouse gases (GHG) using the 2016 Guidance Document and its County Efficiency Metric. During the public review period of the Project's Draft EIR, the Superior Court in <i>Sierra Club v. County of San Diego</i>, Case No. 2012-0101054/ <i>Golden Door Properties LLC v. County of San Diego</i>, Case No. 2016-0037402 (April 28, 2017) ruled that the County's Efficiency Metric may not be used to provide the basis for CEQA review of GHG impacts for development proposals within the unincorporated County. As a result, and as noted in Response to Comment O3a-41, a Supplement was prepared to utilize the significance criteria in Appendix G of the CEQA Guidelines related to GHG emissions to evaluate the Project's GHG emissions. CEQA provides that the determination of whether or not a project has a significant effect on the environment is based on the thresholds described in the environmental document. These thresholds of significance can be adopted by the local agency or can be based upon those standards set forth in Appendix G of the CEQA Guidelines Section 15064. In this case, the Project was determined to have less than significant impacts as mitigated based on Appendix G of the CEQA Guidelines and did not rely on a threshold of significance adopted by the County.</p> <p>In addition, in response to public comment the Project Applicant has committed to reducing the Project's construction and operational emissions to net zero (Mitigation Measures GHG-1 and GHG-2) as described in Subchapter 2.7, <i>Greenhouse Gas Emissions</i>, and Chapter 7.0, <i>List of Mitigation Measures and Project Design Features</i>, of the FEIR. Through the purchase of those carbon credits, construction and operationally related GHG emissions of the Project would not result in a net increase to GHG emissions (i.e., would result in no net increase over existing GHG emissions. Therefore, Project implementation would not result in a substantial contribution to a cumulatively considerable GHG impact.</p>

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<p style="text-align: center;">Comment Letter O3a</p> <p>Ashley Smith June 20, 2017 Page 34</p> <p>categorically unlawful, the agency’s application of that methodology failed to comply with CEQA because the EIR “simply assume[d]” that the level of reduction effort required in the statewide context would be sufficient for the specific land use development at issue, failing to support its finding of no significant GHG impacts with substantial evidence. 62 Cal.4th at 226. The Court explained:</p> <p style="padding-left: 40px;">At bottom, the EIR’s deficiency stems from taking a quantitative comparison method developed by the Scoping Plan as a measure of the greenhouse gas emissions reduction effort required by the state as a whole, and attempting to use that method, without consideration of any changes or adjustments, for a purpose very different from its original design: To measure the efficiency and conservation measures incorporated in a specific land use development proposed for a specific location.</p> <p><i>Id.</i> Similarly, the County may not assume that the July 2016 GHG efficiency metric based on <i>statewide</i> reduction targets would be sufficient to attain those targets when applied to individual projects.</p> <p style="padding-left: 40px;">The County’s July 2016 GHG guidance does exactly what the Supreme Court forbids. The DEIR explains that the efficiency metric “represents the rate of emissions needed to achieve a fair share of the State’s emission mandate embodied in AB 32.” DEIR at 3.1.3-14. The DEIR goes on to say that the use of “fair share” in this instance indicates the GHG efficiency level that, if applied statewide, would meet the AB 32 emissions target and support efforts to reduce emissions beyond 2020. <i>Id.</i> The DEIR then states that if the emissions per capita for the Project are lower than the state’s average efficiency metric of 4.9 MTCO₂e per service population in year 2021, the impact would be considered less-than-significant. DEIR at 3.1.3-16. However, it fails to provide evidence that new projects, like this one, need only meet the statewide per capita average for the statewide GHG targets to be met.</p> <p style="padding-left: 40px;">The County should have bridged this analytic gap by preparing a legally sufficient CAP before embarking on this analysis. Without the CAP, the statewide metrics have only questionable relevance to San Diego County or its ability to achieve compliance with AB 32 and SB 32, and Executive Orders EO S-03-05 and B-30-15. In fact, the available San Diego County-specific data show that the County must do more to meet 2020 and 2030 targets, and presumably <i>much</i> more to meet the 2050 target. <i>See</i> Exhibit H (University of San Diego’s 2013 GHG inventory) (showing that even in the rosiest of scenarios, the County is not on track to meet AB 32 targets in 2020). To the extent the DEIR provides some of this analysis for the San Diego region, it is deemed</p> <p style="text-align: right;">SHUTE, MIHALY & WEINBERGER LLP</p> <div style="position: relative; height: 600px;"> <div style="position: absolute; left: 450px; top: 470px;">O3a-42</div> <div style="position: absolute; left: 450px; top: 710px;">O3a-43</div> </div>	<p>Response to Comment O3a-43</p> <p>See Response to Comment O3a-41 above. Specifically, with regard to compliance with AB 32 and SB 32, as described in the Response to Comment O3a-42, the Project would result in no net increase in GHG emissions. As a result, the Project also would not have any adverse effect on County efforts to meet targets specified in those bills.</p>

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<p style="text-align: right;">Comment Letter O3a</p> <p>Ashley Smith June 20, 2017 Page 35</p> <p>“preliminary” since the County is still in the process of preparing the CAP and refining the emissions inventories. DEIR at 3.1.3-11. In short, the DEIR and the July 2016 GHG guidance both fail to explain why cumulative targets for the entire state or San Diego region should be presumptively sufficient for individual projects like this one.</p> <p>To be consistent with AB 32, SB 32 and the Executive Orders, any new individual project will likely need to provide significantly greater emission reductions than merely meeting a statewide target. Contrary to the methodology applied by the DEIR, there is no reason to presume without evidence that the Project’s “fair share” of reductions would match a state or even regional average. The Court explained this point in <i>Newhall Ranch</i>: new projects may require a greater level of reduction because “[d]esigning new buildings and infrastructure for maximum energy efficiency and renewable energy use is likely to be easier, and is more likely to occur, than achieving the same savings by retrofitting of older structures and systems.” 62 Cal.4th at 226. The DEIR ignores this reality and directly imports the statewide standards, assuming the reduction rate for new and existing development should be the same. The Scoping Plan, on which these methodologies are all based, is silent on the distinction between new and existing development in terms of the capacity to reduce emissions, but it stands to reason that new developments will need to reduce at a greater rate, as older development will continue to exist and emit at levels higher than the average. As the DEIR blindly assumes the same emissions reductions levels for statewide and project-specific compliance with AB 32, its GHG analysis is not supported by substantial evidence and the EIR is deprived of its “sufficiency as an informative document.” <i>Id.</i> at 227 (citing <i>Laurel Heights</i>, 47 Cal.3d at 392).</p> <p>2. The County’s Failure to Adopt a Legally Sufficient Climate Action Plan Is the Root of the Problem.</p> <p>The County’s General Plan contains a mitigation measure that requires the County to adopt a Climate Action Plan that will ensure that the County sufficiently reduces its GHG emissions to meet AB 32’s goals and beyond. As the Court of Appeal stated:</p> <p>[Mitigation Measure] CC-1.2 requires the preparation of a County Climate Change Action Plan within six months from the adoption date of the General Plan Update. The Climate Change Action Plan will include a baseline inventory of greenhouse gas emissions from all sources and more detailed greenhouse gas emissions reduction targets and deadlines. The County Climate Change Action Plan will achieve comprehensive and</p> <p style="text-align: right;">SHUTE, MIHALY & WEINBERGER LLP</p>	<p>Response to Comment O3a-44</p> <p>In response to the comment that new individual projects would likely be required to provide significantly greater emission reductions, the Applicant has committed to reduce all Project GHG emissions to net zero through a combination of on-site use of photovoltaic panels and other amenities, as well as purchase of carbon credits as necessary. Textual changes to the Final EIR to reflect specific commitments are located in EIR Chapter 1.0, <i>Project Description</i>, Table 1-2, <i>Project Design Features</i> relevant to GHG Emissions, Subchapter 2.7, <i>Greenhouse Gas Emissions</i>, Section 3.1.1, <i>Energy</i>, Section 3.1.5, <i>Land Use and Planning</i>, and Chapter 7.0, <i>List of Mitigation Measures and Project Design Considerations</i>, as well as to EIR Appendix J, <i>Greenhouse Gas Analyses Report</i>. The attainment of net zero by the Project provides the County with the necessary information to confirm consistency with AB 32, SB 32, and Executive Orders that require projects not to substantially contribute to GHGs. See also Response to Comment O3a-43 above. At net zero, the Project’s contribution by definition would be less than cumulatively considerable, and less than significant.</p> <p>Response to Comment O3a-45</p> <p>Regarding Mitigation Measures CC-1.2 and, and CC-1.8, such matters are beyond the purview of an individual project applicant.</p> <p>The commenter conflates the County’s responsibilities as related to the adoption of the General Plan with the requirements of an applicant under CEQA to reduce GHG emissions of the Project to less than significant.</p> <p>CEQA provides that the determination of whether or not a project has a significant effect on the environment is based on the thresholds described in the environmental document. These thresholds of significance can be adopted by the local agency or can be based upon those standards set forth in Appendix G of the CEQA Guidelines Section 15064. The Project was determined to have less than significant impacts as mitigated based on Appendix G of the CEQA Guidelines and did not rely on a threshold of significance adopted by the County.</p>

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<p style="text-align: right;">Comment Letter O3a</p> <p>Ashley Smith June 20, 2017 Page 36</p> <p>enforceable GHG emissions reduction of 17% (totaling 23,572 MTCO₂e) from County operations from 2006 by 2020 and 9% reduction (totaling 479,717 MTCO₂e) in community emissions from 2006 by 2020.</p> <p><i>Sierra Club v. County of San Diego</i> (2014) 231 Cal.App.4th 1152, 1159. This mitigation measure is a crucial aspect of the General Plan, and the General Plan EIR made it clear that adoption of the Climate Action Plan, among other measures, was necessary to mitigate the Plan's significant climate impacts. However, when the County adopted its Climate Action Plan, it failed to ensure that the Plan contained enforceable measures to reduce Countywide emissions to 1990 levels by 2020. Sierra Club successfully challenged the Climate Action Plan, which the court invalidated. <i>Id.</i></p> <p>Without the Climate Action Plan, the Project cannot be found consistent with the General Plan's climate-related policies. For example, the General Plan requires the CAP to establish thresholds:</p> <p>CC-1.8 Revise County Guidelines for Determining Significance based on the Climate Change Action Plan. The revisions will include guidance for proposed discretionary projects to achieve greater energy, water, waste, and transportation efficiency.</p> <p>The Project is flatly inconsistent with Policies CC-1.2 and CC-1.8, and the County has failed to comply with these mitigation measures. These policies prohibit the County from approving major development projects at this time. The County must first adopt a legally adequate CAP (as required by CC-1.2) and adopt thresholds based on that CAP (as required by CC-1.8).</p> <p>The County's backwards approach is also unfair and bad public policy. When the County ultimately completes the analysis required by the General Plan, the thresholds may need to be made more stringent. Ironically, future applicants proposing projects that are <i>consistent</i> with the General Plan will bear a greater burden of reducing GHG emissions than projects like this one that are <i>inconsistent</i> with the General Plan.</p> <p>In sum, the County puts the cart before the horse by analyzing impacts based on the July 2016 GHG guidance, not on thresholds developed by the CAP. The DEIR's analysis violates CEQA because it relies on a threshold of significance that: (1) the County is enjoined by court order from applying; (2) violates the Supreme Court's guidance in <i>Newhall Ranch</i>; and (3) violates the express policies of the General Plan.</p> <p style="text-align: right;">SHUTE, MIHALY & WEINBERGER LLP</p>	<p>This approach is confirmed by the Superior Court in <i>Sierra Club v. County of San Diego</i>, Case No. 2012-0101054/ <i>Golden Door Properties LLC v. County of San Diego</i>, Case No. 2016-0037402 (April 28, 2017) denied the Sierra Club's request for an injunction prohibiting the County from processing and approving new large-scale developments on undeveloped land in San Diego County until the County approved a lawful CAP and thresholds.</p> <p>Furthermore, the Project Applicant has committed to reducing the Project's emissions to net zero made enforceable through mitigation measures (M-GHG-1 and M-GHG-2 for purchase and retiring off-site carbon offsets for both construction and operational periods, respectively), as well as a number of PDFs, as described in Subchapter 2.7 and Chapter 7.0 of this FEIR. Through the purchase of carbon credits to cover construction and operational GHG emissions, the Project would result in no net increase to the existing GHG emissions, and the Project would not have a substantial contribution to a cumulatively considerable GHG impact. The Project's commitment to achieve net zero GHG emissions also ensures that the Project would not conflict with the General Plan's applicable policies or regulations adopted for the purpose of reducing GHG emissions. In summary, with the Project's additional mitigation commitment to purchase and retire off-site carbon offset credits to reduce the Project's GHG emissions to net zero, the Project would not result in a significant impact to global climate change and would be consistent with the policies of the County's General Plan.</p>

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<p style="text-align: center;">Comment Letter O3a</p> <p>Ashley Smith June 20, 2017 Page 37</p> <p>In addition, until the CAP is completed, the DEIR cannot adequately analyze the cumulative GHG impacts of the Project together with those of existing and reasonably foreseeable future development. The CAP will presumably include information on the cumulative GHG emissions under potential buildout of the General Plan. Until such information is developed, the County lacks the information upon which a meaningful cumulative analysis can be based.</p> <p style="text-align: right;">O3a-45</p> <p>3. Air Districts Developed Per Capita “Efficiency” Thresholds to Analyze Impacts of Infill Projects, Not Sprawl Developments.</p> <p>The County’s chosen threshold of significance is improper for the additional reason that it was designed for infill and transit oriented development (“TOD”) projects, not greenfield projects like Harmony Grove Village South. The per capita threshold methodology was developed as a tool to accommodate infill projects that may have large overall GHG emissions due to the size of the project, but low GHG emissions per capita due to high density design and access to alternative methods of transportation.</p> <p>For example, the Bay Area Air Quality Management District (“BAAQMD”) designed a similar “fair share” approach to assess a project’s GHG significance. <i>See</i> Exhibit I (BAAQMD, <i>Proposed Thresholds of Significance</i> (2009)). BAAQMD recommended a bright-line numeric threshold to limit large new developments that could max out GHG reduction targets. <i>Id.</i> at 18-19, 22. In contrast, the per capita “efficiency” threshold was recommended to encourage highly-efficient infill development. <i>Id.</i> at 29. Using the per capita threshold for greenfield projects conflicts with the policy goal the methodology was originally designed to achieve. BAAQMD staff specifically noted that “the efficiency-based thresholds should be applied to individual projects with caution . . . [if] the project’s emissions on a mass level will have a cumulatively considerable impact on the region’s GHG emissions, the insignificance presumption afforded to a project that meets an efficiency-based GHG threshold would be overcome.” <i>Id.</i> at 7.</p> <p>In sum, the per capita threshold was developed to accommodate and promote highly efficient infill development. The proposed Project is not such a development. It is located far from mass transit and would result in a substantial increase in car trips. Therefore, it is inappropriate to use this methodology in the context of greenfield development that generates an excessive amount of vehicle miles traveled.</p> <p style="text-align: right;">O3a-46</p> <p style="text-align: right;">SHUTE, MIHALY & WEINBERGER LLP</p>	<p>Response to Comment O3a-46</p> <p>Please refer to Response to Comment O3a-42 and 44.</p>

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<p style="text-align: right;">Comment Letter O3a</p> <p>Ashley Smith June 20, 2017 Page 38</p> <p>4. The DEIR Understates Vehicle Emissions Resulting from the Project.</p> <p>As discussed above, the DEIR underestimates predicted traffic volumes because it relies on outdated traffic volume data. Inasmuch as the greenhouse gas emissions are dependent on the transportation analysis assumptions, any underestimation of vehicular trips necessarily results in an underestimation of vehicle-related greenhouse gas emissions. Once the County accurately analyzes the Project's increase in traffic volumes, it must revise the greenhouse gas impact analysis.</p> <p>5. The DEIR Fails to Propose Feasible Mitigation Measures to Reduce Project-related GHG Emissions.</p> <p>For the reasons discussed above, the DEIR lacks any basis for determining that the Project will result in less-than-significant GHG impacts because the analysis of those impacts is based on a legally inadequate threshold of significance. By any rational measure, the Project will have a significant impact related to climate change. The DEIR concludes otherwise only because it distorts the Project's actual impacts, uses an inappropriate way to measure the significance of the Project's impacts, and ignores that the Project conflicts with various relevant GHG-reduction policies.</p> <p>Because the DEIR concludes that the Project will not have a significant climate-related impact, it also fails to adopt feasible mitigation.⁴ But, because the Project's impact will actually be significant, the DEIR must identify and include adequate mitigation measures to reduce or avoid the Project's contribution to climate change. However, the best mitigation would be to disapprove this Project and adopt a city-centered, infill alternative that conforms to actual smart growth principles. This would have numerous benefits, including preservation of the rural character of Harmony Grove, reduced vehicle miles traveled (and concomitant reductions in GHG and other air pollutant emissions), preservation of wildlife habitat, and less traffic on rural roads.</p> <p>⁴ As discussed above, the Project includes "design features," which are functionally equivalent to mitigation measures, that are intended to reduce the Project's GHG emissions. DEIR at 1-49 to 1-50. However, the DEIR never suggests that these few features represent all feasible mitigation, therefore satisfying CEQA's requirement that agencies adopt all feasible mitigation to reduce or mitigate a Project's significant impacts. Pub. Resources Code § 21081.</p> <p style="text-align: right;">SHUTE, MIHALY & WEINBERGER LLP</p>	<p>Response to Comment O3a-47</p> <p>The traffic volumes used in the air quality and GHG analyses came from the Project <i>Traffic Impact Analysis</i> prepared by Linscott, Law and Greenspan, and provided as Appendix D to the EIR. As discussed in Response to Comment O3a-29, the traffic counts used in the TIA did not undercount traffic volumes. This was documented in 2017, when counts indicated that volumes were within 10 percent (an allowable variation based on daily variation) of the numbers used, and generally still somewhat lower than modeled conditions. As such, there was not an underestimation of traffic volumes and the GHG modeling does not require modification based on the traffic data. Please also refer to Attachment A to the final TIA.</p> <p>Response to Comment O3a-48</p> <p>Relative to the threshold of significance and legal adequacy, the April 2017 Greenhouse Gas Emissions Analysis (Appendix J to the DEIR) evaluated the potential environmental impacts associated with the proposed Project's GHG emissions using the 2016 Guidance Document and its County Efficiency Metric. During the public review period of the Project's DEIR, the Superior Court in <i>Sierra Club v. County of San Diego</i>, Case No. 2012-0101054/ <i>Golden Door Properties LLC v. County of San Diego</i>, Case No. 2016-0037402 (April 28, 2017) ruled that the County's Efficiency Metric may not be used to provide the basis for CEQA review of GHG impacts for development proposals within the unincorporated County.</p> <p>As a result, a supplemental analysis (Supplement; see revised Appendix J) was prepared to utilize the significance criteria in Appendix G of the CEQA Guidelines related to GHG emissions to evaluate the Project's GHG emissions. In addition, and in response to comment received, the Project Applicant has committed to reducing the Project's emissions to net zero, made enforceable through PDFs and mitigation measures (M-GHG-1 and M-GHG-2 for purchase and retiring off-site carbon offsets for construction and operational periods, respectively), as described in Subchapter 2.7 and Chapter 7.0 of this FEIR. Through the Project PDFs and purchase of carbon credits to offset Project construction and operationally related GHG emissions, the Project would result in no net increase to the existing GHG emissions, and the Project would not have a substantial contribution to a cumulatively considerable GHG impact. The</p>

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	<p>Project’s commitment to achieve net zero GHG emissions also ensures that the Project would not conflict with applicable plans, policies, or regulations adopted for the purpose of reducing GHG emissions. In summary, with the Project’s additional mitigation commitment to purchase and retire off-site carbon offset credits to reduce the Project’s GHG emissions to net zero, the Project would not result in a significant impact to global climate change. Please refer to the revised Subchapter 2.7, <i>Greenhouse Gas Emissions</i>, in the FEIR.</p> <p>The County cannot adopt a “city-centered” infill alternative because the County only has jurisdiction over unincorporated lands within the County and it would not meet the Project’s objectives, particularly with respect to efficiently developing property in close proximity to an existing village in order to create one complete and vibrant community that would enhance and support the economic and social success of the village.</p> <p>The Project is also consistent with County-adopted smart-growth policies; including preferring infill development over expansion into pristine open-space areas and areas not adjacent to existing public facilities. Smart growth is described in the General Plan Land Use Element under the heading “Village and Town Centers, Context” and the proximity to services, jobs, and amenities comprises an underlying element of the Project approach as described in EIR Chapter 1.0, <i>Project Description</i> and Section 3.1.5, <i>Land Use and Planning</i>. The Project is consistent with these policies.</p> <p>The comment (footnote 4) also alludes to the Project Design Features (PDFs), stating that they are functionally equivalent to mitigation measures, and continuing that “the DEIR never suggests that these few features represent all feasible mitigation, therefore satisfying CEQA’s requirement that agencies adopt all feasible mitigation to reduce or mitigate a Project’s significant impacts. Pub. Resources Code [PRC] Section 21081.”</p> <p>First, although the County applies the same strict rigor to confirmation of PDF installation as they do to mitigation measures through inclusion in Chapter 7.0 as Project conditions, PDFs vary from mitigation measures in their application. PDFs are identified prior to evaluation of the Project and comprise part of the</p>

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	<p>Project itself. The proposed action is then evaluated with those features included. This occurs in the same way, for example, as a total number of units is evaluated. Removal of a PDF would result in an alternative scenario (i.e., the base project would change), not a mitigation measure to lower an assessed impact to a less than significant effect. The “D” Designator is an integral element of the Project and requires compliance with a number of standards set forth in the Specific Plan.</p> <p>Second, the comment is correct that the EIR does not assert that the PDFs (or indeed recommended mitigation) comprise all feasible mitigation. The comment provides a mistaken characterization of the code section. PRC Section 21081 (and the related CEQA Guidelines Section 15091) do not require an agency to adopt all feasible mitigation to reduce or mitigate a project’s significant impacts. It requires changes incorporated into or required in the Project to either avoid or mitigate significant impacts (i.e. design features or mitigation).</p>

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<p style="text-align: right;">Comment Letter O3a</p> <p>Ashley Smith June 20, 2017 Page 39</p> <p>F. The DEIR Improperly Avoids Analysis of Impacts By Relying on Project Features to Mitigate Project-Related Impacts.</p> <p>Where a project may have significant environmental impacts, any appropriate mitigation measures must be identified in the environmental review process, not outside of it. <i>Azusa Land Reclamation Co. v. Main San Gabriel Basin Watermaster</i> (1997) 52 Cal.App.4th 1165, 1199-1200. This ensures that impacts are reduced to the greatest extent possible, as a result of informed decision making. <i>Lotus</i>, 223 Cal.App.4th at 658. Accordingly, reliance on mitigation measures to avoid CEQA review amounts to an “end run” around the governing standards. <i>Azusa Land Reclamation Co.</i>, 52 Cal.App.4th at 1201.</p> <p>According to the DEIR, the proposed Project design features (“PDFs”) “minimize potential long-term adverse effects associated with the Proposed Project” for a long list of issue areas. See DEIR Table 1-2 at 1-44 to 1-58. The DEIR concludes that these features would reduce many of the Project’s impacts to an insignificant level. For example, the DEIR concludes that these features will reduce the Projects greenhouse gas emissions, wildfire hazards, and hydrology and water quality impacts to less than significant levels. See, e.g., DEIR at 3.1.3-19 to 3.1.3-20, 3.1.4-22 to 3.1.4-26, 3.1.5-17.</p> <p>CEQA does not allow an EIR to fold what is effectively an assumed mitigation measure into a significance determination—the project’s significant impacts must be determined first, and then the EIR must identify enforceable mitigation that will “offset” the impacts. See <i>Lotus</i>, 223 Cal.App.4th at 656. <i>Lotus</i> held that an EIR was legally inadequate where it assumed certain mitigation techniques would be incorporated into the project, and thus the EIR did not disclose the impacts of the project without those special techniques. See <i>id.</i> Further, the court in <i>Lotus</i> held that the EIR there was inadequate because it “fail[ed] to discuss the significance of the environmental impacts apart from the proposed ‘avoidance, minimization, and/or mitigation measures’ and thus fail[ed] to consider whether other possible mitigation measures would be more effective.” <i>Id.</i> at 657. Such is the case here: the DEIR relies on a list of “Project Design Features” as a key factor in its determination that a long list of Project-related impacts would be less than significant. See DEIR at S-6. In so doing, the DEIR fails to reveal the true nature of the impacts and consider other feasible mitigation measures and their effectiveness, in violation of CEQA.⁵</p> <p>⁵ Conflating environmental analysis and mitigation is also prejudicial because CEQA contains special requirements to ensure monitoring and enforcement of mitigation</p> <p style="text-align: right;">SHUTE, MIHALY & WEINBERGER LLP</p>	<p>Response to Comment O3a-49</p> <p>Please refer to Response to Comment O3a-48 regarding lack of need to reduce impacts to the “greatest extent possible.” The statement is correct that PDFs result in reduction of severity (up to and including) elimination of some impacts that otherwise would be identified as significant. The DEIR did not fold an “assumed mitigation measure” into a significance determination. The analysis stands on its own and provides an assessment of the potential impacts associated with implementation of the Project as described (including the incorporated PDFs) in the Project baseline conditions. The incorporation of PDFs the Project is committed to implementing is relevant. The PDFs are mandatory and not assumed. The County requires full disclosure of elements considered during impact analysis, and also specifically requires that all PDFs become Conditions of the Project that are included within Chapter 7.0. That chapter provides the basis for assessment of Project compliance with Project Conditions, and treats PDFs and mitigation measures with equal attention to detail and their mandatory nature. It is noted that PDFs are often based in mandatory regulatory compliance (e.g., specific requirements of a fire code, Title 24 building requirements, or water quality regulations). Although frequently regulatory based, however, they do need to be mandatory, enforceable, and committed to as part of Project design actions. Mitigation measures, on the other hand, may be more voluntary in nature (although enforceable), may be subject to discussion as to their efficacy, may require actions by others that need to be clearly disclosed and committed to (e.g., City of Escondido approval of grading in their jurisdiction), and generally can vary without affecting an underlying project. For example, the implementation of low-energy-use appliances, reduced-water-use fixtures, specific landscape requirements, etc., are required under the “D” Designator, which requires compliance with a number of standards set forth in the Specific Plan; including the sustainability policies. Regardless, because these commitments are equally mandatory, their incorporation simply reflects good planning, similar to incorporation of other best management practices, ordinance compliance, etc., and complies with CEQA, as indicated in PRC Section 21081 (see also Response to Comment O3a-48).</p>



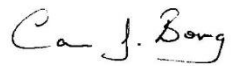

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<p style="text-align: right;">Comment Letter O3a</p> <p>Ashley Smith June 20, 2017 Page 40</p> <p>Under CEQA, it is the EIR's job to evaluate just how significant the Project's impacts would be and to consider all feasible measures to lessen or avoid the impact. Until such time as the County evaluates the Project's adverse effects prior to the implementation of mitigation, the DEIR will remain legally inadequate.</p> <p>VI. The EIR Must Evaluate an Alternative that Would Avoid the Project's Significant Impacts.</p> <p>A proper analysis of alternatives is essential to comply with CEQA's mandate that, where feasible, significant environmental damage be avoided. Pub. Resources Code § 21002 (projects should not be approved if there are feasible alternatives that would substantially lessen environmental impacts); CEQA Guidelines §§ 15002(a)(3), 15021(a)(2), 15126(f). The primary purpose of CEQA's alternatives requirement is to explore options that will reduce or avoid adverse impacts on the environment. <i>Watsonville Pilots Assn. v. City of Watsonville</i> (2010) 183 Cal.App.4th 1059, 1089. Therefore, the discussion of alternatives must focus on project alternatives that are capable of avoiding or substantially lessening the significant effects of the project, even if such alternatives would impede to some degree the attainment of the project objectives or would be more costly. CEQA Guidelines § 15126.6(b); <i>see also Watsonville Pilots</i>, 183 Cal.App.4th at 1089 ("[T]he key to the selection of the range of alternatives is to identify alternatives that meet most of the project's objectives but have a reduced level of environmental impacts").</p> <p>Here, the DEIR improperly circumscribes its analysis of potential Project alternatives. While pieces of alternatives included in the DEIR meet particular Project objectives or minimize particular environmental impacts, the DEIR avoids analysis of an alternative that could substantially lessen the Project's significant impacts while meeting most Project objectives.</p> <p>The Elfin Forest Harmony Grove Town Council has identified an alternative that would meet these criteria. The "Harmony Commons" alternative, described in detail in the Council's comments, would result in fewer environmental impacts than the Project, similar to the environmentally superior "General Plan Consistent with Sewer" alternative (<i>see</i> DEIR at 4-43), and it would also meet the Project objectives. <i>City of Watsonville Pilots</i>, 183 Cal.App.4th at 1089 (analysis of alternatives</p> <p>measures. CEQA Guidelines §§ 15097(a), 15126.4(a)(2). If the mitigation is subsumed within the analysis and not included as a separate measure, it would escape these requirements.</p> <p style="text-align: right;">SHUTE, MIHALY & WEINBERGER LLP</p>	<p>Response to Comment O3a-50</p> <p>The commenter expresses concern that the discussion of alternatives in the EIR does not meet CEQA requirements in that the EIR avoided analysis of alternatives that could substantially lessen the Project's significant impacts while meeting most Project objectives. In other words, the commenter believes that the EIR contains an overly narrow range of alternatives.</p> <p>The County has carefully reviewed the suggested Harmony Common design scenario provided by the Council and suggested as a Project alternative. The citation from CEQA Guidelines Section 15126.6(a) is correct as far as it goes, but omits the following critical sentences:</p> <p style="padding-left: 40px;"><i>An EIR need not consider every conceivable alternative to a project. Rather it must consider a reasonable range of potentially feasible alternatives that will foster informed decision making and public participation... There is no ironclad rule governing the nature or scope of the alternatives to be discussed other than the rule of reason.</i></p> <p>The EIR already contains a reasonable range of potentially feasible alternatives. Proposed Project significant impacts were identified for aesthetics, air quality, transportation/traffic, biological resources, cultural resources, tribal cultural resources, and noise. As noted, CEQA Guidelines 15126.6(a) requires that each of those impacts be addressed by alternatives that would have the potential to reduce or avoid these significant impacts. This is accomplished by the Project alternatives. There is no CEQA mandate to include additional alternatives that achieve the same end relative to impact avoidance/reduction to a less than significant level. That would support identification of endless alternatives varying only in detail, which is expressly rejected in the citation above.</p> <p>A number of potential alternatives to the Project were considered and a reasonable range of alternatives with varying degrees of density were selected for analysis in the Project's EIR (CEQA Guidelines Section 15126.6). The Project's EIR analyzed six alternatives; the No Project/No Development Alternative, as well as a total of four development alternatives with varying levels of density, and two sewer options (combined under one alternative). The Project's EIR provides a narrative description of the factors considered in</p>

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	<p>evaluating the range of alternatives and reasons for excluding others. As described in Section 4.1.1. of the EIR, the alternatives were selected based on the alternative's ability to feasibly attain most of the basic Project objectives as well as reduce or avoid the significant impacts of the Project, in the light of the constraints of feasibility. The Project's significant impacts to aesthetics, air quality, transportation/traffic, biological resources, cultural resources, tribal cultural resources, and noise resulted in alternatives designed to reduce the Project's impacts through modifications to the development footprint and/or development intensity. Each of the alternatives selected was vetted for both planning and engineering feasibility. This was an intensive process that resulted in alternatives that are internally consistent and would each work as a feasible standalone project, and the basis of such feasibility was thoroughly explained in the EIR. Excluding short-term visual effects and (unknown but conservatively planned for cultural resources impacts) the Project alternatives accomplish the required goal by reducing Project impacts through modifications to the potential footprint and/or development intensity.</p> <p>The General Plan Compliant with Septic Alternative is composed of 49 residences using septic (fewer homes than suggested in the Council scenario) that would substantially minimize or eliminate significant impacts to air quality planning effects associated with the Regional Air Quality Strategy (RAQS) residential assumptions, transportation/traffic generation, and noise. The Biologically Superior Alternative is the smallest footprint alternative, and was developed in concert with the wildlife resource agencies specifically to address focused biological resources. Between these two, other build alternatives addressed lower intensity development than the Project, as well as differently focused development. The General Plan Consistent with Sewer Alternative would provide consistency with the existing General Plan land use designation by compliance with the County's Conservation Subdivision Program and Planned Development Regulations and reduce traffic and air quality impacts. The Senior Care Traffic Reduction Alternative is intended to substantially reduce impacts associated with traffic in the context of providing a different development program that would still allow for an increase in density adjacent to the existing HGV Village through a General Plan Amendment. Among these alternatives a varying range of densities was provided (49, 119, 425, and 266</p>

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	<p>units, respectively) along with a different development program and a condensed footprint. The fact that an additional alternative may exist which also attains these goals does not require its inclusion in the EIR. In fact, it is certain that an endless number of alternatives that pick elements from one or more alternatives, as well as introducing other new elements, are possible. But that is not the mandate—rather, the lead agency must only provide a reasonable range of alternatives, and that has occurred here.</p> <p>There is not enough detail in this plan to fully compare all Project objectives, and it is unknown whether or not this is a financially feasible alternative given the amount of amenities included that would be paid for by 119 units, as well as the small number of units of each building type.</p> <p>Regardless, this alternative would not meet the basic and first Project objective of efficiently developing property in close proximity to an existing village to create one complete and vibrant community that would enhance and support the economic and social success of the village and Project by increasing the number of residential opportunities to the same level as the Proposed Project. Developing under this alternative would not as efficiently develop a site that is located next to an existing village with existing infrastructure and associated facilities and amenities that could be utilized by the new development. Also, even though there is diversity in this plan, the number of different types of households is smaller, with the values associated with diversity therefore also being diminished.</p> <p>Relative to impacts, the construction-period aesthetics impacts would be cured with time and maturity of landscaping implemented by the Project. The Council scenario also would be expected to have the same unmitigable construction-period effects, as grading and residential construction would occur within the northern portion of the site, including the central “bench,” the areas identified in the EIR as being the most visually accessible to off-site viewers. As addressed in the EIR, survey and on-site testing to date has not identified any significant resources. Although significant cultural resources impacts are therefore not anticipated, the Project takes a conservative approach, and measures have been</p>

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	<p>put in place as Project Conditions to allow for full mitigation of any currently unforeseen impacts. The same would be expected for the Council scenario.</p> <p>Given these considerations, the alternative is not considered “substantially superior” to the alternatives evaluated in the circulated EIR and as addressed earlier in this response. The alternatives as a group evaluated even fewer homes, with less traffic generation, and equally consistent with the existing RAQS and SIP (see, variously, the 49- and 119-unit design scenarios). The public good provided by the senior portion of the Council-suggested alternative would not provide benefits close to those of the Senior Care Traffic Reduction Alternative. Biological resources are considered appropriately addressed as the Biologically Superior Alternative, which was designed in the field with County biology and wildlife agency personnel. Review of additional alternatives is unnecessary when the goal of CEQA Guidelines 15126.6 is to demonstrate the ability to avoid or minimize significant impacts while feasibly attaining most of the objectives, as provided in the EIR.</p>

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<p style="text-align: right;">Comment Letter O3a</p> <p>Ashley Smith June 20, 2017 Page 41</p> <p>that did not meet most project objectives failed to inform decision makers “about how most of the project’s objectives could be satisfied without the level of environmental impacts that would flow from the project”). Critically, this alternative would be consistent with numerous General Plan, Community Plan, and Zoning Code provisions that prohibit the Project as proposed; in particular, the less dense development would complement HGV, without clashing with the Community Development Model.</p> <p>By omitting discussion of an alternative like Harmony Common, the DEIR leaves the reader with the impression that no alternative could meet both Project objectives and reduce the Project’s significant environmental impacts. As a result, the DEIR fails to “foster informed decision making and public participation.” CEQA Guidelines § 15126.6(a); <i>see Watsonville Pilots</i>, 183 Cal.App.4th at 1089-90 (holding that where the impacts of a project were primarily due to the impacts of growth, the alternatives analysis should have included a reduced growth alternative that would meet most project objectives). To ensure that the alternatives analysis complies with CEQA and serves its informational purposes, the DEIR should be revised to include the Harmony Commons alternative.</p> <p>VII. Conclusion</p> <p>For all of the foregoing reasons, we respectfully submit that the County cannot lawfully approve Harmony Grove Village South. The Project is plainly inconsistent with numerous General Plan policies. The DEIR is deeply flawed and fails to inform the public of the full impacts of the Project. It can support neither the findings required by CEQA nor a determination of General Plan consistency. We urge the County to exercise its discretion and deny this ill-advised Project.</p> <p style="text-align: right;">SHUTE, MIHALY & WEINBERGER LLP</p>	<p>Response to Comment O3a-51</p> <p>These are conclusion comments. They do not raise specific issues regarding the content of the DEIR, but will be included as part of the administrative record and made available to the decision makers prior to a final decision on the Proposed Project.</p>

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<p style="text-align: center;">Comment Letter O3a</p> <p>Ashley Smith June 20, 2017 Page 42</p> <p style="text-align: center;">Sincerely,</p> <p style="text-align: center;">SHUTE, MIHALY & WEINBERGER LLP</p> <p style="text-align: center;"></p> <p style="text-align: center;">Winter King</p> <p style="text-align: center;"></p> <p style="text-align: center;">Allison A. Johnson</p> <p style="text-align: center;"></p> <p style="text-align: center;">Carmen J. Borg, AICP Urban Planner</p> <p>cc (e-mail only):</p> <p>Dianne Jacob, Chair, Supervisor, District 2 Kristin Gaspar, Supervisor, District 3 Greg Cox, Supervisor, District 1 Ron Roberts, Supervisor, District 4 Bill Horn, Supervisor, District 5 Sarah Aghassi, Deputy CAO and group General Manager for LUEG David Sibbett, Planning Manager, PDS Doug Dill, San Dieguito Planning Group Jacqueline Arsivaud, Elfin Forest Harmony Grove Town Council David Kovach, RCS Harmony Partners, LLC Marcel Arsenault, Real Capital Solutions Brian Paul, Homebuilder Capital Solutions Matt Dias, Executive Officer, CA State Board of Forestry and Fire Protection</p> <p style="text-align: center;"></p>	