

## **B. ORGANIZATIONS AND INDIVIDUALS**



Albany Strollers and Rollers  
524 Talbot Avenue  
Albany, CA 94706

5 October 2009

Amber Curl, Associate Planner  
Community Development Department  
City of Albany  
979 San Pablo Avenue  
Albany, CA 94706

Re: University Village at San Pablo DEIR

Dear Ms. Curl-

Albany Strollers and Rollers (AS&R) has reviewed the Public Review Draft of the University Village at San Pablo Avenue Project Environmental Impact Report (the DEIR) dated July 2009. AS&R was founded in 2004 to promote human-scale transit in Albany. Human-scale transit is defined as any transit mode that allows users to readily and legally stop to talk to any passerby, such as a neighbor, acquaintance or friend. Such transit modes include walking, cycling, skating, and wheelchairs. AS&R currently has approximately 200 members.

AS&R's review of the DEIR has focused in particular upon Section IV.a, transportation, circulation and parking, as appropriate to the organization's mission. AS&R appreciates the attention paid to cycling and walking in the DEIR pursuant to circulation and parking objectives 5-2 and 5-6 of the University Village Master Plan articulated in 1998 and reiterated in 2004, which are "to design a pedestrian circulation system for social, recreational, transit and other uses" and "to limit the need for parking and encourage transit and bicycle use for daily transportation needs," respectively.

Attached is AS&R's review of the subject DEIR section and the project's attainment of these objectives. Note that AS&R understands many of the attached comments may not strictly have a nexus with significance thresholds, but nonetheless they do state the positions that AS&R currently holds and intends to pursue through the coming project approval process.

Thank for your consideration. Take care.

Preston Jordan  
Co-founder  
Albany Strollers and Rollers

**Use Of The Term “Vehicle”**

The unqualified term “vehicle” is used in the DEIR. It is unclear from the context of some of these uses if “vehicle” refers to just automobiles/motorists or includes bicycles/people biking as bicycles are recognized as vehicles in the State of California Vehicle Code. Please search on the term “vehicle” and where unqualified clarify its meaning.

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**Use Of The Term “Bicycle”**

AS&R finds it is common practice in transportation engineering to use the term “bicycle” when “cyclist” is meant. This causes syntactically nonsensical statements at times, but more broadly dissuades from understanding transportation engineering as facilitating movement of and exchanges between people rather than the objects they choose for their means of transport. For instance, pg. 117 includes the statement “reduce potential bicycle confusion.” On a literal reading this is obviously nonsense as bicycles cannot be confused. Their riders certainly can be, and so the statement should be “reduce potential cyclist confusion.” Please search on the term “bicycle” and change where appropriate.

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**Table IV.A-11 (pg. 89)**

The confusion around the meaning of the term “vehicle” is evident in trying to interpret Table IV.A-11. Does this table present the number of trips by all modes or just motorist trips? The text states, “Table IV.A-11 presents the net project trips that would be added to the roadway network . . . The total net new additional trips also include pass-by trips. Pass-by vehicle trips are trips attracted . . .” From the reference to “roadway” and “vehicle” in the context of this table, AS&R concludes that it lists only vehicle trips, and so does not include walking trips. While a strict reading would suggest that such would include both motorist and cyclist trips, as each uses the roadways via machines recognized as vehicles in the state, AS&R is unclear on whether Table IV.A-11 includes trips by bicycle or not.

The possible different readings of Table IV.A-11 have ramifications for the demand for walking and cycling facilities in the project. For instance if Table IV.A-11 does not include walking and biking trips, then combined with Table IV.A-12 it suggests a total of 296 new walking trips and 64 new cycling trips in the Saturday peak hour. If Table IV.A-11 does include cycling and walking trips, then these would comprise 210 and 46 trips, respectively.

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As one example of the ramification of these different possibilities, the DEIR estimates that 22 temporary bicycle parking spaces are required. If the number of new cycling trips is 46 per hour, then 22 spaces is probably slightly inadequate given the average duration of a visit to the project site. If the number of new cycling trips is 64 per hour, then 22 spaces is clearly inadequate.

AS&R suggests that Table IV.A-11 be extended or a new table be inserted that clearly lists the absolute numbers of new trips anticipated for each mode. This would make clear that this project will be one of the largest, if not the largest, generator of cycling and walking trips in the city.

Incidentally, AS&R appreciates the inclusion of Table IV.A-12, and the recognition of the high walking and cycling mode share possible at the project site. AS&R agrees these shares are likely to develop, and possibly be surpassed, if the best walking and cycling access and circulation network is developed around the site.

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It would also be useful if the number of workers, and/or worker trips was estimated, and from this the number of workers walking and cycling to the site was estimated. The latter would support the number of long-term bicycle parking spaces in Recommendation TRANS-4.

**Motorist Traffic Volumes Through University Village**

A comparison of the intersection motorist volumes for 2008, 2015 and 2035 without and with project conditions indicates that the DEIR holds there will be no additional motorists on Jackson south of Monroe, and 20 or fewer additional motorists per hour on Jackson north of Monroe at during peak hours. This is despite the projection on Figure IV.A-11 that 34% of the project (motorist) trips, which is hundreds of trips, will involve the freeways to the west, and despite LOS B or better at the intersections connecting to Jackson from Gilman and Buchanan, and LOS E and F in the PM 2008 peak at the intersections of Gilman and San Pablo and Marin and San Pablo, respectively. Given these results, it strains credulity that less than 10% of the motorist trips distributed to the west of the project would pass through University Village, particularly given that the DEIR does not specify any motorist volume control measures on 8<sup>th</sup>, Jackson or Monroe.

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AS&R requests that the low incremental motorist volume on Jackson in University Village due to the project be reexamined in light of the project trip distribution and intersection LOS stated.

With regard to motorist circulation through University Village, AS&R also notes that existing and projected motorist traffic conditions at the entry and exit to Ocean View Elementary School on Jackson were not analyzed. This road segment is congested, perhaps significantly so, during school drop off and pickup times, and the addition of project traffic may have a nonlinear effect on the function of this road segment.

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**Pedestrian And Bicycle Access And Circulation Analysis (pp. 114-118)**

AS&R appreciates that the project proposes back-in angle parking on Monroe and cycling facilities of some sort along 10<sup>th</sup>. AS&R believes the former will be a improvement as compared to the pull-in angle parking found elsewhere in Albany with regard to the safety of the more experienced cyclists that will use Monroe. AS&R hopes successful implementation of this new parking strategy will lead to it becoming more common in the area.

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AS&R appreciates the pedestrian and bicycle access and circulation analysis undertaken in accord with the University Village Master Plan circulation and parking objectives 5-2 and 5-6, restated above, and supports all the recommendations on Figure IV.A-15. The purpose of such a wide cycling lane on 10<sup>th</sup> south of Monroe is unclear to AS&R as well, particularly when the

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addition of a foot or two of width would allow a cycling path. The recommendation of stop signs throughout the project according to convention is appreciated, particularly in contrast to nearby El Cerrito Plaza, which has numerous irregular traffic control devices, device usages, and device placements.

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Still, AS&R does not think the analysis goes far enough in recommending access improvements for people walking and biking. Specifically, placing Whole Foods north of Monroe necessitates that most people walking or biking to this largest trip generator in the project will have to travel along or cross Monroe. The project intersections along this street are likely to be unpleasant and perceived as unsafe by some potential users of these modes, who will consequently drive to the project. This is indicated by the intersection of San Pablo and Monroe operating at LOS D under 2008 conditions with the project, and possibly at worse conditions when the Phase 3 housing is complete.

The current project circulation requires people walking from the east to Whole Foods to cross San Pablo at Dartmouth and head north to cross Monroe. Cyclists from the east will cross at Dartmouth and either ride illegally on the sidewalk north to cross Monroe, or ride south to the Codornices Creek path, east to 10<sup>th</sup>, north via an apparently poorly considered cycling facility that may only serve in one direction, across the heavy motorist volume at the Monroe and 10<sup>th</sup> intersection, and either on through the Whole Foods parking lot to the bicycle parking shown on the north side of the store, or illegally along the sidewalk on the north side of Monroe to get to the recommended parking in front of the store on San Pablo.

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People walking or riding to the project from the west would have to follow Monroe through the motorist congested region between 10<sup>th</sup> and San Pablo. From here, cyclists would have to follow the same unpleasant routes indicated above to access the racks toward the front of the store.

Most of these problems would be resolved by mirroring the project around Monroe, placing Whole Foods on the south side of Monroe with the proposed surface parking further the south and the other project elements to the north of Monroe. This would place the heaviest trip generator on the the Codornices Creek path, providing greater separation between cyclists, pedestrians and motorists. Safe access from the path to Whole Foods could be readily engineered through the parking lot, creating clarity of access without the need to cross Monroe or 10<sup>th</sup> or ride along Monroe. This would entice more project patrons to travel to the store without using an automobile due to the relatively greater directness, improved safety and more aesthetic experience (due to traveling along the creek) of this project plan versus the current project plan.

In addition, mirroring the project would move the pollution created by automobiles idling in the Whole Foods parking lot away from the future uses on the Gill tract, which will likely involve youth to some degree. It will also place the senior housing adjacent to the Gill Tract, which currently serves as a more pleasing open space than the uses to the south across Codornices Creek. Further the Gill Tract will likely become more park like during the life of this project,

with youth oriented activities in particular. The proximity of the senior housing to the Gill Tract would then foster intergenerational relations.

While the suggestion to mirror the project may seem radical, AS&R notes that Whole Foods was initially proposed for the south side of Monroe. At that time, the project included an above ground parking structure backed against the proposed Codornices Creek path, making the path feel like an alleyway with the attendant security and aesthetic concerns. With the shift to surface and underground parking, this concern is no longer extant, and so the original plan can be pursued without such imposition on the creek path.

To further elucidate the issues raised above, AS&R requests that a figure akin to Figure IV.A-11 be prepared for people walking and biking to the project, and that an analysis of the routes these people would follow akin to that represented by the motorist intersection volume analysis be prepared. As an alternative to a projected cyclist and pedestrian volume intersection analysis, a map could be prepared showing the routes people walking and biking to and within the project would follow. The biking routes should recognize that different choices are typically made by more and less experienced riders, and that there is far more potential in terms of numbers with the latter than the former. Together these figures would clarify routing for pedestrians and cyclists, which is the first step to understanding the effectiveness of these routes.

AS&R also requests a figure showing pedestrian and cyclist routing through the project to destinations on either side. Specifically, how will University Village residents head through the project and on to the Ohlone Greenway for travel to campus or various Albany education and community resources east of San Pablo? How will residents east of San Pablo head through the project to Ocean View School, Ocean View Park, and the various sports fields at the southwest of University. As currently configured, AS&R is concerned that the project will not facilitate these trips. In particular the project does not identify or propose improving routes for pedestrians or cyclists to the west of the project.

With regard to internal project circulation, AS&R requests including cyclist access through the gate on 10<sup>th</sup> Street to provide a more direct yet low motorist volume route to the project from the southwest.

AS&R also requests that the project specify installation of bike racks appropriate for bikes with panniers, extracycles, and bikes with trailers of various configurations.

**Mitigation Measure Trans-12 (pp. 118-122)**

This mitigation is critical to the future of Albany's cycling network. Currently, San Pablo Avenue is an impediment for many potential cyclists due to its high motorist speeds and volumes. This project is a once-in-many-decade opportunity to breach this barrier to allow broader uptake of cycling as an everyday mode of transportation.

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AS&R favors option 1 with the inclusion of both pedestrian and cyclist signals in the east-west direction. AS&R's next choice is option 2 with modifications. AS&R does not favor the other options as described below.

In order to have the greatest effectiveness at allowing cyclists to travel to, from and through the project, the highest level of safety, both statistically and perceptually, must be provided at the Dartmouth crossing. This requires some sort of signalization such as included in options 1, 2 or 3.

The DEIR finds that approximately 30% of the trips to the proposed Whole Foods Market will be by bike or on foot. This equates to hundreds of trips per peak hour. A significant fraction of these trips will occur across San Pablo. In addition, this route will serve cyclists traveling between University Village and the University of California, Berkeley, campus via the Ohlone Greenway, and education and community facilities in Albany. A number of these travelers will have bike trailers or trailing bikes for children, trailers for groceries, utility bikes for groceries, etc.

Consequently, while AS&R recognizes that option 3 has advantages for motorists on San Pablo, the sharp turns required to use the center median and its narrow width would create conflicts for cyclists headed in opposition directions, and be difficult to impossible to navigate for cyclists with trailers. The mixing of cyclists and pedestrians in the median would further exacerbate these difficulties. In addition option 3 requires cyclists traveling on Dartmouth to cross this street on the east leg of the intersection in both directions. This nonstandard movement will increase the likelihood of cyclists being hit by motorists turning from San Pablo onto Dartmouth.

Option 2 creates a fully signalized intersection. This would benefit cyclists and pedestrians, but also motorists. As such it would induce increased motorist volumes on Dartmouth. Please analyze the impact of this option on the operation of Dartmouth as a bicycle boulevard, as designated in the Albany Bicycle Master Plan, and on the quality of life in this neighborhood. Absent this analysis, AS&R does not support this option due to these potential impacts.

Given the above considerations, AS&R supports option 1. In supporting this option, AS&R notes there is precedent for closely spaced signals on San Pablo nearby. The signals at Marin and Buchanan are within close proximity, and the latter functions at LOS A indicating that closely spaced signals can have relatively little impact on corridor function for motorists.

If option 1 is found unworkable for some reason, AS&R could support option 2 if measures are included to prevent increasing motorist volumes on Dartmouth. At the extreme Dartmouth would have a barricade somewhere along its length consonant with its development as a bicycle boulevard. Other measures are possible, but would be less effective. Whatever measure was taken would have to be with the agreement of the Dartmouth neighborhood for AS&R to support it.

AS&R understands that the project proponents do not have jurisdiction over the San Pablo and Dartmouth intersection, but that the engineering of this intersection is the responsibility of the California Department of Transportation (CalTrans). AS&R believes the time is now for this crossing to be a test case of CalTrans' resolve in providing for the mobility of all citizens via all modes, rather than allowing some citizens using one mode to persist in creating a barrier for all others. While AS&R understands the project proponent cannot be held responsible for CalTrans cooperation with regard to this crossing, AS&R will nonetheless oppose the project if this crossing is not engineered satisfactorily with regard to the safety of people cycling and walking.

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**Marin/Buchanan Cycling Route Gap Closure Project**

While the DEIR acknowledges the Marin/Buchanan cycling route gap closure project, it does not fully incorporate this project into its transportation analysis. The DEIR does not consider the consequence of a new signal at Taylor or Pierce and Buchanan. It does not consider the consequence of increase turning movements by motorists across the route, particularly at San Pablo, or the proposed new right turn lane at this location, which was a recommendation in the 2004 amended master plan DEIR. AS&R requests that the DEIR consider these consequences.

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**Mitigation Measure GCC-1**

This measure includes measures regarding transportation and motor vehicles. AS&R supports Carbon Neutral Albany's request for inclusion of an incentive program for those accessing the project via modes other than motoring. Please see Carbon Neutral Albany's comment letter for additional details.

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**COMMENTER B1**  
**Albany Strollers and Rollers**  
**Preston Jordan, Co-Founder**  
**October 5, 2009**

Response B1-1: The comment is generally correct that, in common parlance, the term vehicle is used to refer to motor vehicles or automobiles. This is not only a mere historical artifact but, in some instances, the term “vehicle” as it appears in the Draft EIR is a direct quote from a law, regulation or policy and accuracy requires that we retain the term as written. In many locations throughout the report the term is qualified by use of the modifiers “motor”, “emergency”, “high-occupancy” or “transit”. The authors believe that in only a very limited number of locations would the report’s readership be confused by the use of the term vehicle into thinking that all vehicles (e.g., bikes, scooters, skateboards, rollerblades, Segways, etc.) were being referenced. Nevertheless, the following text revisions are hereby made to page 49 of the Draft EIR:

**A. TRANSPORTATION, CIRCULATION AND PARKING**

This section evaluates potential transportation and circulation impacts that may result from completing the proposed University Village at San Pablo Avenue project in the City of Albany. The evaluation of environmental effects presented in this section focuses on the potential transportation and circulation impacts associated with the full range of transportation concerns, including vehicle<sup>1</sup> traffic circulation, pedestrian and bicycle circulation, public transit use, and parking. Feasible mitigation measures to reduce or eliminate potential significant impacts of the project are included.

<sup>1</sup> The term vehicle is used throughout this report to be synonymous with motor vehicles or automobiles, even though the authors recognize that, technically, several other forms of locomotion could also be categorized as vehicles. Where other non-motorized vehicles are meant to be referred to, they are called out as such.

Response B1-2: A quick search of the Transportation, Circulation and Parking section of the Draft EIR (pp. 49-128) shows the term “bicycle” to be used over 150 times. In light of the comment, the Draft EIR is hereby revised in the following instances to use the term “bicyclist” where appropriate.

The following text revision is hereby made to Section IV.A, Transportation, Circulation and Parking, of the Draft EIR (p. 61):

- Bicycle Boulevards – These facilities are found along streets that have been modified, as needed, to enhance bicyclists’ safety and

convenience. Modifications include bicycle right-of-way at intersections wherever possible, traffic control to help ~~bicycles~~ bicyclists cross major streets, discouragement of non-local motor vehicle traffic, and signage informing drivers that the roadway is a priority route for bicyclists.

The following text revisions are hereby made to Section IV.A, Transportation, Circulation and Parking, of the Draft EIR (p. 67):

**(6) Existing Conditions Intersection Configurations, Control and Traffic Volumes.** Weekday AM and PM peak period intersection vehicle, pedestrian, and ~~bicycle~~ bicyclist turning movement counts were collected in May 2008. Saturday peak period counts were also collected; for study intersections 1 through 12, 17, and 19, counts were collected in September 2008. For the remaining study intersections, the Saturday mid-day counts presented in the *West Berkeley Circulation Master Plan Existing Conditions Report* were used. Counts for that report were collected in September and October 2007. Existing vehicle traffic volumes are shown on Figure IV.A-7 and the existing intersection configurations and controls are provided on Figure IV.A-8.

**(7) Existing Conditions Intersection Analysis.** Intersection service levels were calculated using the existing signal timings (for signalized intersections), turning movement counts, pedestrian and ~~bicycle~~ bicyclist volumes, and lane configurations during the AM, PM and Saturday peak hours. The results are summarized in Table IV.A-5. The calculation worksheets are provided in Appendix B.

The following text revision is hereby made to Section IV.A, Transportation, Circulation and Parking, of the Draft EIR (p. 114):

**(7) Pedestrian and Bicycle Access and Circulation Analysis.** Access and circulation for pedestrians and ~~bicycles~~ bicyclists were reviewed based on the project site plan.

The following text revisions are hereby made to Section IV.A, Transportation, Circulation and Parking, of the Draft EIR (p. 117):

The project would provide a seven foot wide Class II bike lane along the west side of 10<sup>th</sup> Street between Codornices Creek and Monroe Street. This proposed Class II bike lane would only accommodate southbound ~~bicycles~~ bicyclists. In order to better accommodate ~~bicycles~~ bicyclists and pedestrians traveling along the path proposed north of Monroe Street and 10<sup>th</sup> Street south of Codornices Creek and to reduce potential conflicts with vehicles, the feasibility of providing a Class I pedestrian and bicycle path along the west boundary of the

project adjacent to the playing fields between Monroe Street and Codornices Creek should be explored. Alternatively, considering the low vehicular volumes expected on this segment of 10<sup>th</sup> Street, the southbound Class II bicycle lane should be converted to a Class III bike route in order to accommodate ~~bicyeles~~ bicyclists traveling in both directions and reduce potential ~~bicyele~~ bicyclist confusion.

The following text revision is hereby made to Section IV.A, Transportation, Circulation and Parking, of the Draft EIR (p. 118):

- Explore the feasibility of providing a Class I pedestrian and bicycle path along the west boundary of the project adjacent to the playing fields between Monroe Street and Codornices Creek. This would provide a continuous path for pedestrians and ~~bicyeles~~ bicyclists traveling along the proposed path north of Monroe Street and 10<sup>th</sup> Street south of Monroe Street.

The following text revisions are hereby made to Section IV.A, Transportation, Circulation and Parking, of the Draft EIR (p. 118):

The *Albany Bicycle Master Plan* includes a Class I bicycle and pedestrian path along Codornices Creek between 6<sup>th</sup> Street and San Pablo Avenue. The proposed project would complete the segment of the path along its south frontage between 10<sup>th</sup> Street and San Pablo Avenue. East of San Pablo Avenue, the path would continue as a Class III bicycle route along Dartmouth Street, about 100 feet north of Codornices Creek. Currently, there are no independent improvements planned to allow for ~~bicyeles~~ bicyclists and pedestrians to safely cross San Pablo Avenue between Dartmouth Street and Codornices Creek. However, the crossing will be improved as part of the proposed project.

Mitigation Measure TRANS-12: Implement any one of the following four improvements as shown on Figures IV.A-16a and IV.A-16b to improve pedestrian and bicycle access across San Pablo Avenue between the proposed Class I path along Codornices Creek and Dartmouth Street:

1. Install a high-intensity activated crosswalk (HAWK) traffic signal on San Pablo Avenue at Dartmouth Street. HAWK signals operate by using traffic and pedestrian/bicycle signal heads, but they are only activated when the pedestrian push buttons or bicycle loop detectors are triggered. Therefore when bicyclists and/or pedestrians desire to cross San Pablo Avenue at Dartmouth Street, they would activate the HAWK signal, stopping northbound and southbound traffic on San Pablo Avenue, allowing for bicyclists/ pedestrians to cross safely. When

not activated, the HAWK signal rests on all dark. In addition, widen the sidewalk on west side of San Pablo Avenue between Codornices Creek and Dartmouth Street to accommodate both pedestrians and ~~bicycles~~ bicyclists, install bicycle detector loops on the Dartmouth Street approach, and coordinate the HAWK signal with the existing signals along San Pablo Avenue in order to minimize vehicle delay. Since HAWK signals have not been officially approved for use in California, consider installing an interim traffic signal designed to accommodate conversion to a HAWK.

The following text revisions are hereby made to Section IV.A, Transportation, Circulation and Parking, of the Draft EIR (p. 121):

... coordinate the signal with the existing signals along San Pablo Avenue. Widen the sidewalk on west side of San Pablo Avenue between Codornices Creek and Dartmouth Street to accommodate both pedestrians and ~~bicycles~~ bicyclists.

2. Install a two-stage signalized crossing with a six-foot wide median refuge on San Pablo Avenue between Codornices Creek and Dartmouth Street. Provide a crosswalk and a signal on southbound San Pablo Avenue opposite Codornices Creek path to allow pedestrians and ~~bicycles~~ bicyclists to cross southbound San Pablo Avenue. Provide a crosswalk and a signal on northbound San Pablo Avenue at Dartmouth Street to allow pedestrians and ~~bicycles~~ bicyclists to cross northbound San Pablo Avenue. A path in the median would connect the two signalized crosswalks. The main advantage of the two-stage signalized crossings is that each of the signals can be individually coordinated with adjacent signals along San Pablo Avenue.

The following text revision is hereby made to Section IV.A, Transportation, Circulation and Parking, of the Draft EIR (p. 121):

Under all four options, consider eliminating parking spaces along San Pablo Avenue to provide bulb-outs at the marked crosswalks to reduce crossing distance and improve visibility of pedestrians and ~~bicycles~~ bicyclists crossing San Pablo Avenue.

The following text revision is hereby made to Section IV.A, Transportation, Circulation and Parking, of the Draft EIR (p. 124):

**(9) Consistency with Local and Regional Policies and Programs Supporting Alternative Transportation.** A summary of applicable policies and plans is provided on pages 84 through 86 of

this document. A detailed discussion of the project’s potential impacts on pedestrian, bicycle and transit access and circulation was provided in previous sections. Consistent with the *Albany Bicycle Master Plan*’s planned bicycle network, the project would connect the Codornices Creek path to the San Pablo Avenue crossing. In addition, the proposed project would provide additional amenities throughout the site to accommodate ~~bicycles~~ bicyclists, pedestrians and buses.

Response B1-3: Table IV.A-11 on page 89 of the Draft EIR presents automobile trip generation only. As requested, Table Response to Comment 2 presents trips generation by different travel modes based on the mode split data presented in Table IV.A-12.

**Table Response to Comments 2: Project Trips By Mode**

| Travel Mode  | Mode Split Characteristics |             |                  | Trip Generation |              |                  |
|--------------|----------------------------|-------------|------------------|-----------------|--------------|------------------|
|              | Weekday AM                 | Weekday PM  | Saturday Mid-Day | Weekday AM      | Weekday PM   | Saturday Mid-Day |
| Drive        | 75%                        | 75%         | 71%              | 375             | 881          | 913              |
| Walk         | 23%                        | 19%         | 23%              | 115             | 223          | 296              |
| Transit      | 0%                         | 1%          | 1%               | 0               | 12           | 13               |
| Bike         | 2%                         | 5%          | 5%               | 10              | 59           | 64               |
| <b>Total</b> | <b>100%</b>                | <b>100%</b> | <b>100%</b>      | <b>500</b>      | <b>1,175</b> | <b>1,286</b>     |

Source: Fehr & Peers, 2010.

As shown in Table Response to Comment 2, the proposed project is estimated to generate as many as 64 peak hour bicycle trips. Note that these trips include both trips to and from the site. Assuming that each cyclist would make one trip to the site and one trip from the site, the number of cyclists traveling to the site and requiring parking would be about 32 bicyclists per hour. Recommendation TRANS-4 on page 127 of the Draft EIR suggests 52 short-term bicycle parking spaces for the project (including 22 for the Whole Foods Market). Considering the typical duration of a visit, the recommended bicycle parking supply would be adequate to meet the estimated bicycle parking demand. Recommendation TRANS-4 also includes monitoring of bicycle parking occupancy after opening of the project and provision of more bicycle parking spaces if needed.

The number of workers who would be employed at the site is not currently available. However, the recommended long-term bicycle parking supply included in Recommendation TRANS-4 is consistent with industry standards for similar uses.

Response B1-4: Please see Response to Comments A5-2 and A5-4.

Response B1-5: The Ocean View Elementary School driveways on Jackson Street were not analyzed in the Draft EIR because the analysis assumed that minimal project

generated traffic would use Jackson Street. Please see Response to Comment A5-4. In addition, the peak traffic period at elementary schools (i.e., drop-off in the morning and pick-up in the afternoon) typically does not coincide with peak traffic periods at grocery stores (i.e., weekday and Saturday evening). However, the recommendation presented in Response to Comment A5-4 would provide for potential traffic calming strategies if excessive automobile traffic or speeding is observed on Jackson Street or other local streets in the area.

Response B1-6: The commenter's appreciation for the back-in angled parking is noted. No further response is required.

Response B1-7: The commenter's agreement with the Draft EIR recommendations is noted. No further response is required.

Response B1-8: As stated in the comment, it is expected that the proposed project would generate additional pedestrian and bicycle trips. The existing signal at Monroe Street/San Pablo Avenue intersection provides for protected crossings of San Pablo Avenue and Monroe Street. Mitigation Measure TRANS-12 provides options for improving the efficiency and safety of crossing San Pablo Avenue at Dartmouth Street. Recommendation TRANS-2 also includes project site plan modifications to improve access and internal circulation for pedestrians and bicycles. Based on the analysis, the Monroe Street/San Pablo Avenue intersection would operate at LOS C or better under Cumulative (2035) Plus Project conditions. This analysis accounts for the higher pedestrian volumes forecasted at the intersection and additional traffic generated by Phase 3 of UC Village development.

It should be noted that the project applicant and their design team considered a number of different site layouts before settling on the one proposed and analyzed in the Draft EIR. The positions of the land uses and structures on the two main blocks were ultimately selected for reasons related to traffic circulation and creek protection, among others. Reversing the position of the two main blocks, while it might be beneficial to pedestrians originating from residences in University Village, would not solve any significant adverse impact. In general, the City appreciates the project applicant's belief that the site layout that is proposed and analyzed in the Draft EIR adequately balances a large number of competing objectives.

Response B1-9: Figure IV.A-11 in the Draft EIR shows the automobile trip distribution for the proposed project. This figure was prepared to assign automobile traffic on the surrounding roadway network and to complete an intersection and roadway capacity analysis. The pedestrian and bicycle facilities providing access to the project site would provide adequate capacity. A trip distribution figure for pedestrian and bicycle trips was not prepared because no capacity analysis for pedestrian and bicycle facilities was necessary or conducted. As noted in Response to Comment A5-4, acceptable traffic levels of service on

internal University Village roadways would also facilitate an acceptable pedestrian environment. No pedestrian safety impact would result; no mitigation measure would be required. The supplement to Recommendation TRANS-2 would reduce potential cut-through traffic and improve pedestrian, bicycle, and pedestrian safety on surrounding local streets. The intersection LOS analysis accounts for the pedestrian and bicycle volumes at the intersections. In addition, Figures IV.A-2 and IV.A-4 (Draft EIR, pp. 55 and 59) show pedestrian and bicycle access and circulation in and around the project site (both existing and proposed).

- Response B1-10: Please see Response to Comment B1-9 with regard to vehicular volumes within the site and the related issue of pedestrian safety. The Draft EIR cannot predict exactly how pedestrians will arrive at, or walk within, the project site, nor – in the absence of evidence that adverse safety conditions would result – does CEQA call for such forecasting. Design details of this sort would be more appropriately considered as a part of the City’s Design Review process.
- Response B1-11: As stated in the comment, providing pedestrian and/or bicycle access through the existing fence on 10<sup>th</sup> Street would improve access and circulation for both pedestrians and cyclists. However, no adverse impact of the project would require it as a mitigation measure. The City of Albany is willing to consider future use of the gated access at 10<sup>th</sup> Street, however the facility is connected to the Codornices Creek improvements and ongoing discussions with the City of Berkeley and University of California.
- Response B1-12: The following text revisions are hereby made to page 127 of the Draft EIR, in the paragraph that follows Recommendation TRANS-4:
- The short-term bicycle spaces should be provided in the form of bicycle racks located near the building entrances in highly visible areas. Some bicycle racks should accommodate bicycles with panniers, extracycles, and trailers of various configurations.
- Response B1-13: The commenter’s preference for Option 1 of the four options studied for the crossing of San Pablo Avenue is noted. The City of Albany will take into account the reasoning presented in this comment during its discussions on the merits of the project. It should be noted that Caltrans will have the ultimate decision-making authority over which option is selected. From the perspective of the Draft EIR, any one of the four options (or possibly some variant of two) would serve to mitigate Impact TRANS-12.
- Response B1-14: See Response to Comment B4-7 regarding why the Buchanan Street Bike-way Gap Closure project was not included in the Draft EIR analysis. The Gap Closure project includes an exclusive right-turn lane on eastbound Marin Avenue at the intersection with San Pablo Avenue, which was also included in Mitigation Measure TRANS-7 and analyzed in the Draft EIR.

The proposed Gap Closure project would not modify other study intersections and would not change the Draft EIR conclusions. Based on the results of the *Buchanan Bike Path Traffic Study* (AECOM, February 2009), the Buchanan Street/Pierce Street intersection is expected to operate at LOS C or better under Cumulative conditions after the intersection is signalized and the Gap Closure project improvements are implemented. Considering the amount of traffic the proposed University Village at San Pablo Avenue project would add, the intersection is expected to continue to operate at an acceptable LOS.

Response B1-15:

The comment letter submitted by Carbon Neutral Albany is identified as letter B3 in this Response to Comments document. Responses to the questions and comments offered in that letter are provided immediately thereafter.

City of Albany  
Planning Commission  
1000 San Pablo Ave.,  
Albany, CA 94706-2226 July 29,2009

CITY OF ALBANY

AUG 10 2009

COMMUNITY DEVELOPMENT  
DEPARTMENT

I attended your July 28 meeting, but did not speak. I have studied and worked at the Gill Tract since 1950 and have seen many changes, i.e., construction of city buildings, reduction of Gill Tract grounds, increased traffic and congestion.

Is the Whole Foods Market the best way to go? I don't read too well anymore and have not seen the current EIR. But from the EIR's I have seen, they all were written to support the planned development. From what I heard and saw July 28, my impression is that the Whole Foods EIR is not different. How long would a group that prepares EIR's stay in business if their report didn't support the developers who paid for the study? You must be careful in interpreting these results.

A number of persons spoke requesting an extension of time to consider the EIR and the planned project. Since the City is coming out with several several reports

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relating to environmental matters, it makes sense to me to look at these reports prior to going ahead with the Whole Foods project. When making decisions regarding personal or business projects, I would want to have before me all the information available before proceeding. This seems like good common sense. It seemed that the only person speaking to limit the extension of the comment period for this project was one with a developmental interest. Did this person have a vested interest in pushing ahead quickly without waiting for the upcoming City reports?

I do not know what the projected population is for Albany over the next 20-30 years, but I'm sure it will include a number of small children. I have seen an increase in baby strollers on Solano these past few years, and I am sure you have also. You may not be aware that by the time a child is 2 years old, they have taken on 50% of the toxins their bodies will carry throughout their lives. I would want to be careful to see that this toxin load is minimized if possible. This relates back to the Gill Tract farm issue. Organically grown

foods help to limit the toxins children take in. An organic farm at the Gill Tract may be of value here. Also it is known that organically tilled soil greatly reduces air CO2 levels resulting from traffic and other sources.

5

These are just a few of the issues to be considered re the Whole Foods project. Auto traffic exiting from the freeway will increase as well s from surrounding areas. Perhaps it is time to apply the “precautionary principle” as you go ahead with your deliberations.

6

Sincerely yours,



Lloyd Andres, Ret. Research Entomologist  
Berkeley 549-1608 <landres@lmi.net>

**COMMENTS B2**

**Lloyd Andres**

**July 29, 2009**

- Response B2-1: This comment introduces the commenter's thoughts on a number of issues and on the merits of the project itself. The comment does not relate to the adequacy of the information or analysis within the Draft EIR. No further response is required.
- Response B2-2: LSA Associates, Inc. has been in the business of environmental analysis for over 30 years and has undertaken assignments for cities, counties, the State of California, the federal government, special districts, environmental advocacy organizations, land trusts, neighborhood groups, land owners, developers and builders. Our client for the University Village at San Pablo Avenue Project EIR is the City of Albany, with whom our contract for services exists. Our aim is to produce technically accurate analysis and findings that are also well-written and cleanly illustrated. It is only by being scrupulously objective in these assignments that we maintain the reputation that leads to further assignments for clients across the spectrum.
- Response B2-3: The Draft EIR was made available for public review on July 3, 2009, and distributed to local and State agencies, including responsible and trustee agencies. Copies of the Draft EIR were distributed to affected agencies, City departments, and the members of the Planning Commission and City Council. A Notice of Availability (NOA) of the Draft EIR was prepared and distributed to multiple physical locations and to the City's web site. The CEQA-mandated 45-day public comment period for the Draft EIR would have ended on August 17, 2009. However, upon request by members of the public who were reviewing the Draft EIR, the City extended the public comment period for an extra 49 days to October 5, 2009.
- Response B2-4: Potential impacts from exposure of residents and employees of the proposed project to soil-based, waterborne or airborne hazards and hazardous materials are described and analyzed in the Draft EIR in Chapter IV, B. Air Quality (pp. 129-149) and in Appendix A, Initial Study/Environmental Checklist, section VII, Hazards and Hazardous Materials (pp. 25-29). Other than potential air quality impacts during the construction period, no other air emissions would result in significant health risks. Two potential impacts relating to potential hazards in onsite buildings and onsite soils would be reduced to less-than-significant levels by implementation of mitigation measures recommended in the Initial Study. See also Response to Comment B12-20 for an update on the accomplishment of both of these mitigation measures.

- Response B2-5: As noted in Response B2-4, no significant adverse impacts related to hazards (or “toxics” as expressed in the comment) would result from the proposed project. Because the property generally referred to as “the Gill Tract” is not a part of the project site, the alternatives analyzed in the Draft EIR (pp. 227-233) do not consider land uses there.
- Response B2-6: Increased auto traffic related to the proposed project and how it would distribute itself around the site is forecast in the Draft EIR on pages 88-106. The best place to find a summary of the impacts of that traffic is Table II-1 Summary of Impacts and Mitigation Measures, pages 8-10.

Carbon Neutral Albany  
524 Talbot Avenue  
Albany, CA 94706

5 October 2009

Amber Curl, Associate Planner  
Community Development Department  
City of Albany  
979 San Pablo Avenue  
Albany, CA 94706

Re: University Village at San Pablo DEIR

Dear Ms. Curl:

Carbon Neutral Albany (C0A) has reviewed the Public Review Draft of the University Village at San Pablo Avenue Project Environmental Impact Report (the DEIR) dated July 2009. C0A was founded last winter to work towards eliminating greenhouse gas emissions from Albany. The group has been advocating for a more effective Climate Action Plan, which the city is in the process of developing, and has undertaken projects to reduce emissions. C0A currently has approximately 40 members.

C0A's review of the DEIR has focused in particular upon Section IV.C, global climate change, as appropriate to the organization's mission. C0A appreciates the attention paid to the project's nexus with greenhouse gas emissions and climate change impacts.

Attached is C0A's review of the subject DEIR section. Thank for your consideration. Take care.

Preston Jordan  
Co-founder  
Carbon Neutral Albany

**Emissions Sources and Inventories (pp. 155 to 157)**

The University of California (“UC”) committed to greenhouse gas emissions reduction targets in early 2007 (discussed below). Presumably UC has developed a greenhouse gas emission inventory pursuant to measuring attainment of these goals. Information on UC’s emissions should be included in this section.

UC Berkeley (UCB) has also committed to greenhouse gas emissions targets. COA requests information on UCB’s emissions inventory, which presumably has been prepared to allow measurement of progress towards its emission reduction targets.

1

The DEIR should make clear how the project’s emission inventory relates to UC’s, UCB’s and Albany’s inventories. Do the inventories use compatible methodologies such that the project inventory can be accurately viewed as a component of these three other inventories? Or is part of the project inventory “not on the books” of these other inventories?

**Regulatory Framework (pp. 157 to 162)**

As mentioned, UC committed to greenhouse gas emission targets in early 2007 as did UCB apparently. Those targets, the policies established to attain them, and the relationship between them should be explained in this section.

2

This section discusses relevant Albany policies under “Local Policies.” The discussion is limited to Albany’s General Plan. This section should also state that Albany committed to a greenhouse gas emission reduction target in 2007 (Resolution 07-9).

3

**Significance Criteria (pg. 163 to 164)**

The DEIR should make clear whether the emissions from this project will be carried in UC’s inventory and consequently offset by reductions somewhere else in the UC system, or whether emissions from this project will reside outside of UC’s inventory for some reason.

4

The DEIR should state how emissions from this project will affect Albany’s ability to attain its current emission reduction goal. As stated elsewhere in the DEIR, Albany’s emission inventory in 2004 was 83,429 tonnes CO<sub>2</sub>eq. Unstated in the DEIR is that Albany has committed to reduce emissions 25% by 2020, relative to 2004 emissions. This requires an emissions reduction of 20,857 tonnes based on the 2006 inventory, not including growth that would otherwise occur. Table IV.C-2 indicates the project would add 8,500 tonnes of emissions CO<sub>2</sub>eq. How will those additional emissions affect Albany’s ability to achieve, by 2020, a 25% reduction over 2004 emissions levels?

5

**Mitigation Measure GCC-1 (pp. 167 to 170)**

The transportation and vehicle measures section should include an incentive program for shoppers who do not drive to the site. This should be based in part on the average amortized cost of constructing, operating, and maintaining automobile parking spaces in the project, and seek to

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return this value or more (in recognition of the non-internalized cost of greenhouse gas emissions at this time) to shoppers who do not drive. This could be particularly relevant to making Whole Foods more affordable for the largest population near the site, the residents of University Village.

**6  
cont.**

At the end of Mitigation Measure GCC-1 is stated, “After implementation of Mitigation Measure GCC-1, the project would implement appropriate GHG reduction strategies and would not conflict with or impede implementation of reduction goals identified in AB32, the Governor’s Executive Order S-3-05, and other strategies to help reduce GHGs to the level proposed by the Governor. Therefore, the project’s contribution to cumulative GHG emissions would be reduced to a less-than-significant level.”

**7**

This statement needs to include consideration of Albany’s emission reduction goal. As Mitigation Measure GCC-1 will not make the project emission neutral, the project will add to Albany’s emission inventory, thus making it more difficult for Albany to attain its emissions target. This needs to be considered and discussed. In particular, approval of this project may require a fair share contribution to offset emissions elsewhere in Albany through funding of energy efficiency measures, renewable energy projects, and alternative transit infrastructure and programs.

**COMMENTS B3**  
**Carbon Neutral Albany**  
**Preston Jordan, Co-Founder**  
**October 5, 2009**

Response B3-1: The comment is correct in indicating that UC and UC Berkeley have committed to greenhouse gas emission reduction targets. The UC Berkeley Climate Action Partnership developed a “Feasibility Study 2006- 2007 Final Report” summarizing the UC Berkeley GHG Emissions Inventory, emission reduction projects, and emission reduction targets to achieve 1990 emissions levels by the year 2014. A summary of the City of Albany GHG Emissions Inventory is included in the Draft EIR (p. 158). The methodology used for the project is similar to methodologies used for the emissions inventories; however, there are some differences in the approach used for a planning inventory versus a project-specific analysis. The UC Berkeley GHG inventory includes future projections based on the Long Range Development Plan (LRDP). The scope of the LRDP excludes University Village Albany; therefore, it would not be expected that the project emissions are included in the future emissions inventory. In April 2010, the City of Albany adopted a Climate Action Plan that details the current and future emissions inventories; future emissions are based on a trend scenario that assumes “historical data and trends would be representative of future year consumption rates for energy, water, and waste.” These future projections would not necessarily include GHG emissions from a specific project, such as University Village. Therefore, the GHG methodologies and results from the project are not comparable to the emission inventories of the UC, UC Berkeley, and City of Albany.

It should be noted that BAAQMD adopted revised *CEQA Guidelines* (including thresholds of significance for various pollutants) in June 2010. However, as noted there, “It is the Air District’s policy that the adopted thresholds apply to projects for which a Notice of Preparation is published, or environmental analysis begins, on or after the applicable effective date. The adopted CEQA thresholds – *except for the risk and hazards thresholds for new receptors* – are effective June 2, 2010. The risk and hazards thresholds for new receptors are effective January 1, 2011.” The NOP for the proposed project was published on March 31, 2008 and, therefore, the District’s earlier guidelines (1999) have been applied in the Draft EIR for this project.

Response B3-2: Please see Response to Comment B3-1.

Response B3-3: Please see Response to Comment B3-1.

Response B3-4: Please see Response to Comment B3-1.

- Response B3-5: Please see Response to Comment B3-1. According to the most recent State *CEQA Guidelines*, “an environmental document that relies on a greenhouse gas reduction plan for a cumulative impacts analysis must identify those requirements specified in the plan that apply to the project, and, if those requirements are not otherwise binding and enforceable, incorporate those requirements as mitigation measures applicable to the project.” Therefore, if a project is consistent with an adopted qualified GHG Reduction Strategy, it can be presumed that the project will not have significant GHG emission impacts. The determination of consistency is not based on an emissions comparison (as methodologies may differ), but whether the project would conflict with or inhibit the objectives of the GHG plan. The City of Albany CAP was not available at the time the Draft EIR was drafted; however, the global climate change section of the Draft EIR incorporates mitigation measures consistent with the CAP, and the project would not conflict with or inhibit the objectives of the GHG plan. It should be noted that all GHG plans under consideration in the Bay Area recognize the inevitability – and, in most communities, the desirability – of growth and redevelopment of existing urbanized areas.
- Response B3-6: Please see Response to Comment A3-3 for a discussion on why a formal TDM program has been determined by the EIR team’s transportation consultant and the City to be ineffective in the case of this particular project. While the City is not willing to impose a condition that Whole Foods subsidize customers who do not drive automobiles to the site, it is willing to consider requiring the store to install an informational kiosk to make transit information available to its customers. See Response to Comment A7-3 for the details.
- Response B3-7: Please see Responses to Comments B3-1 and B3-5. An individual project does not need to be “emission neutral,” as mentioned in the comment, to be considered consistent with a greenhouse gas reduction target or plan.



# EAST BAY BICYCLE COALITION

POST OFFICE BOX 1736 OAKLAND, CALIFORNIA 94604  
FRUITVALE VILLAGE, 3301 EAST 12th ST, SUITE 143  
www.ebbc.org (510) 533-RIDE

August 20, 2009

Amber Curl  
Associate Planner  
979 San Pablo Avenue, 2nd Floor  
Albany, CA 94706

**Re: Comments on University Village Draft EIR (State Clearinghouse No. 2008042004)**

Dear Ms Curl,

The East Bay Bicycle Coalition works throughout Alameda and Contra Costa Counties to review plans that would potentially have impacts on bicycle circulation. We appreciate the opportunity to comment on the proposed project on San Pablo Ave in Albany.

The proposed project represents an isolated island of grocery retailing that is grossly out-of-scale with local needs. As such the project would have significant traffic impacts near and afar. We note that the DEIR acknowledges the far-reaching traffic impacts and proposes a "fair" contribution to the proposed dual roundabout project at the Gilman Street/I-80 (Mitigation Measure Trans-2, p. 96). This contribution should specifically address the bicycle access and safety needs at Gilman Street/I-80. Added traffic will degrade the ability of bicyclists to safely follow the existing Gilman St bikeway to the sports fields being developed on the west side of I-80.

1

Added signals will be needed at the intersection of San Pablo Ave at Dartmouth St, despite design attempts to direct traffic to Monroe St and a new driveway to the north (i.e., "A driveway on San Pablo Avenue, about 220 feet north of Monroe Street" p.106). The Draft EIR traffic analysis indicates San Pablo Ave at Dartmouth St will be "deficient" by 2035 (p.82).

2

We disagree with the Table IV.A-10 Cumulative (2035) Conditions Peak Hour Signal Warrant Analysis (p.83) which does not show a signal is warranted at Dartmouth Street. Given the left-turn pockets on San Pablo, a signalized crossing will be warranted for traffic reasons. Furthermore, a signalized crossing of San Pablo will be essential for bicycle access along the proposed Dartmouth-Codornices bikeway corridor connecting to the Ohlone Greenway. We must insure that this corridor is integrated into the project as called for in "Recommendation TRANS-1" that states, "the proposed project would complete the segment of the Class I bicycle/pedestrian path along Codornices Creek adjacent to the south boundary of the project between 10th Street and San Pablo Avenue." (p.117)

3

Mitigation Measure TRANS-12 calls for San Pablo Ave crossing improvements at Dartmouth, but it also includes an unacceptable unsignalized crossing option that must not be allowed.

4

(p.118) Only the other three signalized crossing option should be available for consideration by the Albany public and staff.

4  
cont.

Albany should extend its transportation scope to fully analyze the circulation on Buchanan St given the magnitude of this project ("This is a very large-scale project for Albany," concluded the 2008 Albany staff report.)

5

A Whole Foods on San Pablo at Monroe St will generate traffic from I-80 on Buchanan Street. The "Buchanan St bikeway gap closure project" represents a possible mitigation for the significant and unavoidable impacts that Whole Foods will bring to San Pablo Ave at Monroe/Dartmouth. The nexus of this proposed mitigation is that neighbors from north of Buchanan will want to have bicycle access to the market. The Draft-EIR traffic analysis and proposed mitigations represents a failure to address the safety of bicyclists and pedestrians to cross Buchanan Street.

6

In addition, the traffic intersection analysis is deficient as it fails to incorporate abundant analysis that has been conducted for the Buchanan St bikeway gap closure project. Specifically, the Draft EIR traffic analysis (chapt4) is deficient as it did not include analysis of the proposed crossing of Buchanan at either Taylor or Pierce (See: Buchanan St bikeway gap closure alternatives mentioned on p.74).

7

The only Buchanan St intersection studied was at the proposed Jackson Street bikeway, but again no signal was called for in the Draft-EIR (p.83) using auto-oriented LOS measures. Access and safety for bicyclists and pedestrians requires signalization at Jackson Street.

8

This Buchanan St bikeway--connecting Marin Ave with the Bay Trail via the Buchanan overcrossing path, and crossing Buchanan at either Taylor or Pierce Streets--will become more difficult to build later due to the cumulative traffic impacts from the Whole Foods project (Impact TRANS-1, p.95). These two bike/ped access and safety improvements--along and across Buchanan--must be included as mitigations for the significant and unavoidable traffic impacts on San Pablo Avenue (p.106).

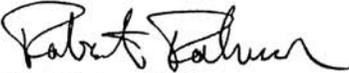
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The TRANS 4 mitigation to include bicycle parking should specify extra length and width to accommodate trailers in the "Whole Foods Market: 22 short-term bicycle parking spaces." (p. 127).

10

Thank-you for your attention to the issues we have raised. I am available to elaborate on, or clarify our comments.

Sincerely,



Robert Raburn, PhD  
Executive Director

**COMMENTER B4**  
**East Bay Bicycle Coalition**  
**Robert Raburn, Executive Director**  
**August 20, 2009**

- Response B4-1: The three intersections which comprise the Gilman Street, West Frontage Road, I-80 and Westshore Highway area (Study Intersections 13, 14 and 15) experience substantial level of service (LOS) shortcomings under existing conditions (and have for many years). The City of Berkeley, the Alameda Contra Costa Congestion Management Agency, and Caltrans have planned a large-scale improvement there, referred to as the Gilman dual traffic circles project. Traffic from the proposed project would represent an very small proportion of the overall ADT flowing through this area. Whether, and to what extent, the traffic circles project specifically takes account of the needs of cyclists would be most appropriately addressed with the three agencies responsible for that project. The Draft EIR's recommended mitigation measure (a fair share contribution to its cost) would help reduce this project's impact, but not to a less-than-significant level. Bicycle and pedestrian improvements are included in the Gilman dual traffic circles project.
- Response B4-2: The comment is incorrect. As shown in the Draft EIR in tables IV.A-9 and IV.A-10, neither the average level of delay nor the signal warrant analysis indicates a traffic level of service deficiency or that a signal would be needed at this intersection. Figures A-15, A-16a and A-16b in the Draft EIR illustrate the four San Pablo Avenue/Dartmouth Street crossing options that are presented in the Draft EIR.
- Response B4-3: As stated in the comment and shown on Table IV.A-10 (Draft EIR, p. 83), the forecasted peak hour traffic volumes at Dartmouth Street/San Pablo Avenue intersection under Cumulative (2035) Plus Project conditions would not meet the peak hour intersection automobile volume warrant (Warrant 3). However, the intersection may meet other signal warrants which were not analyzed in the Draft EIR. Although the intersection would not meet the peak hour automobile volume warrant, Mitigation Measure TRANS-12 Option 2 consists of signalization of the intersection to facilitate pedestrian and bicycle access, circulation, and safety.
- Response B4-4: The comment opposing the unsignalized option is noted. No further response is required.
- Response B4-5: The comment suggests that circulation along Buchanan Street was not analyzed in the Draft EIR; such an assertion is not correct. Traffic operations at intersections along Buchanan Street at I-80 ramps, Eastshore Highway, Jackson Street, and Marin Avenue were analyzed in the Draft EIR. In addi-

tion, traffic operations along Buchanan Street were analyzed as part of the ACCMA MTS roadway analysis presented on page 105 of the Draft EIR.

Response B4-6: The comment incorrectly states that the project would cause significant unavoidable impacts at Monroe Street/San Pablo Avenue and Dartmouth Street/San Pablo Avenue intersections. The proposed project would not cause a significant and unavoidable impact at either of these two intersections. In addition, the comment suggests the Buchanan Street Bikeway Gap Closure project as a mitigation measure for impacts along San Pablo Avenue. It is not clear how the Buchanan Street Bikeway Gap Closure project would mitigate impacts along San Pablo Avenue. Please see Response to Comment A5-4 regarding bicycle safety in the vicinity of Buchanan Street.

Response B4-7: At the time the Draft EIR was prepared, the Buchanan Street Bikeway Gap Closure Project was under study. As described on page 73 of the Draft EIR, three alternatives were under consideration at the time, and a preferred plan had not selected. In addition, the Buchanan Street Bikeway Gap Closure Project did not have full funding or approval. Consistent with CEQA requirements, since the project was not fully defined and there were no guarantee of the project, this EIR did not consider it as part of the cumulative projects. In addition, the proposed project would not have a significant impact on pedestrian and bicycle access, circulation, and safety and therefore does not rely on any benefits of the Buchanan Street project.

Since the completion of this Draft EIR, a preferred plan with a crossing and a new signal on Buchanan Street at Peirce Street has been selected. The City of Albany is seeking funding for the project and expects to construct the project in 2011. As currently proposed, the Buchanan Street Bikeway Gap Closure Project would not so drastically modify the roadway configuration for Buchanan Street or other adjacent roadways as to change the analysis presented in the Draft EIR for the University Village at San Pablo Avenue project. Thus, the Draft EIR analysis and conclusions remain valid. In addition, the currently proposed Buchanan Street Bikeway Gap Closure Project includes an exclusive right-turn lane on eastbound Marin Avenue at San Pablo Avenue, which is consistent with Mitigation Measure TRANS-7.

Response B4-8: The comment is not clear. The Buchanan Street/Jackson Street intersection is currently signalized. In addition, as described on page 73 of the Draft EIR, the City of Albany intends to modify the intersection to provide protected left-turn and pedestrian phasing in the east-west direction, and provide corner bulbouts to better accommodate pedestrian crossings.

Response B4-9: The proposed University Village at San Pablo Avenue project would not alter Buchanan Street and would not prevent the implementation of the proposed Buchanan Street Bikeway Gap Closure project. In addition, the comment suggests the Buchanan Street Bikeway Gap Closure project as a mitigation measure for impacts along San Pablo Avenue. It is not clear how the

Buchanan Street Bikeway Gap Closure project would mitigate impacts along San Pablo Avenue. Also, please see Response to Comment B4-7.

Response B4-10: Please see Response to Comment B1-12.



August 19, 2009

Amber Curl  
Associate Planner  
City of Albany Planning Division  
979 San Pablo Avenue  
Albany, CA 94706

Sent Via Email: [acurl@albanyca.org](mailto:acurl@albanyca.org)

**RE: Consideration of stormwater controls in University Village development**

Dear Ms. Curl:

I am writing on behalf of San Francisco Baykeeper ("Baykeeper") and its members to commend the City of Albany Planning Department for their inclusion of progressive stormwater mitigation measures that will prevent negative impacts to hydrology and water quality in the draft EIR for the University Village at San Pablo Avenue. Baykeeper is an environmental non-profit organization that has worked for twenty years to protect San Francisco Bay water quality. Our work focuses on the largest source of pollution to San Francisco Bay and its many tributaries – polluted stormwater runoff. With its location adjacent to Village Creek and Cordonices Creek, the development of this University Village site has the potential to negatively impact water quality in the northern region of the San Francisco Bay to which these creeks drain. Therefore it is critical to the health of these surface waters, sensitive shoreline habitat and the Bay, that the project includes low impact development measures that will control post-development stormwater flows.

The draft EIR incorporates and addresses the legal requirements of the Phase I MS4 permit and includes the appropriate mitigation for impacts to stormwater. However, Baykeeper would like to encourage the City of Albany to go beyond the minimum requirements for this and all future developments. The C.3 provisions of the MS4 permit are limited in scope, only requiring that runoff from the developed site does not exceed the rates and durations of pre-development peak runoff flows.

Baykeeper suggests that the City of Albany establish a goal that is more stringent than the C.3 provisions. The goal should be to have a development that, through the use of low impact development techniques, does not increase the volume of stormwater running off the site. The developers can accomplish this goal by maximizing their use of appropriate BMPs on the site that promote infiltration of stormwater into the ground, rather than detaining it until it is released after a rain event. Developers can also use this opportunity to retrofit existing structures in the University Village – replacing impervious roads and parking lots with permeable paving systems, directing roof downspouts to raingardens, and designing drainage systems that lead to vegetated bioswales.

1



Pollution hotline: 1 800 KEEP BAY  
[www.baykeeper.org](http://www.baykeeper.org)

785 Market Street, Suite 850  
San Francisco, CA 94103  
Tel (415) 856-0444  
Fax (415) 856-0443

Baykeeper  
Page 2  
August 19, 2009

Given that this draft EIR includes only a conceptual drainage plan, Baykeeper would like to see more information about the expected changes to site drainage included in the final EIR. Specifically, the EIR would benefit from a more detailed discussion regarding 1) changes in the amount of impervious surface, 2) changes in runoff frequency and duration, 3) impacts to the creeks from the proposed new outfalls, 4) the management measures that will be used to mitigate impacts and 5) the expected decrease in groundwater recharge and potential impacts resulting from this decrease.

2

Baykeeper supports the City of Albany's efforts to control the flows of stormwater from the new University Village development as discussed in the draft EIR, and we especially commend the preference for passive LID best management practices which utilize the natural conditions of the site. We also applaud the City's assurance that the project will not interfere with implementation of the Lower Cordonices Creek Improvements Plan. Given that the EIR is still in the draft phases and that a site-specific drainage plan has yet to be developed, the City of Albany has a tremendous opportunity to advance its stormwater control efforts on the site. Baykeeper's staff is eager to assist the City of Albany Planning Department in any way that we can to see that the San Francisco Bay and its tributaries are protected from stormwater pollution. Thank you for your consideration of these comments.

3

Sincerely,



**Rosalind Becker, Program Fellow**  
**San Francisco Baykeeper**

**COMMENTER B5**  
**San Francisco Baykeeper**  
**Rosalind Becker, Program Fellow**  
**August 19, 2009**

- Response B5-1: The comment concurs that "[t]he Draft EIR incorporates and addresses the legal requirements of the Phase I MS4 [Municipal Separate Storm Sewer System] permit and includes the appropriate mitigation for impacts to stormwater", and also encourages the City of Albany to go beyond the minimum requirements for this and future developments. This comment does not relate to the adequacy of the information or analysis within the Draft EIR. No further response is required.
- Response B5-2: The analysis of potential impacts to all aspects of hydrology (including those specific components noted in the comment) is provided in the Draft EIR in Chapter IV. F Hydrology and Water Quality (pp. 211-226). It is based on the plans and project details that have been provided by the applicant. This impact analysis results in the designation of five separate significant adverse impacts, each one of which would be subject to the mitigation measures that are recommended there. The City believes that the full implementation of the mitigation measures listed there would mitigate each of the significant impacts to a level that would be less than significant when compared to the significance criteria for this topic (p. 219).
- Response B5-3: The City of Albany appreciates the complimentary comments from the commenter. No further response is required.

UNIVERSITY OF CALIFORNIA, BERKELEY

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SANTA BARBARA • SANTA CRUZ

CAPITAL PROJECTS  
PHYSICAL AND ENVIRONMENTAL PLANNING  
300 A & E BUILDING, # 1382

BERKELEY, CALIFORNIA 94720-1382

September 16, 2009

Amber Curl, Associate Planner  
City of Albany  
979 San Pablo Avenue  
Albany, CA 94706  
acurl@albanyca.org

Re: University Village at San Pablo Avenue (SCH No. 2008042004)

Dear Ms. Curl:

We would like to correct and clarify the information with respect to the demolition of the facilities located on the Gill Tract in the public review draft of the University Village at San Pablo Environmental Impact Report.

The demolition of the Gill Tract agricultural operations buildings, including the Gill House, has always been separate and distinct from the University Village at San Pablo project. The demolition of these buildings was analyzed in the 2004 University Village & Albany/Northwest Properties Master Plan Amendment EIR and subsequently approved by the Regents. The vacant structures have become a target for vandals and a safety risk; and the University has long intended to demolish them as soon as possible regardless of the timing or outcome of the University Village at San Pablo project. The buildings, including Gill House, will be removed from the property well in advance of the University Village at San Pablo project and so they should not be analyzed as part of the project.

1

The EIR should simply note that all of the agricultural operations buildings currently within the site boundaries will be removed from the property and therefore have not been analyzed in the EIR. The No Project Alternative incorrectly notes that the Gill House would remain if the project does not go forward. This should be corrected by removing any reference to the Gill House.

2

Regards,

Emily Marthinsen, AIA  
Assistant Vice Chancellor  
Physical and Environmental Planning  
510-643-3387  
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EM/smp

**COMMENTS B6**  
**University of California**  
**Emily Marthinsen, Assistant Vice Chancellor, Physical and Environmental Planning**  
**September 16, 2009**

Response B6-1: The description of the University's separate project to demolish buildings on the site (including the Gill House) is consistent with the Draft EIR at two key points:

(1) Chapter III, Project Description, Section A, Project Background, page 35, first paragraph, as excerpted below:

The proposed project would fall within Step 3 of the 2004 Master Plan. In 2007, the University demolished the 1940's barrack-style student housing which was located on the entire parcel south of Monroe Street and a portion of the parcel north of Monroe Street. The portion of the northern parcel within the Gill Tract includes a former residence (Gill House) that has been used for office space, research buildings and greenhouses, and several trailers associated with the agricultural research facilities. **All these structures are currently vacant and, with the exception of the Gill House, will be demolished during the summer of 2009. The Gill House will be either relocated or demolished at a later date.** [emphasis added]

(2) Chapter III, Project Description, Section B, Project Site, sub-section 2. Site Characteristics, page 36, second paragraph, as excerpted below:

A chain-link fence prevents access to the Gill Tract from San Pablo Avenue in the northern portion of Block A. Village Creek forms the northern boundary of the project site. There are several vacant structures within this portion of the site including the Gill House (shown in Photo 1), research buildings and greenhouses, and vacant trailers. Concrete foundations of demolished buildings associated with the Gill House and agricultural research buildings are also located within the project site. **With the exception of the Gill House, all other structures within the project site will be demolished during the summer of 2009. The Gill House will be relocated or demolished prior to initiation of the proposed project.** There is a paved driveway within the project site with an entrance onto San Pablo Avenue and internal

roadways/driveways within this portion of the Gill Tract. This San Pablo Avenue entrance is currently gated. Trees are located throughout this portion of the site. [emphasis added]

Because the proposed project did not include demolition of these buildings (the University already having the authority to do so), no analysis was undertaken related to potential impacts thereof.

Response B6-2:

The comment is correct. The description of the No Project alternative should reflect that the independent University project to remove the Gill House and other buildings from the site is proceeding. The following text revisions are hereby made to pages 227-228 of the Draft EIR:

**C. NO PROJECT ALTERNATIVE**

**1. Principal Characteristics**

The No Project alternative assumes that the project site would not be subject to redevelopment, and would generally remain in its existing conditions. ~~The Gill House would remain on the project site and not to be demolished.~~ This alternative would not include any site improvements (including pedestrian and bicycle facilities), and the project site would remain largely unused and vacant.

This minor correction would not affect any of the analysis relating to the No Project alternative or the findings in Chapter V, Alternatives. No further revisions are required.

## Comments on University Village at San Pablo Avenue Project Draft Environmental Impact Report

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*Comments from Urban Roots  
Submitted October 5, 2009*

The following is a review of the questions submitted by Urban Roots during the Scoping period of this EIR. Under each section, we identify the questions that have not been addressed or that require further explanation or analysis. Questions that were addressed to some extent, though inadequately, are listed with the response that was provided in the EIR, and a description of the additional information needed to satisfactorily answer the question. The original list of questions is enclosed as an attachment.

This document is intended to formally record the inadequacies we have found with the draft EIR. It was prepared by and sent on behalf of members of Urban Roots and other Albany residents, including:

*listed alphabetically*

|                             |                          |                  |
|-----------------------------|--------------------------|------------------|
| Delia Carroll               | Jackson St.              | Albany, CA 94706 |
| Mara Duncan                 | 848 Solano Avenue, apt.B | Albany, CA 94706 |
| Ed Fields                   | Kains Avenue             | Albany, CA 94706 |
| Jackie Hermes-Fletcher      | 1147 Portland Avenue     | Albany, CA 94706 |
| Stefanie Kalmin             | 645 Madison St.          | Albany, CA 94706 |
| Miya Kitahara               | 1073 Stannage Avenue     | Albany, CA 94706 |
| Kim Linden                  | 1109 Stannage Avenue     | Albany, CA 94706 |
| Signe Mattson               | Pomona Avenue            | Albany, CA 94706 |
| Ellen Toomey                | 1111 Talbot Avenue       | Albany, CA 94706 |
| Martin Webb & Lizelle Cline | 913 Key Route Blvd       | Albany, CA 94706 |

## Land Use

Urban Roots submitted seven questions on land use. In general, the EIR disregards the fact that this project is a piece of one property with one owner, is part of a larger plan, the U.C. Village Master Plan (2004) and that changes to this portion of the land may result in changes to other portions of the land. The EIR claims that this project will not affect future uses of other adjacent portions of the property. We disagree with this statement and request that further explanation to justify this claim.

1

### Unanswered Questions

1. What are the potential and real environmental impacts of piecemeal development of the University's land holding in this case? Does UC research show that piecemeal planning is sustainable? **Within the scope of the EIR, we request that this question be addressed by providing Project alternatives that demonstrate integrated design rather than piecemeal development.**
2. What amount of carbon sequestration will be lost: 1) as a result of this project 2) and as a result of related changes in Cal's land use in Albany, i.e. ball fields and Village Community center on Gill Tract?
3. How will the carbon sequestering ability of grass, shrubs, and trees that the University has already removed or plans to remove be replaced in Albany?
4. What are the soil conditions and what toxins are present from previous land uses both on the commercial project being proposed and on the rest of CAL's holdings in Albany?

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### Partially Answered Questions and Further Explanation Requested

1. What alternative forms of development (other than the piecemeal approach being presented) will you explore? **The EIR proposes three project alternatives, none of which consider the displacement of the originally intended land use.** If U.C. needs to construct more student housing eventually, they may need to move the ball fields, community center, childcare center to new locations, possibly on the Gill Tract. The inevitably significant impacts that will be caused by piecemeal development could be mitigated in a Project alternative that integrates the displaced uses into the Project design, such as 1) housing on top of retail, 2) keeping the footprint of any building plans to a minimum and 3) keeping the ball fields in their historical location for maximum economic and environmental sustainability. Include a Project alternative of rezoning the land that reflects the cumulative need of the uses in that location.
2. Specifically what is the impact on local agricultural resources (i.e. Gill Tract)? **"Decisions by the University of California as to future use of the Gill Tract would not be affected by the implementation of the proposed project."** This statement is not substantiated. We request specific explanation of this claim.
3. How does this plan affect future conversion of prime farm land to non-agricultural use?

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We infer from these responses that the U.C. has chosen to consider the Project area in isolation of adjacent lands it owns and for which plans were drawn jointly with the Project area. We will also interpret this as a written **commitment** not to use the loss of potential future use of the Project site for other uses (student housing, community center, ball fields, etc.) as a justification for relocating these uses onto the Gill Tract.

9

## Agriculture and Food Supply

The draft EIR does not address environmental impacts related to agriculture and food supply. Therefore, none of the eleven questions in this section were addressed.

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According to a recent EPA report from the Office of Solid Waste and Emergency Response, greenhouse gas emissions related to “provision of food” accounted for 13% of all U.S. GHG emissions.<sup>1</sup> This includes the energy used to produce, process, and transport food, as well as process emissions from these activities. Aside from GHG emissions in particular, this indicates that food systems have large environmental impacts. Agriculture and food supply systems have other large impacts on the environment (soil, water, air quality, habitats), that should be recognized.

The Project will definitely have impacts in these areas since a main piece of the Project is a large food supplier. Although the impacts may not be in the immediate physical environment, the immediate decisions of this Project will determine environmental impacts.

### Unanswered Questions Regarding Impacts on Physical Environment

1. How do you plan to measure agricultural production or its lack thereof in this project, both in terms of health of the land and of community members? 11
2. What will be the potential future opportunity costs in terms of growing local food? How will you calculate this loss both in terms of economics (price of food) and in terms of control over the quality of our food as it relates to human health and quality of life? 12
3. What percentage of products being sold at proposed development will be organic and what percentage will be grown locally? 13
4. How many pounds of potential local produce will we lose the capacity to produce? **This question refers not only to the Gill Tract, but also to the Project site. The site is not currently appropriate for agricultural production, but it is a large piece of land for Albany’s size, and could be used in the future for agricultural production.** 14
5. Will you consider having whatever grocery store in the development farm the Gill Tract to reduce the carbon footprint of this project? 15
6. Will you consider having CAL grant an agricultural easement to an environmental land trust to mitigate development footprint? 16

### General Unaddressed Questions Regarding Society, Economy, and Socio-economic Justice

1. How does this project meet CAL’s commitment and responsibility as a Land Grant University to promote local agriculture production and research? 17
2. How does this project meet the City of Albany’s commitment to a green and healthy environment? 18
3. How will opportunity costs be intensified as transport becomes increasingly cost prohibitive? 19
4. What viable alternatives are you considering that would honor the unemployed and low and middle-income realities of many Albany residents to obtain food and related products for themselves and their families? 20
5. As food prices rise due to transportation and energy cost increases how will this project offset that cost? For sample, what will it contribute to meeting the needs of lower income people and what will it contribute to local food banks? 21

<sup>1</sup> EPA, Office of Solid Waste and Emergency Response. *Opportunities to Reduce Greenhouse Gas Emissions through Materials and Land Management Practices*. September 2009.

## Energy

Under mitigation measure GCC-1, there is a mention of energy efficiency and renewable energy. The mitigations should be stated as strongly as possible to ensure maximum compliance and fulfillment of the intended mitigation value.

22

### Unanswered Questions

1. What are the opportunity costs of building on this land now and what are the ecological future users' costs?
2. In light of the large carbon footprint, what alternatives land use will be explored?
3. What will be the number of pounds of produce and other goods that will be imported if the proposed Whole Foods project is approved? What will be the estimated number of miles that imported produce will have to travel and how much pollution will it create in terms of emissions?

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### Partially Answered Questions

1. Will the project provide sufficient solar/wind energy generation to meet all the energy need of the development? If not, what percentage of the needs will be met through renewable energies and how?

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Mitigation measure GCC-1 says: **Install solar panels as appropriate to minimize demand for traditional energy usage, including electricity and natural gas usage, water heating and/or space heating/cooling.** The question explicitly requests a quantitative discussion of how much energy / size of systems.

## Traffic Pollution – Transportation, Air Quality, and Global Climate Change

There is no Air Quality Impact assessed for ongoing transportation increases, and no disclosure of how the traffic increase will affect local air quality. Since the Transportation Impacts are considered Unavoidable Significant Impacts, the corresponding Air Quality and Global Climate Change Impacts would also be Unavoidable Significant Impacts.

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Impact is considered less than significant based on building infill housing, but no analysis of increased VMT due to commercial development of a regional-serving nature and resulting new vehicle trips, and its impact on local Air Quality. There is no analysis of whether rate of VMT increase exceeds rate of increase in population.

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In general, the traffic study must be revisited for accuracy on its assumptions of the volume and intensity of traffic.

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Additionally, one **anticipated impact of Global Climate Change** is increase in days meteorologically conducive to smog formation. This is not discussed in either Air Quality or Global Climate Change sections.

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### Questions that were Inadequately Addressed

1. How many more cars will enter Albany on a daily basis as a result of this project as being proposed? How many of these will be diesel? What effect will this have on air quality? **There are several places where pieces of this information are presented. This should be presented more clearly in one table or summary.**

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|--|----|
| 2. How many more small delivery trucks and large trailer trucks will enter Albany on a daily basis as a result of this project? How many of these vehicles will be diesel? What is the [locally polluting] emission level anticipated from these trucks?   | 33 |
| 3. What is the radius of combustion emissions [of criteria air pollutants and particulate matter] from traffic generated by this project?  | 34 |
| 4. How will you measure the general health effect of this added traffic? Specifically, how will you measure the added effect on already highly occurring asthma and cancers related to car and truck emissions?  | 35 |
| 5. How much money will this project generate for medical treatments of Albany residents for the inevitable increases in asthma and cancer cases resulting from diesel trucks and increased high traffic after the completion of this project?  | 36 |
| 6. How will you prevent human sensitive receptors from being effected by pollution from traffic and energy production to bring in non-local products?  | 37 |
| 7. If the people in the surrounding community will still drive out of the [immediate] community for affordability in shopping, and people from outside the immediate community will commute in, there will be a substantial increase in [traffic]. How many miles will cars travel to get to Albany, and how far will they travel in Albany? Further, how many miles will people have to travel [(or continue to travel)] to get affordable food? [Compare this will placing an affordable food store here – either shown as a project alternative or discuss the lost opportunity to reduce traffic by designing for a more locally serving food outlet.] And what will be the calculated emissions level based on these combined [vehicle miles traveled]? | 38 |

**Quality of Life – Transportation, Cultural, Historical, Aesthetic impacts**

**Unanswered Questions**

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|--|----|
| 1. What is the impact on local residents’ quality of life with the potential loss of local farmers’ markets, grocery stores and restaurants through this proposed project? | 39 |
| 2. How will the historical significance of agriculture and the old Gill farm on the Gill Tract be maintained?  | 40 |

**Partially Answered Questions**

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|--|----|
| 1. What neighborhood streets can expect to see increased traffic due to residents of Berkeley, El Cerrito, Kensington and other neighboring communities trying to avoid jams on Marin and San Pablo? And how much traffic can be expected?<br><b>Is this secondary impact adequately incorporated into the traffic study?</b>  | 41 |
| 2. How much time will the average Albany driver lose to increased traffic on our main arteries such as Marin/Buchanan and San Pablo, and on and off ramps on Interstate 580 and 80? <b>The traffic study shows Unavoidable Significant Impacts</b> for certain intersections. Altogether, how will this impact the average driver?   | 42 |
| 3. How much more traffic noise and road rage can we anticipate as a result of this project, and how will you measure this effect on health and well-being of Albany residents? <b>There is a finding of Significant Noise Impact: Local traffic would generate long-term noise exceeding normally acceptable levels on the project site and could expose site uses to unacceptable interior noise levels.</b> This nor the mitigation measure that brings this impact to Less Than Significant do not address other neighboring residences. Also, the issue of impacts on human health is unaddressed. | 43 |

**Waste Impacts**

Waste was not a category of environmental impact to be considered on its own. It was, however, included in the Global Climate Change analysis in Appendix D. In the context of greenhouse gas emissions, and on its own, the City considers waste an environmental impact that should be reduced. The City is committed to reducing its waste tonnage, and any increase in waste should be considered for a project of this size and type. The level of detail specified in the three questions for waste impacts was not provided.

44

**Unanswered Questions**

1. What percentage of Albany tax revenues will come from sales of products pre-packaged in plastics?
2. How many pounds of plastic will be coming into Albany through the activities of these businesses being proposed for this project, including Whole Foods? How will you measure the environmental and health impact of the ongoing production of and the use of plastic that is part of this project?
3. How many tons of construction waste will be generated through this project?  
In the Summary, Mitigation Measure GCC-1 says: **Recycle/reuse demolished construction material in accordance with or exceeding the City of Albany’s ordinance regarding construction and demolition debris recycling (Ordinance #06-017).** The impact should still be disclosed.

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The EIR states that the Project is compliant with State GHG mitigation strategies for solid waste based on the City’s achievement of a high diversion rate:

**Preliminary data available from the California Integrated Waste Management Board (CIWMB) indicates that the City of Albany has met the 50 percent diversion rate since 1996. The most recent year of available data (2006) indicates that City of Albany has achieved a 70 percent diversion rate.**

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There is no discussion of the composition of the waste stream (mix of waste types). There is no discussion about specific mitigation measures to reduce or divert the waste stream generated from the occupation of this Project. There should be a mitigation measure added to GCC-1 regarding ongoing waste generation.

**COMMENTS B7**  
**Urban Roots**  
**Various Members**  
**October 5, 2009**

Response B7-1: This comment introduces and summarizes points made in the following detailed comments. One of the themes that recurs throughout this set of comments is that this project-specific Draft EIR is somehow inadequate for having not undertaken subsequent programmatic environmental review of the larger-scale master planning issues that are asserted throughout the comments to result from the proposed project. The proposed project under review by the City and subject to this environmental impact analysis is the retail, senior housing, pedestrian/bike improvements, and site drainage improvements project called the University Village at San Pablo Avenue Project. In order for the proposed project to go forward, the City would have to grant the approvals set forth in Table III-1 of the Draft EIR (p. 46), including a rezoning, planned unit development, design review, parking exception, affordable housing agreement and use permit. If the University of California were to propose revisions to the University Village Master Plan, then UC would consider whether subsequent or supplemental environmental review of such changes was called for. Revisions or amendments to the University Village Master Plan would not fall under the purview of the City of Albany, but would be initiated, reviewed and adopted by the University of California. The City is not aware of any proposed revisions by the University to the University Village Master Plan.

Response B7-2: The Draft EIR sets the context of the proposed University at San Pablo Avenue Project (project) as it fits within the larger University Village land area. The first section of Chapter III, Project Description, is titled Project Background (Draft EIR, pp. 31-34) and it describes how the master plan for the larger University Village area was the subject of an environmental impact report that was certified in 1998, followed by the amendments to that master plan, which were the subject of a subsequent focused EIR in 2004.<sup>3</sup> Those two environmental documents analyze the potential impacts of development throughout the larger University Village area, at a programmatic level of specificity (consistent with the degree of detail provided in the master plan). The current Draft EIR, then, analyzes the proposed project at a project-specific level of detail (consistent with the site-specific level of detail required for the entitlements being sought at this time). The earlier programmatic environmental analyses considered alternatives to the master plan concepts.

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<sup>3</sup> EIP Associates, 1997. *Focused Draft Environmental Impact Report, University of California, Berkeley Draft Master Plan – University Village & Albany/Northwest Berkeley Properties*, State Clearinghouse No. 97072039. August 29; LSA Associates, 2004. *Subsequent Focused Draft EIR for the University Village & Albany/Northwest Properties Master Plan Amendments EIR*. January 30.

For all of these reasons, the project-specific analysis of the proposed University at San Pablo Avenue Project does not constitute “piecemeal” analysis of development on the University Village land area.

Response B7-3:

As noted in the Draft EIR, the landscape plan has not been finalized, but the applicant is proposing to preserve approximately 20 trees on site; transplant approximately 3 trees; and remove approximately 64 trees. Changes to carbon sequestration are not required to be modeled as part of the BAAQMD *CEQA Guidelines*; however, estimates of potential changes to carbon sequestration on the project sites are discussed here for informational purposes only. Tree removal could result in a loss of carbon sequestration in the project area. Carbon sequestration is the process through which GHGs are absorbed by trees, plants and crops through photosynthesis, and stored as carbon in biomass (tree trunks, branches, foliage and roots) and soils. A mature tree can absorb carbon dioxide at a rate of 48 pounds per year. Removal of trees on the project site would result in a loss of carbon sequestration of approximately 1.5 metric tons per year.

Please refer to Section IV.E, Biological Resources of the Draft EIR, which discusses impacts to vegetation. A landscaping plan for the proposed project will be required by the City and will include the following conditions: “Existing native trees, shrubs, and ground cover shall be retained and incorporated into the landscape plan to the maximum extent practicable,” and “Measures to protect trees during construction will be identified, and replacement of the trees removed from the project site will be considered in the design of the landscape plan.” In addition, tree replacement could be subject to the permitting processes of the CDFG and Water Board.

The project would concentrate development in previously developed areas and minimize the number of trees impacted. Minimizing the number of trees removed and planting new trees in the landscaped areas would minimize the impacts associated with redevelopment. (Please see Response to Comment A2-11 regarding the position of the CDFG and the Water Board that a 3:1 replacement ratio would be required.) The loss in carbon sequestration would be offset by planting of additional vegetation as part of the landscape plan. Therefore, the estimate of loss in carbon sequestration is conservative and would be expected to be less than 1.5 metric tons per year.

Additional land use changes not related to the proposed project, including impacts on carbon sequestration, are not included in the climate change analysis.

Response B7-4:

As noted in Response to Comment B3-1, the BAAQMD adopted revised *CEQA Guidelines* in June 2010. However, as noted there, “It is the Air District’s policy that the adopted thresholds apply to projects for which a Notice of Preparation is published, or environmental analysis begins, on or after the applicable effective date. The adopted CEQA thresholds...are

effective June 2, 2010.” The NOP for the proposed project was published on March 31, 2008 and, therefore, the District’s earlier guidelines (1999) have been applied in the Draft EIR for this project. No calculations regarding carbon sequestration are required as part of the Draft EIR. It is worth noting, however, that – while any recent vegetation removal related to the master plan for the larger University Village area is, for the purposes of this analysis, already part of the existing conditions – a large amount of new landscaping has been added to the area in recent years.

Response B7-5: Potential impacts related to soils for the proposed project are discussed in Section VI, Geology and Soils of the Initial Study/Environmental Checklist, Appendix A of the Draft EIR. (See page 21-25). Potential impacts related to soil contamination for the proposed project are discussed in Section VII, Hazards and Hazardous Materials of the Initial Study/Environmental Checklist, Appendix A of the Draft EIR. (See page 25-29).

Potential impacts related to soils and contamination within the larger University Village area are discussed in the two EIRs prepared for the master plan and its amendments, in sections titled Hazards and Hazardous Materials.<sup>4,5</sup>

Response B7-6: The Draft EIR examines three alternatives to the proposed project: No Project alternative; Existing Zoning alternative; and Reduced Residential alternative. These alternatives were selected and developed with the aim of reducing or eliminating some of the significant impacts of the proposed project. The City of Albany believes that these three alternatives constitute a reasonable range of alternatives, as required by the California Environmental Quality Act (CEQA). As noted in Response to Comment B7-2, the City does not believe that either the proposed project or the alternatives represent a “piecemeal” approach.

Neither the University nor the City stipulate to the suggestion in the comment that construction by the University of more student housing would involve relocation of the ball fields, community center, or childcare center to locations on the off-site Gill Tract. Nor do the University or the City agree that significant impacts would “inevitably” result from such a plan. Nothing about the project as proposed would preclude the University from either leaving the ball fields where they are today, or going forward with the Master Plan as evaluated in its EIR or approved by the Regents.

The suggested alternative of placing (presumably student) housing on top of retail, minimizing building footprints, and keeping the ball fields in their historical location would not solve any of the significant impacts found to result from the proposed project in the Draft EIR. There is a distinct possibil-

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<sup>4</sup> EIP Associates, op. cit.

<sup>5</sup> LSA Associates, op. cit.

ity that such an alternative would lead to more trips than the proposed project, thus exacerbating adverse impacts.

It should also be noted that construction of student housing is not one of the formal objectives of the proposed project (see Draft EIR, p. 38).

Response B7-7:

As noted in Response to Comment B7-1, the proposed project under review by the City and subject to this environmental impact analysis is the University Village at San Pablo Avenue Project. Its location is shown in the Draft EIR on Figure III-3 (p. 39). As illustrated by that site plan, the proposed project would not intrude beyond Village Creek (its approximate northern boundary) in the direction of the Gill Tract fields. The City of Albany is unaware of any planned revisions to the land uses of the Gill Tract, beyond what is set forth in the University Village & Albany/West Berkeley Properties Master Plan Amendments (2004). To suggest – in the absence of any proposals to the contrary – that the proposed project would lead inevitably to changes in the future use(s) of the Gill Tract would be speculation of the sort that CEQA discourages. If the University of California were to propose revisions to the Master Plan, it would comply with CEQA at that point in time.

Response B7-8:

As explained in the Initial Study/Environmental Checklist (Appendix A to the Draft EIR), in Section II, Agricultural Resources (pp. 13-14), the project site is not designated by the Farmland Mapping and Monitoring Program as prime farmland, unique farmland, or farmland of statewide importance. As noted in the Subsequent Focused EIR for the University Village & Albany/Northwest Berkeley Properties Master Plan Amendments, in Section IV.A, Agricultural Resources (pp. 57-60), the Gill Tract is similarly not designated prime farmland, unique farmland, or farmland of statewide importance. The project site does not include land in agricultural production, and the project site is designated as “Urban and Built-Up Land”. Construction of the proposed project would have no effect on the potential future conversion of prime farmland, unique farmland, or farmland of statewide importance to non-agricultural uses.

Response B7-9:

See Responses to Comments B7-1 and B7-7 for clarification of the difference between the programmatic analysis of the greater University Village area versus the project-specific analysis undertaken here for the University Village at San Pablo Avenue retail, housing, bike/pedestrian and drainage improvements project. The City of Albany has no opinion on the assertion in the comment that UC has committed to the future use of the Gill Tract.

Response B7-10:

Agricultural resources are addressed in the Draft EIR in the Initial Study/Environmental Checklist (Appendix A), in Section II, Agricultural Resources (pp. 13-14). Food supply is not a topic for analysis under CEQA, except to the extent that it is one of many aspects in the greenhouse gas and global climate change analyses.

Response B7-11: The project site does not currently produce any agricultural products. The project site previously included student housing and research structures, and has not been used to produce agricultural products in recent decades.

Response B7-12: As noted throughout the Draft EIR, no impacts related to food production would result from the proposed project. CEQA includes three questions as triggers for determining the potential for impacts to agricultural resources. Those questions, posed in the Initial Study/Environmental Checklist, are as follows:

(1) Would the project convert prime farmland, unique farmland, or farmland of statewide importance, as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to a non-agricultural use?

(2) Would the project conflict with existing zoning for agricultural use, or a Williamson Act contract?

(3) Would the project involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland to non-agricultural use?

As set forth in the Draft EIR in the Initial Study/Environmental Checklist (Appendix A), in Section II, Agricultural Resources (pp. 13-14), the answers to these questions are clearly “No Impact”.

Accordingly, CEQA does not require further analysis, such as calculating the opportunity costs of a change in land use.

Response B7-13: This comment does not relate to the adequacy of the information or analysis within the Draft EIR. No further response is required.

Response B7-14: The potential for the project site to be developed for use as a food-producing agricultural area is not relevant to the analysis of the proposed project.

Response B7-15: The Draft EIR has as one of its many purposes the imposition of mitigation measures where potential significant adverse physical impacts would otherwise result from the proposed project. Throughout the Draft EIR, potentially significant adverse impacts are addressed through recommendations for various mitigation measures. It is not clear what significant adverse impact the commenter believes would be reduced or eliminated through requiring the grocery store (currently envisioned to be Whole Foods Market) to serve as the farmer of the Gill Tract. In the absence of an impact to mitigate, there would be no “nexus” upon which to base such a requirement.

In the experience of the EIR authors, retail grocery stores focus on their business model and farmers, on theirs. We are unaware of any grocery stores

in Northern California that have expanded their operations to include the design, soil preparation, tilling, planting and harvesting of produce to be sold in an adjacent store. If the desired outcome is to shorten the distance between production and consumption of food, there would appear to be a number of other operational means for achieving this end.

Furthermore, the owner of the Gill Tract (UC) currently has plans for the use of the Gill Tract (as expressed in the 2004 Master Plan Amendments).

- Response B7-16: See Response to Comment B7-15 in regard to the need for a significant adverse impact before a mitigation can be imposed. The question expressed here does not relate to the adequacy of the information or analysis within the Draft EIR. No further response is required.
- Response B7-17: The comment is unrelated to the requirements of CEQA. The question expressed here does not relate to the adequacy of the information or analysis within the Draft EIR. No further response is required.
- Response B7-18: The Draft EIR addresses the proposed project's consistency with various City goals, policies and programs – some of which could be thought to address the “green and healthy environment” expressed in the comment – at numerous points. Some are included as significance criteria that are explicitly set forth in each of the detailed topical sections of Chapter IV.
- Others stemming from the City's General Plan and Zoning Ordinance and the University's Master Plan for the larger University Village area, are addressed in the Initial Study (included as Appendix A of the Draft EIR) in section IX. Land Use and Planning, sub-section (b), where the question is “*Would the project... conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect?*” The DEIR concludes that no significant inconsistencies would result.
- Response B7-19: This comment is unrelated to the requirements of CEQA. The question expressed here does not relate to the adequacy of the information or analysis within the Draft EIR. No further response is required.
- Response B7-20: Please see Response to Comment B7-6. Development of additional alternatives to “honor the unemployed and low and middle-income realities of many Albany residents” would not be required by CEQA, which aims primarily to eliminate or lessen potential adverse *physical* impacts and does not require the analysis of, or solution to, existing impacts.
- Response B7-21: This comment is unrelated to the requirements of CEQA. The question expressed here does not relate to the adequacy of the information or analysis within the Draft EIR. No further response is required.

- Response B7-22: The City believes that the mitigation measures recommended in the Draft EIR are appropriately phrased in order to ensure their effectiveness.
- Response B7-23: This comment is unrelated to the requirements of CEQA. The question expressed here does not relate to the adequacy of the information or analysis within the Draft EIR. No further response is required.
- Response B7-24: Please see Response to Comment B7-6.
- Response B7-25: The Draft EIR analyzes operational period (once the store is constructed and open for business) air quality topics on pages 139-146. Included there are evaluations of toxic air contaminants (TACs), carbon monoxide (CO), and the three critical regional pollutants of reactive organic gases (ROG), nitrogen oxides (NO<sub>x</sub>), and particulate matter (PM<sub>10</sub> and PM<sub>2.5</sub>). The traffic volumes that underlie the air emission forecasts shown there, in Tables IV.B-5 through IV.B-8, include the delivery trucks that would bring all of the store's products to the project site. In each case, the proposed project's emissions would be below the thresholds of significance recommended by the BAAQMD and/or set by the City of Albany.
- The request for information specifically relating to "produce" deliveries to the store would exceed the requirements of CEQA and needs of the Draft EIR to draw conclusions regarding the potential significance of air quality impacts. No further response is required.
- Response B7-26: As analyzed in the Draft EIR on pages 164-170, the project proponent selects a number of features, including the use of renewable energy, to meet the minimum green building standards for the City of Albany. It is unclear at this time the extent to which the incorporation of solar panels will reduce the overall energy demand of the project. The amended *CEQA Guidelines* (initially proposed in 2009 and effective in March 2010) confirm that a lead agency shall have the discretion to determine, in the context of a particular project, whether to: (1) Use a model or methodology to quantify greenhouse gas emissions resulting from a project...and/or (2) Rely on a qualitative analysis or performance based standards." For the analyses of significance, the Draft EIR relies on a qualitative analysis to demonstrate consistency with the State goals and plans. Incorporation of mitigation measures demonstrates that consistency, and using a qualitative analysis, the impacts are less than significant.
- Response B7-27: This comment is incorrect. The potential air quality impacts of transportation associated with the project are addressed on pages 140-145 of the Draft EIR (including the quantified results shown in Tables IV.B-5, IV.B-6 and IV.B-7) for carbon monoxide (CO), and on page 145 (including the quantified results shown in Table IV.B-8) for a series of criteria pollutants (i.e., reactive organic gases, nitrogen oxides, and both forms of particulate matter). The

text and tables clearly substantiate the less-than-significant nature of these potential impacts.

- Response B7-28: The logic of this comment is incorrect. The thresholds of significance for traffic do not directly relate to those for air quality or global climate change. Significant and unavoidable impacts in the topical area of traffic (such as the select number of intersections or freeway segments that would experience unacceptable levels of service) do not necessarily imply a similar finding for other topical areas such as air quality or global climate change. The significance criteria are independent of one another.
- Response B7-29: URBEMIS 2007 was used to estimate air quality emissions associated with the project. Trip generation data developed by Fehr & Peers is used in the URBEMIS 2007 model, which includes default trip lengths for urban areas. Trip length multiplied by the number of trips indicates the total vehicle miles traveled (VMT). URBEMIS 2007 uses vehicle trips, trip length, as well as other factors, to estimate emissions.
- The Clean Air Plan (CAP) developed by BAAQMD are based on projections of population, employment and vehicle miles traveled developed by the local jurisdictions, including the City of Albany, the Association of Bay Area Governments, and the Metropolitan Transportation Commission. The City of Albany General Plan designates the project site as Residential/Commercial (RC), and the projections for vehicle miles traveled and population used in the CAP would be consistent with this designation. Since the proposed project is also consistent with this designation and would not require a General Plan amendment, it can be assumed that the VMT and population related to proposed project are consistent with growth anticipated under the City's General Plan and falls within the projections prepared by ABAG and MTC.
- Response B7-30: The comment, to the effect that the traffic study must be re-visited due to issues over its "accuracy" and "its assumptions of the volume and intensity of traffic" is insufficiently specific as to allow a response. Several other comments refer to aspects of the traffic study and may be helpful in explaining why the City believes that the transportation analysis provided in the Draft EIR is adequate.
- Response B7-31: The comment is correct in that global climate change could increase the number of days conducive to smog formation. However, it is unclear how future vehicle emissions standards (i.e., technological improvements), global climate change, and other changes in the San Francisco Bay Area will affect the number of days of ozone formation.
- Response B7-32: The traffic impact analysis focuses on trips generated during the morning and evening (and in the case of this project, Saturday) peak hours. The Draft EIR provides background on trip generation methods and provides the analytical outcomes in Section IV.A, Transportation, Circulation and Parking, in a sub-

section titled Trip Generation (pp. 88-90). Table IV.A-11 presents the trip generation estimates for these three peak periods. As noted in Response to Comment B7-27, the potential air quality impacts of transportation associated with the project are addressed on pages 140-145 of the Draft EIR, where the text and tables demonstrate the less-than-significant nature of these potential impacts.

Response B7-33: Whereas a very approximate distribution of vehicles between diesel and non-diesel can be estimated, further stratifying those numbers into the kind of detail requested here would be inappropriately speculative. Empirical data of this sort is not available and not needed in order to draw the conclusions reached in the Draft EIR.

Response B7-34: According to the studies cited by the California Air Resources Board in the "Air Quality and Land Use Handbook: A Community-Health Perspective," the association of traffic-related emissions with adverse health effects is seen within 1,000 feet and is strongest within 300 feet. California freeway studies show a 70 percent drop in particulate pollution levels at 500 feet. This demonstrates that the adverse effects diminish with distance.

On a cumulative basis, vehicle emissions can contribute to the attainment status of the entire region (e.g., San Francisco Bay Area Air Basin). However, areas of vehicle congestion can create pockets of high pollutant concentrations, called "hot spots," particularly with regard to particulate matter and carbon monoxide (CO). Tables IV.B-5 through IV.B-7 of the Draft EIR (pages 141 and 144) present information on the CO emissions at intersections impacted by traffic related to the project.

Response B7-35: Health effects of air pollutants are described in Table IV.B-2 of the Draft EIR. Localized emissions, as shown in Tables IV.B-5 through IV.B-7 of the Draft EIR would not exceed State or federal air pollution standards and are therefore, not expected to have localized impacts.

Response B7-36: This comment is unrelated to the requirements of CEQA. The question expressed here does not relate to the adequacy of the information or analysis within the Draft EIR. No further response is required.

Response B7-37: Please see Responses to Comments B7-34 and B7-35 for background on the health effects of air pollutants. The specific increase in air pollutant emissions due to traffic and other energy production required to transport "non-local" products to the project site as (presumably) compared to "local" products would first require that these two terms be defined. But even if an agreed-upon definition of "local" could be formulated, it should be emphasized that only a very limited number of fruits, vegetables or herbs and maybe poultry could be feasibly raised locally. These items would constitute an infinitesimally small percentage of the total product inventory of the

average Whole Foods Market. Thus the difference in air pollutant emissions between the two would clearly be too small to measure.

Response B7-38: While the components of this comment are an interesting series of questions, their discussion would require that a number of highly speculative assumptions be employed by anyone trying to analyze or model the matter. CEQA clearly does not call for – and in fact discourages – such speculation when background data and forecasting methods necessary for the effort do not exist. The City does not believe that the construction and operation of a Whole Foods Market on the project site would either preclude or discourage Albany or Berkeley residents from continuing to shop locally for discount products. Nor, in a region with 16 Whole Foods Markets already in operation (see Response to Comment B15-1) would the project draw regional shoppers due to the sorts of products that are sold at Whole Foods, leading to a greater number of vehicle miles travelled (VMT) than without the project.

Response B7-39: This comment is unrelated to the requirements of CEQA. The question expressed here does not relate to the adequacy of the information or analysis within the Draft EIR. No further response is required.

Response B7-40: See Responses to Comments B7-1, B7-7 and B7-8 regarding the Gill Tract and the proposed project that was evaluated in the Draft EIR.

As presented in Appendix A of the Draft EIR, Initial Study/Environmental Checklist, on page 19 therein,

...[t]he 2004 Subsequent Focused EIR identified the Experiment Station and adjacent cultivated fields as being potentially eligible for listing on the California Register as a historic district. Impacts related to the demolition of these structures were evaluated in that EIR. Demolition of these structures would be considered a significant and unavoidable impact, even with implementation of the mitigation measures identified in the 2004 Subsequent Focused EIR.

The Gill House and grounds were also evaluated in 2004 Subsequent Focused EIR, which determined the Gill House was not individually eligible for listing on the California Register, and is not considered a historical resource in accordance with CEQA. As has been noted previously, demolition of these structures is not part of the present University Village at San Pablo Avenue project and is not evaluated in this Initial Study/Environmental Checklist or its affiliated EIR.

There are no other known historical resources identified within the project site. Implementation of this project would not result in a substantial adverse impact to a historic resource.

Response B7-41: The Draft EIR addresses potential traffic impacts in Section IV.A, Transportation, Circulation and Parking (pp. 49-129). As explained there, nineteen intersections (see page 49 for a list and page 50 for a map) were studied under six difference scenarios for potential traffic impacts. These nineteen intersections were chosen because they are believed to be the most likely to be affected by the proposed project; intersections beyond these nineteen would be too distant to be significantly affected.

The volumes of traffic that that would be generated by the proposed project, over and above existing conditions, can be most easily seen in two different locations: (1) Table IV.A-11 (p. 89) and the text in the subsection titled “Project Trip Estimates” that surrounds it; (2) Table IV.A-13, where the intersection levels of service (LOS) are projected for all nineteen intersections, both without and with the project. The text that follows the latter table (pp. 95-98) summarizes which of the intersections would experience significant adverse impacts, based on criteria established by the City of Albany.

Similar tables and text provide these effects for two out-years (2015 and 2035) under the Near-Term (2015) and Cumulative (2035) scenarios.

Response B7-42: The Draft EIR analyzes the potential traffic effects of the proposed project in terms of changes to the level of service at intersections and along arterial roadways and freeway segments in the morning and evening peak hours. Delay at specific intersections is one measure of impact and projected individual delays for specific intersections are shown in key tables (Table IV.A-7, IV.A-9 and IV.A-13) for both without and with project conditions. In addition, Table IV.A-23 presents northbound and southbound travel times along San Pablo Avenue between Gilman Street and Solano Avenue during weekday AM and PM and Saturday peak hour with and without the proposed project. As shown in that table, the proposed project is estimated to increase total travel times by less than one minute along this segment of San Pablo Avenue. However, to the extent that the last question (“Altogether, how will this impact the average driver?”) is seeking some kind of aggregated across-the-board average daily delay, such information is not part of the analysis. It is important to note that many of the trips destined for the proposed project already take place within Albany or the greater East Bay region; the trips of the proposed project would not be entirely net new trips; some would be merely focused here at the project site.

Response B7-43: Noise caused by traffic associated with the proposed project is discussed in the Noise section of the Draft EIR (pp. 173-189). Specifically, the last subsection titled Traffic Noise Impacts (pp. 186-189) provides two key tables that show the increase in traffic-related noise over existing conditions for two different time periods, existing and cumulative (2035). What the tables show is that traffic-related noise would increase in imperceptibly small ways for all but one of the ten roadway segments measured. Not surprisingly, the relatively

quiet segment of Monroe Street between Jackson Street and San Pablo Avenue would witness a increase in noise levels that would be perceptible to those nearby. Only residences that are part of the project would experience the noise that would necessitate implementation of Mitigation Measure NOISE-2 (Draft EIR, p. 189); all other nearby residences (e.g., throughout the larger University Village area or across San Pablo Avenue) would be unaffected by noise from the proposed project.

There is no reason to speculate that these small increases in noise would have any effect on “road rage” or on “the health and well being of Albany residents”.

Contrary to the comment, and as noted in the Draft EIR, implementation of the recommended mitigation measure would sufficiently mitigate traffic related noise impacts for the nearest residences, in the proposed project, to less-than-significant levels.

- Response B7-44: The comment is correct that the Global Climate Change section addresses solid waste, but is incorrect in stating that waste was not otherwise analyzed: it was, in the Utilities and Service Systems section of the Initial Study/Environmental Checklist (Appendix A, pp. 43-48). Specifically, questions “f” and “g” relate to landfill capacity and compliance with federal, State and local statutes and regulations related to solid waste. The background and analysis in each case leads to the conclusion that the impact would be less than significant.
- Response B7-45: This comment does not relate to the adequacy of the information or analysis within the Draft EIR. No further response is required.
- Response B7-46: CEQA does not typically trace backward such input materials to the operation of a land use like a grocery store as plastic. It is also important to note (as was done in Response to Comment B7-42, in regard to vehicular trips) that not all of the groceries purchased at the project would be net new purchases. Albany residents are currently patronizing other grocery stores whose operations are similar to those of the proposed Whole Foods Market. If the proposed project is approved, constructed and made operational, some of those consumers – those who would face a shorter trip to the new store, or who would otherwise prefer Whole Foods Market – would simply shift their purchasing to the new store.
- Response B7-47: As noted in Chapter III, Project Description, and Letter B6, demolition of the existing structures on site is not part of this project.
- Response B7-48: According to the Climate Action Plan adopted in April 2010, the City of Albany “will place special focus on the diversion of food waste and other organic materials the primary source of landfill methane emissions. The City will adopt an ordinance requiring all household and commercial food scraps

and food soiled paper to be placed in organics carts, and all commercial food service providers to use both recycling and organics services.” The proposed project would be required to comply with federal, State, and local waste reduction and recycling regulations, particularly those contained in the California Integrated Waste Management Act (AB 939) and Chapter XV, Sewers and Sanitation of the City of Albany Code, which includes Section 15-2 Solid Waste, Recyclables, and Organic Materials Management. Additional mitigation measures are not required.

**Questions from Members of Urban Roots and Sustainable Albany**

University of California, Berkeley (CAL) researchers and professors involved in environmental issues, along with other scientists, academics and environmentalists (and their organizations), across the world have advocated for holistic sustainable planning to reduce global warming and to improve the quality of life for people. In public presentations regarding this project it was stated by CAL that in its reorganization of planned land use they will build more student housing and put ball fields and a Community Center on the Gill tract (land adjoining development). Clearly these changes of use are tied to the decision to do the commercial development being considered in this EIR.

1

Why in this situation does it make any sense to consider piecemeal commercial development of CAL's land holdings in Albany without considering the rest of CAL's holdings and mission in Albany? Any consideration of this project without the consideration of other CAL holdings will considerably affect probable future projects that are critical to the health and well-being of Albany residents.

Please answer the following additional questions?

**Land Use**

\*What are the potential and real environmental impacts of piecemeal development of the University's land holdings in this case? Does UC research show that piecemeal planning is sustainable?

2

\* Specifically what is the impact to local agricultural resources (i.e. Gill tract)?

3

\* How does this plan effect future conversion of prime farm land to non-agricultural use?

4

\* What alternative forms of development (other than the piecemeal approach being presented) will you explore?

5

\* What amount of carbon sequestration will be lost: 1) as a result of this project 2) and as a result of related changes in Cal's land use in Albany, i.e. ball fields and Village Community Center on Gill Tract?

6

\*How will the carbon sequestering ability of grass, shrubs, and trees that the University has already removed or plans to remove be replaced in Albany?

7

\* What are the soil conditions and what toxins are present from previous land uses both on the commercial project being proposed and on the rest of CAL's holdings in Albany? Would it not make sense to determine this in advance? What would happen if it were discovered that the soil on the Gill Tract contained levels of tritium to the extent that it could not be used for open space? Is this not crucial to thorough, thoughtful, responsible, sustainable development?

8

**Agriculture and Food Supply**

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|---|----|
| * How does this project meet CAL’s commitment and responsibility as a Land Grant University to promote local agriculture production <i>to research</i> ?  | 9  |
| * How does this project meet the City of Albany’s commitment to a green and healthy environment?  | 10 |
| * How do you plan to measure agricultural production or its lack there of in this project, both in terms of health of the land and of community members?  | 11 |
| * What will be the potential future opportunity costs in terms of growing local food? How will you calculate this loss both in terms of economics (price of food) and in terms of control over the quality of our food as it relates to human health and quality of life? | 12 |
| * What percentage of products being sold at proposed development will be organic and what percentage will be grown locally?   | 13 |
| * As food prices rise due to transportation and energy costs how will this project offset that cost? For example: What will it contribute to meeting the needs of lower income people and what will it contribute to local food banks?                                    | 14 |
| * How many pounds of potential local produce will we lose the capacity to produce?  | 15 |
| * How will opportunity costs be intensified as transport becomes increasingly cost prohibitive?   | 16 |
| * What viable alternatives are you considering that would honor the unemployed and low and middle-income realities of many Albany residents to obtain food and related products for themselves and their families?  | 17 |
| * Will you consider having whatever grocery store in the development farm the Gill Tract to reduce the Carbon Footprint of this project?  | 18 |
| * Will you consider having CAL grant an agricultural easement to an environmental land trust to mitigate development footprint?   | 19 |

**Energy**

|  |    |
|--|----|
| * What will be the carbon footprint left from the proposed development from energy use in kilowatt hours and therms? | 20 |
| * What are the opportunity costs of building on this land now and what are the ecological future users’ costs?       | 21 |

|   |    |
|---|----|
| * In light of the large carbon foot print, what alternatives land use will be explored?   | 22 |
| * Will the project provide sufficient solar/wind energy generation to meet all the energy need of the development? If not, what percentage of the needs will be met through renewable energies and how?   | 23 |
| * What will be the number of pounds of produce and other goods that will be imported if the proposed Whole Foods projects is approved? What will be the estimated number of miles that imported produce will have to travel (from places like Argentina, China and Mexico), and further what will that cost be per mile to import that produce and how much pollution will it create in terms of emissions?   | 24 |
| <b><u>Traffic Pollution</u></b>   |    |
| * How many more cars will enter Albany on a daily basis as a result of this project as being proposed? How many of these will be diesel? What effect will this have on air quality?   | 25 |
| * If the people in the surrounding community will still drive out of the community for affordability in shopping, and people from outside the immediate community will commute in, there will be a substantial increase in circulation. How many miles will cars travel to get to Albany, and how far will they travel in Albany? Further how many miles will be people from Albany have to travel to get affordable food? And what will be the calculated emissions level based on this combined mileages? | 26 |
| * How many more small delivery trucks and large trailer trucks will enter Albany on a daily basis as a result of this project? How many of these vehicles will be diesel? What is the emission level anticipated from these trucks?   | 27 |
| * What is the radius of combustion emissions from traffic generated by this project?  | 28 |
| * How will you measure the general health effect of this added traffic? Specifically how will you measure the added effect on already high occurring (among the highest in the state) asthma and cancers related to car and truck emissions?  | 29 |
| * How much money will this project generate for medical treatments of Albany residents for the inevitable increases in asthma and cancer cases resulting from diesel trucks and increased high traffic after the completion of this project?  | 30 |
| * How will you prevent human sensitive receptors from being effected by pollution from traffic and energy production to bring in non-local products?  | 31 |

**Quality of Life**

|   |    |
|---|----|
| * How much time will the average Albany driver lose to increased traffic on our main arterials such as Marin/ Buchanan and San Pablo, and on and off ramps to Interstate 580 and 80?  | 32 |
| *What neighborhood streets can expect to see increased traffic due to residents of Berkeley, El Cerrito, Kensington and other neighboring communities trying to avoid jams on Marin and San Pablo? And how much traffic can be expected?  | 33 |
| * How much more traffic noise and road rage can we anticipate as a result of this project, and how will you measure this effect on health and well-being of Albany residents?   | 34 |
| * What alternatives forms of transportation both public and private are being considered for this project?  | 35 |
| * What is the impact on local residents ' quality of life with the potential loss of local farmers' markets, grocery stores and restaurants through this proposed project?  | 36 |
| * What serious alternatives are you exploring to address quality of life issues?  | 37 |
| * How will the historical significance of agriculture and the old Gill farm on the Gill tract be maintained?  | 38 |
| <b><u>Environmental Waste Impacts</u></b>   |    |
| * What percentage of Albany tax revenues will come from sales of products pre-packaged in plastics?   | 39 |
| * How many pounds of plastic will be coming into Albany through the activities of these businesses being proposed for this project, including Whole Foods? How will you measure the environmental and health impact of the ongoing production of and the use of plastic that is part of this project? | 40 |
| * How many tons of construction waste will be generated through this project?   | 41 |
| * What alternatives are you proposing for this site?  | 42 |
| <b><u>Water Quality Impacts</u></b>   |    |
| * What is the total area of impervious surfaces?  | 43 |
| * What impact will drainage run off have to creeks and storm drains?  | 44 |
| How will you prevent run-off from roofs and ground including chemicals? And if you can not eliminate such effects, how will they be mitigated?  | 45 |

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|---|----|
| How will waste treatment be handled and what effect will this have on local systems?  | 46 |
| <b><u>Economic Sustainability</u></b>   |    |
| * How many Albany residents will be employed on an ongoing basis on this site, and will they be paid a living wage?               | 47 |
| * What is the impact on local area businesses? Will local businesses suffer losses or be forced to close because of this project? | 48 |
| * What alternatives will you generate to address the above issues?  | 49 |
| <b><u>General questions:</u></b>  |    |
| * "How and when will alternative project costs for above issues be presented?"  | 50 |
| * "How should new ideas and alternatives be submitted for consideration?"   | 51 |
| * "Clarify the process for concurrent environmental coordination with federal, state (and local) agencies?"                       | 52 |

**COMMENTS B8**  
**Urban Roots and Sustainable Albany**  
**No Authors Noted**  
**No Date**

- Response B8-1: Please see Response to Comment B7-1.
- Response B8-2: Please see Response to Comment B7-2.
- Response B8-3: Please see Response to Comment B7-7.
- Response B8-4: Please see Response to Comment B7-8.
- Response B8-5: Please see Response to Comment B7-6.
- Response B8-6: Please see Response to Comment B7-3.
- Response B8-7: Please see Response to Comment B3-1.
- Response B8-8: Please see Response to Comment B7-5.
- Response B8-9: Please see Response to Comment B7-17.
- Response B8-10: Please see Response to Comment B7-18.
- Response B8-11: Please see Response to Comment B7-11.
- Response B8-12: Please see Response to Comment B7-12.
- Response B8-13: Please see Response to Comment B7-13.
- Response B8-14: Please see Response to Comment B7-21.
- Response B8-15: Please see Response to Comment B7-14.
- Response B8-16: Please see Response to Comment B7-19.
- Response B8-17: Please see Response to Comment B7-20.
- Response B8-18: Please see Response to Comment B7-15.
- Response B8-19: Please see Response to Comment B7-16.

- Response B8-20: As indicated in Appendix D, Global Climate Change, the project would use approximately 4,600 megawatt hours of electricity and 12 million standard cubic feet (or 120,000 therms) of natural gas.
- Response B8-21: Please see Response to Comment B7-23.
- Response B8-22: Please see Response to Comment B7-24.
- Response B8-23: Please see Response to Comment B7-26.
- Response B8-24: Please see Response to Comment B7-25.
- Response B8-25: Please see Response to Comment B7-32.
- Response B8-26: Please see Response to Comment B7-38.
- Response B8-27: Please see Response to Comment B7-33.
- Response B8-28: Please see Response to Comment B7-34.
- Response B8-29: Please see Response to Comment B7-35.
- Response B8-30: Please see Response to Comment B7-36.
- Response B8-31: Please see Response to Comment B7-37.
- Response B8-32: Please see Response to Comment B7-42.
- Response B8-33: Please see Response to Comment B7-41.
- Response B8-34: Please see Response to Comment B7-43.
- Response B8-35: The proposed project includes the construction and operation of a Whole Foods Market, other retail outlets, senior housing, roadway improvements surrounding the project site, pedestrian/bike improvements and drainage facilities (see Draft EIR, Chapter III, Project Description, pp. 38-46).

Existing alternative forms of transportation available to and from the site are also described in the Draft EIR (see Chapter IV.A, Transportation, Circulation and Parking, Section C, Existing Transportation Setting, subsections (2) Existing Pedestrian Facilities, (3) Existing Bicycle Facilities, and (4) Existing Transit Service, pp. 54-62).

Recommendation TRANS-1 on p. 113 sets forth nearly a dozen design, circulation, and signage suggestions that – while not required as formal mitigation measures – would ensure a safer and more pleasant experience for

drivers, transit riders, cyclists and pedestrians. These improvements are illustrated on Figure IV.A-15 (p.115).

Recommendation TRANS-2 on pp. 117-118 sets forth nine suggestions that would improve pedestrian and bicycle access through the site.

Mitigation Measure TRANS-12 on p. 118 describes four possible designs for a pedestrian and bicycle crossing of San Pablo Avenue in the vicinity of the site. These improvements are illustrated on Figures IV.A-16a and IV.A-16b (p.119 and 120).

Recommendation TRANS-4 on p. 127 suggests modifications to the site plan so as to optimize the provision of bicycle parking.

- Response B8-36: Please see Response to Comment B7-39.
- Response B8-37: The Draft EIR explores three alternatives in that chapter (pp. 227-234): The No Project alternative, the Existing Zoning alternative, and the Reduced Residential alternative. More importantly though – given that the proposed project would not lead to any significant and unavoidable impacts in environmental topical areas other than traffic – the Draft EIR sets forth many mitigation measures in the topical areas typically thought of comprising "quality of life" issues, such as air quality, noise, biology, hydrology, and aesthetics. Viewing those mitigation measures would be easiest by observing Table II-1 in Chapter II, Summary (pp. 8- 29).
- Response B8-38: Please see Response to Comment B7-40.
- Response B8-39: Please see Response to Comment B7-45.
- Response B8-40: Please see Response to Comment B7-46.
- Response B8-41: Please see Response to Comment B7-47.
- Response B8-42: Please see Draft EIR, Chapter V, Alternatives (pp. 227-234).
- Response B8-43: As noted in the Draft EIR, Section IV.F, Hydrology and Water Quality, on page 222, estimates from the conceptual drawings suggest that the new buildings and pavement could result in excess of 85 percent cover. See Response to Comment B8-44 for further discussion of the implications of impervious surfaces on the site.
- Response B8-44: Section IV.F, Hydrology and Water Quality, of the Draft EIR (pp. 220-226) addresses all issues related to run-off and its effects on creeks and storm drains. Four impacts and their respective mitigation measures relate to these topics: HYDRO-1, HYDRO-2, HYDRO-3 and HYDRO-4. Each of these potentially significant impacts can be eliminated or reduced to a less-than-

significant level through the implementation of the detailed mitigation measures recommended in the Draft EIR. The efficacy of these detailed mitigation measures is discussed and demonstrated across pages 220-226 of the Draft EIR.

Response B8-45: Impacts HYDRO-1 and HYDRO-3 (Draft EIR, pp. 220-221 and 222-224) address run-off water quality during both the construction period and operations period respectively. Detailed mitigation steps are set forth there, and would reduce the impacts to less-than-significant levels.

Response B8-46: If by "waste treatment" the comment is referring to stormwater runoff, the project description includes a number of design features in Chapter III, Project Description (pp. 38-46). See especially sub-section Site Drainage Facilities (p. 43) and Infrastructure and Utilities (p. 45). See also Section IV.F, Hydrology and Water Quality (pp. 211-226).

If "waste treatment" refers to sewage wastewater, see the Infrastructure and Utilities (p. 45) as well as the Initial Study/Environmental Checklist (Appendix A to the Draft EIR) in Section XVI, Utilities and Service Systems (p. 43-48). In the case of every waste treatment issue, the result (in some cases after imposition of the recommended mitigation measure[s]) would be a less-than-significant impact on local facilities.

Response B8-47: The proportion of the jobs at the Whole Foods Market, the other retail outlets or associated with the senior housing development who would be existing Albany residents was not estimated (and is not needed in order to complete this environmental analysis under CEQA). Whether or what percentage of project jobs would be consistent with "living wage" standards is not an environmental issue to be evaluated under CEQA.

Response B8-48: A healthy local retail economy experiences some background level of business closures and openings annually, for reasons that have to do with the personal decisions of their owners, need for renovation of properties, and changes in consumer preferences in the marketplace. The City of Albany does not expect any significant direct effects on existing local businesses as a result of the opening of a Whole Foods Market on the project site and no substantial evidence has been offered as part of the environmental review process that such effects would be felt. The scale of this development compared to the overall level of retail activity of the type proposed would be small, though it is possible that the operation of a Whole Foods Market in this location and introduction of senior housing would stimulate at least some new commercial activity across San Pablo Avenue from the project site.

Response B8-49: Neither of the above issues are ones that result in significant adverse physical environmental impacts and, therefore, no mitigation measures or alternatives are needed.

Response B8-50: See Response to Comment B8-49

Response B8-51: The project site is owned by the University of California and has been proposed for the project defined in the Draft EIR. Three alternatives were examined to see if adverse impacts of the proposed project would be eliminated or substantially reduced as a result of their implementation. The City believes that this series of alternatives represents the legally-required reasonable range that must be considered in the EIR. Interested members of the public are, of course, always welcome to communicate with their appointed and elected decision-makers on such issues.

Response B8-52: The process by which the Draft EIR and this Response to Comments document has been prepared is entirely mandated by and carried out under the auspices of the California Environmental Quality Act (CEQA), a State-level law and set of regulations. The City of Albany is the lead agency assigned to carry out the State law. To the extent that any further federal level approvals or permits need to be secured prior to implementation of the proposed project (e.g., wetlands related permit[s] from the U.S. Army Corps of Engineers), the current conventional practice would be for the EIR to be certified first and then any federal level approvals or permits would be applied for.

Village Residents Association - 1125 Jackson St, Albany, CA 94706 - vra@berkeley.edu

Village Residents Association  
1125 Jackson St  
Albany, CA 94706

City of Albany  
1000 San Pablo Ave  
Albany, CA 94706

October 5, 2009

Dear City of Albany,

The residents of University Village would like to submit their comments on the draft EIR for the grocery store and senior living center that has been planned at the intersection of San Pablo and Monroe. We have reviewed the draft EIR and held a public meeting soliciting comments. This document represents a summation of those comments. We hope that you will give these comments the appropriate weight and consideration, as they come from not just one individual, but our entire population.

We are not in principle opposed to the project at hand. We do, however, have some serious concerns about traffic and safety. Our collective comments are as follows:

**Traffic Study**

We would like to make sure that the peak traffic counts for Village intersections were done during times when the Village has the most traffic. Our peak weekday traffic hours are 7:30AM – 9:00AM and 4:30PM – 6:30PM.

1

**Drivers Cutting Through the Village**

We are concerned that non-Village residents heading to the grocery store will cut through the Village to avoid traffic on San Pablo. Drivers heading east on Gilman may be inclined to turn left on 8<sup>th</sup>, follow it through the Village, turn right on Monroe, and use the back entrance to the grocery store. We already have a problem with post office trucks using the Village as a short-cut on this exact route to San Pablo. Likewise, drivers heading east on Buchanan and seeing a long traffic line at Buchanan & Monroe may turn right on Jackson, left on Monroe, and use the grocery store back entrance.

2

The intersection of Jackson & Monroe is right next to our community center, computer center, and sand park, so there will be many young children. The draft EIR traffic projections estimate 40% to 270% near term increases in peak weekday traffic at this intersection. Projections for other Village intersections also show large traffic increases. Our local police officers have found that non-Village drivers cutting through the Village are significantly less likely to come to a complete stop at our stop signs, and pose a much greater traffic danger to our children. We would like appropriate traffic measures taken to effectively deter non-Village drivers from using our community as a short-cut to the grocery store.

**Traffic Near Ocean View**

At any one time, we have 2,000 – 3,000 people living in the Village, many of whom are young children. A majority of our school-aged children attend Ocean View Elementary (located at Jackson & Buchanan) and walk to school. Traffic during school drop-off and pick-up time is already terrible, and car-pedestrian near misses happen not infrequently. The traffic estimates

3

Village Residents Association - 1125 Jackson St, Albany, CA 94706 - vra@berkeley.edu

for Jackson & Buchanan show near term increases of 40% to 60%. We believe that such increases are not acceptable, especially considering the high pedestrian use of the area and the small size of the road. In addition to the traffic measures we requested in the previous section, we also request that steps be taken to increase the safety of Jackson for pedestrians and improve traffic flow at peak times.

**3  
cont.**

**Bicycle Access**

Village residents are strongly in favor of any measures that would improve bicycle access and safety in the area, particularly any dedicated bike paths or bike lanes on a route that would connect the Village to UC Berkeley. A traffic light crossing at Dartmouth & San Pablo would be very helpful to our residents.

**4**

Thank you for your attention to our concerns.

The Board of the Village Residents Association,  
on behalf of the residents of University Village,  
and summarizing concerns from a VRA public meeting

**COMMENTS B9**  
**Village Residents Association**  
**No Authors**  
**October 5, 2009**

Response B9-1: As explained in the Draft EIR, in Section IV.A, Transportation, Circulation, and Parking, (p. 49):

**a. Scope of Study.** This study was conducted according to the requirements of the City of Albany and the Alameda County Congestion Management Agency (ACCMA). The basis of analysis is peak hour level of service calculations for key intersections in the area, and road segment volume-to-capacity (v/c) ratios for the Metropolitan Transportation System (MTS). **The peak hours are defined as the highest hour for each intersection between the peak periods of 7:00 a.m. and 9:00 a.m. and between 4:00 p.m. and 6:00 p.m. on weekdays, and between 11:30 a.m. and 2:30 p.m. on Saturdays.** These peak hours will be identified as the AM, PM, and Saturday peak hours, respectively. [emphasis added]

The periods that are asserted in the comment to represent the most traffic in the Village (of 7:30 a.m. – 9:00 a.m. and 4:30 p.m. – 6:30 p.m.) are generally consistent with the peak hours experienced throughout the greater City. It should be noted that, while select intersections and roadways that are *adjacent* to the developed portions of the existing University Village experience unacceptable levels of service under both existing conditions and are projected to continue experiencing unacceptable levels of service with the addition of project traffic (e.g., along San Pablo Avenue, Harrison Street, and Gilman Street), the only intersection that is *within* the Village (#9 Monroe Street/Jackson Street) would continue to operate with virtually no congestion (LOS A with delays in the 8-9 seconds range) even during the peak hour. See Table IV.A-13 of the Draft EIR.

Response B9-2: Please see Response to Comment A5-4.

Response B9-3: Please see Response to Comment A5-4.

Response B9-4: Comments in favor of improved bicycle access and safety, as well as a crosswalk at Dartmouth Street and San Pablo Avenue, are noted. Four options for a crossing of San Pablo Avenue at Dartmouth Street are described and illustrated in the Draft EIR on pages 118-122.

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**CITY OF ALBANY**

AUG 10 2009  
COMMUNITY DEVELOPMENT  
DEPARTMENT

BY EMAIL AND US MAIL

August 5, 2009

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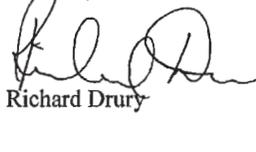
Re: University Village at San Pablo Avenue (SCH No. 2008042004)  
CEQA Comment Period Extension to Oct. 5, 2009

Dear Ms. Curl:

I am writing on behalf of Carpenters Union Local 713 concerning the public review period under the California Environmental Quality Act ("CEQA") for the University Village at San Pablo Avenue (SCH No. 2008042004) ("Project") for which the lead agency is the City of Albany ("City"). I am writing to confirm that the City has extended the CEQA public comment deadline for the Project to October 5, 2009 at 5:00 p.m., as set forth on your website. Please let me know if this is incorrect. Thank you.

1

Sincerely,

  
Richard Drury

CC: Alex Lantsberg  
Scott Littlehale  
Ted Franklin

**COMMENTS B10**  
**Weinberg Roger & Rosenfeld**  
**Richard Drury**  
**August, 5, 2009**

Response B10-1:       The extension of the public comment period by the City of Albany to  
October 5, 2009, is correct.

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BY EMAIL AND US MAIL

August 5, 2009

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acurl@albanyca.org

CITY OF ALBANY  
AUG 10 2009  
COMMUNITY DEVELOPMENT  
DEPARTMENT

Re: University Village at San Pablo Avenue (SCH No. 2008042004)  
Document Request

Dear Ms. Curl:

I am writing on behalf of the Northern California Carpenters Regional Council (NCCRC) to request immediate access to all documents referring or related to the University Village at San Pablo Avenue (SCH No. 2008042004) ("Project"), including, but not limited to, the following:

1. Any and all draft and/or final environmental review document(s) prepared pursuant to the California Environmental Quality Act.
2. Any and all applications for permits referring to or related to the Project.
3. Any and all permits issued by the City of Albany ("City"), or any agency of the City, referring to or related to the Project.
4. Any and all development agreements, disposition agreements and/or disposition and development agreements referring to or related to the Project.
5. Any and all contracts or proposed contracts proposed or entered into between the City, and/or any entities referring to or related to the Project.
6. Any and all correspondence, resolutions, memos, notes, analysis, electronic mail messages, files, maps, charts, and/or any other documents by, to or from City staff referring or relating to the Project.

We do not request copies of documents that are readily available on the internet. For such documents, we simply request that you inform us of the URL at which the document are

August 5, 2009  
Page 2

available. We prefer to receive the requested document in electronic computer-readable format such as PDF (portable document format), if possible. If it would expedite receipt of the documents, we can send a copy service to your offices to copy the documents.

This request is made pursuant to Section 21092(b)(1) of the California Environmental Quality Act ("CEQA") and CEQA Guidelines Section 15087(c)(5) which require that "all documents referenced in the environmental impact report" be available for review and "readily accessible" during the entire comment period. This request is also made pursuant to the California Public Records Act, Government Code section 6250, et seq. We request copies of the requested documents pursuant to sections 6256 and 6257 of the Public Records Act.

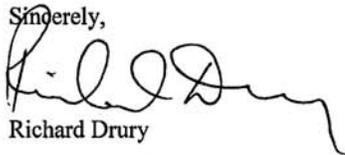
While we are willing to pay the reasonable costs of duplication, we will only pay the "direct costs of duplication," and will not pay for any staff time related to this request. (*North County Parents v. Dept. of Education* (1994) 23 Cal.App.4th 144) We request an estimate of the costs of production prior to your making any copies. None of the requested documents, including drafts, notes, or internal memoranda are exempt from disclosure. (*Citizens for a Better Environment v. Dept. of Food and Agriculture* (1985) 171 Cal.App.3d 704). We reserve the right to have a copy service make copies of the requested documents depending on the volume.

Please send the above requested items to:

Richard Drury  
Weinberg Roger & Rosenfeld  
1001 Marina Village Parkway, Suite 200  
Alameda, CA 94501

Please call me at (510) 337-1001 if you have any questions. My paralegal, Nancy Groom, will call you to coordinate this request. Thank you for your assistance with this matter.

Sincerely,



Richard Drury

CC: Alex Lantsberg  
Scott Littlehale  
Ted Franklin

1  
cont.

**COMMENTS B11**  
**Weinberg Roger & Rosenfeld**  
**Richard Drury**  
**August, 5, 2009**

Response B11-1:           The requested documents were provided by the City in August and September of 2009 (but in no case less than ten days prior to the close of the extended comment period on October 5, 2009).

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BY EMAIL AND US MAIL

October 5, 2009

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**CITY OF ALBANY**

OCT 05 2009

COMMUNITY DEVELOPMENT  
DEPARTMENT

Re: University Village at San Pablo Avenue (SCH No. 2008042004)  
CEQA Comments of Carpenters Local 713

Dear Ms. Curl:

I am writing again on behalf of Carpenters Local Union 713 to comment on the Draft Environmental Impact Report ("DEIR") prepared under the California Environmental Quality Act ("CEQA") on the University Village at San Pablo Avenue Project (SCH No. 2008042004) ("Project"). After reviewing the DEIR together with our team of expert consultants, it is evident that the document contains numerous errors and omissions that preclude accurate analysis of the Project. As a result of these inadequacies, the DEIR fails as an informational document, fails to identify environmentally superior Project alternatives, and fails to impose feasible mitigation measures to reduce the Project's impacts.<sup>1</sup> A supplemental DEIR will have to be prepared and circulated for full public comment to address these issues.

**I. BACKGROUND**

Bob LaLanne with The LaLanne Group for University of California has proposed to construct a 175-unit, mixed-use residential-commercial development, with a 55,000 square foot Whole Foods supermarket and 30,000 square feet of addition retail at the

<sup>1</sup> We reserve the right to supplement these comments at later hearings and proceedings for this Project. See, *Galante Vineyards v. Monterey Water Dist.* (1997) 60 Cal. App. 4th 1109.

October 5, 2009  
Comments of Carpenters Local 713 on University Village DEIR  
Page 2

corner of San Pablo Avenue and Monroe Street in Albany, CA ("Project"). The lead agency is the City of Albany ("City"). The City released a Draft Environmental Impact Report ("DEIR") on July 3, 2009.

The 5.3-acre project site is located within University Village, a 77-acre area owned by University of California and situated in the City of Albany in northern Alameda County, California. The project site is located on two separate "blocks" (Blocks A and B) within the University Village development and includes the area generally bounded by San Pablo Avenue, Codornices Creek, 10th Street, and Village Creek.

On Block A (located northwest of the San Pablo Avenue/Monroe Street intersection) the proposed project would include the development of a 55,000 square foot Whole Foods Market, or similar full service grocery store, and associated parking lot. Additional parking would be located under the Whole Foods market. This block would also include a 2,000 foot retail structure, pedestrian and bike paths and stormwater drainage facilities.

Block B (located southwest of the San Pablo Avenue/Monroe Street intersection) would include a 175-unit senior housing facility and 28,000 square feet of retail space fronting on San Pablo Avenue and Monroe Street. A pedestrian/bike path and stormwater drainage facilities would also be located on this block.

Other improvements associated with the project would include changes to 10th Street and Monroe Street, the installation of a pedestrian/bike path along Codornices Creek, a pedestrian/bike crossing of San Pablo Avenue and the installation of drainage swales and a stormwater detention swale.

This Project would be subject to the land use regulations of the City of Albany. The City of Albany is the lead agency for this Environmental Impact Report and the University of California is a responsible agency.

The Project includes multiple major amendments to the General Plan Land Use and Circulation Element to change the land use designation of the site from Light Industrial to the new Chess/Hatch Office Research designation (GP-07-001) and adopt the Chess Drive/Hatch Drive Commercial/Industrial Area policies and implementation measures. The Project also includes rezoning of the project site from Light Industrial/Planned Development (M-1/PD) to Commercial Mix/Planned Development (CM/PD) and would require approval of a General Development Plan (Master Plan) (RZ-07-002) to allow a mix of commercial and office uses on the project site. The General Development Plan would list the development standards applicable to the project site, including setbacks, lot sizes and building heights. Following approval of the GPA and Rezoning/Master Plan, the City would require submittal of a Specific Development

October 5, 2009  
Comments of Carpenters Local 713 on University Village DEIR  
Page 3

Plan/Use Permit before any development could occur. Finally, the Project includes a Development Agreement to provide for vested entitlements and other obligations of the sponsors and the City.

2  
cont.

This Project proposal would increase the intensity of uses on the site significantly and potentially set the stage for additional requests for higher intensity development on adjacent sites or elsewhere in the City. Project approval would allow a massive change in type and intensity of uses on the site, rendering the carefully balanced land uses and circulation system and jobs-housing balance laid out in the 1993 General Plan completely out of correlation.

3

## II. STANDING

Local 713's members live, work and recreate in the immediate vicinity of the Project site. These members will suffer the impacts of a poorly executed or inadequately mitigated Project, just as would the members of any nearby homeowners association, community group or environmental group. Hundreds of Local 713 members live and work in areas that will be affected by traffic, air pollution, and water pollution generated by the Project.

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In addition, construction workers will suffer many of the most significant impacts from the Project as currently proposed, such as from air pollution emissions from poorly maintained or controlled construction equipment, possible risks related to hazardous materials on the Project site, and other impacts. Therefore, Local 713 and its members have a direct interest in ensuring that the Project is adequately analyzed and that its environmental and public health impacts are mitigated to the fullest extent feasible.

## III. LEGAL STANDARDS

CEQA requires that an agency analyze the potential environmental impacts of its proposed actions in an environmental impact report ("EIR") (except in certain limited circumstances). (See, e.g., Pub. Res. Code § 21100.) The EIR is the very heart of CEQA. (*Dunn-Edwards v. BAAQMD* (1992) 9 Cal.App.4th 644, 652.) "The 'foremost principle' in interpreting CEQA is that the Legislature intended the act to be read so as to afford the fullest possible protection to the environment within the reasonable scope of the statutory language." (*Communities for a Better Environment v. Calif. Resources Agency* (2002) 103 Cal. App. 4th 98, 109.)

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CEQA has two primary purposes. First, CEQA is designed to inform decision makers and the public about the potential, significant environmental effects of a project. (14 Cal. Code Regs. ("CEQA Guidelines") § 15002(a)(1).) "Its purpose is to inform the

October 5, 2009  
Comments of Carpenters Local 713 on University Village DEIR  
Page 4

public and its responsible officials of the environmental consequences of their decisions before they are made. Thus, the EIR 'protects not only the environment but also informed self-government.'" (*Citizens of Goleta Valley v. Board of Supervisors* (1990) 52 Cal. 3d 553, 564) The EIR has been described as "an environmental 'alarm bell' whose purpose it is to alert the public and its responsible officials to environmental changes before they have reached ecological points of no return." (*Berkeley Keep Jets Over the Bay v. Bd. of Port Comm'rs.* (2001) 91 Cal. App. 4th 1344, 1354 ("Berkeley Jets"); *County of Inyo v. Yorty* (1973) 32 Cal.App.3d 795, 810)

Second, CEQA requires public agencies to avoid or reduce environmental damage when "feasible" by requiring "environmentally superior" alternatives and all feasible mitigation measures. (CEQA Guidelines § 15002(a)(2) and (3); See also, *Berkeley Jets*, 91 Cal. App. 4th 1344, 1354; *Citizens of Goleta Valley v. Board of Supervisors* (1990) 52 Cal.3d 553, 564) The EIR serves to provide agencies and the public with information about the environmental impacts of a proposed project and to "identify ways that environmental damage can be avoided or significantly reduced." (Guidelines §15002(a)(2)) If the project will have a significant effect on the environment, the agency may approve the project only if it finds that it has "eliminated or substantially lessened all significant effects on the environment where feasible" and that any unavoidable significant effects on the environment are "acceptable due to overriding concerns." (Pub.Res.Code § 21081; 14 Cal.Code Regs. § 15092(b)(2)(A) & (B))

While the courts review an EIR using an "abuse of discretion" standard, "the reviewing court is not to 'uncritically rely on every study or analysis presented by a project proponent in support of its position. A 'clearly inadequate or unsupported study is entitled to no judicial deference.'" (*Berkeley Jets*, 91 Cal. App. 4th 1344, 1355 (emphasis added), quoting, *Laurel Heights Improvement Assn. v. Regents of University of California*, 47 Cal. 3d 376, 391 409, fn. 12 (1988)) As the court stated in *Berkeley Jets*, 91 Cal. App. 4th at 1355:

A prejudicial abuse of discretion occurs "if the failure to include relevant information precludes informed decisionmaking and informed public participation, thereby thwarting the statutory goals of the EIR process." (*San Joaquin Raptor/Wildlife Rescue Center v. County of Stanislaus* (1994) 27 Cal. App. 4th 713, 722]; *Galante Vineyards v. Monterey Peninsula Water Management Dist.* (1997) 60 Cal. App. 4th 1109, 1117; *County of Amador v. El Dorado County Water Agency* (1999) 76 Cal. App. 4th 931, 946)

We have prepared these comments with the assistance of atmospheric scientist Dr. James Clark, Ph.D., hydrogeologist Matthew Hagemann, P.G., and traffic engineer Tom Brohard, P.E. Their comments are attached hereto as Exhibits A, and B and are

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October 5, 2009  
Comments of Carpenters Local 713 on University Village DEIR  
Page 5

incorporated herein in their entirety. The experts' comments require separate and complete response in the Final EIR.

**IV. THE CITY FAILED TO COMPLY WITH CEQA'S REQUIREMENT TO PROVIDE THE PUBLIC WITH ACCESS TO ALL DOCUMENTS SUPPORTING THE DEIR, THEREBY THWARTING EFFECTIVE PUBLIC REVIEW.**

On August 5, 2009, we requested copies of all supporting documents for the DEIR, and requested the following specific documents:

1. Phase 1 Environmental Site Assessment conducted in 2003, ENSR, 2003. University Village Step 3 Housing & College of Natural Resources, 26-Acre Parcel, Albany, California. (DEIR p. 237)
2. EIP Associates, 1997. Focused Draft Environmental Impact Report, University of California, Berkeley Draft Master Plan – University Village & Albany / Northwest Berkeley Properties, State Clearinghouse, No. 97072039.
3. LSA Associates, Inc., 2004. Subsequent Focused EIR for the University Village & Albany/Northwest Berkeley Properties Master Plan Amendments, State Clearinghouse No. 1997072039.

The City subsequently informed us that it did not possess the documents, but that they could be obtained from Mr. Kevin Hufferd at the University of California at Berkeley. Unfortunately, Mr. Hufferd informed us that he does not have the reports either. The City then produced the above-three documents and a box of additional documents on September 30, 2009 – almost two months after our request. A list of the documents provided by the City is attached hereto as Exhibit C. This raises two significant concerns: (1) the CEQA comment period must be extended to 30-days after the requested documents are provided to the public; and (2) the DEIR clearly does not reflect the City's "independent judgment."

**A. CEQA Comment Period Must be Extended to 30-Days After Disclosure of Documents.**

CEQA section 21092(b)(1) requires that the CEQA notice for an EIR must include "the address where copies of the proposed EIR and *all documents referenced therein* are available for review and readily accessible during the agency's normal working hours." (Emphasis added) As noted by leading CEQA commentators:

The above-referenced section [21092(b)(1)] requires the agency to notify the public of the address at which "all documents referenced in a draft EIR" can be

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cont.

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October 5, 2009  
Comments of Carpenters Local 713 on University Village DEIR  
Page 6

found (and presumably read) . . . seems to require agencies to make available for public review all documents on which agency staff or consultants expressly rely in preparing a draft EIR. In light of case law emphasizing the importance of ensuring that the public can obtain and review documents on which agencies rely for the environmental conclusions (see, e.g., *Emmington v. Solano County Redevel. Agency*, 195 Cal.App.3d 491, 502-503 (1987)), agencies should ensure that they comply literally with this requirement.

Remy, Thomas, Moose & Manley, *Guide to the California Environmental Quality Act*, p. 300 (Solano Press, 11<sup>th</sup> Ed. 2007). The courts have held that the failure to provide even a few pages of a CEQA documents for a portion of the CEQA review period invalidates the entire CEQA process. *Ultramar v. South Coast Air Quality Man. Dist.*, 17 Cal.App.4th 689 (1993).

We requested the DEIR's supporting documents on August 5, 2009. The City failed to provide the documents until September 30, 2009, almost two months later. The City clearly failed to provide the public to access to the DEIR's supporting documents for the entire CEQA comment period.

As a result of the City's failure to provide crucial information for public review, we filed three separate written requests asking the City to extend the CEQA comment period to three weeks after the requested documents were made available to us and the general public. On September 28, 2009, the City emailed our paralegal stating that the City would "accept" our comment letter if submitted within 30-days of the date the documents were made available.

While we appreciate the City's willingness to "accept" our CEQA comment letter 30 days after the date of delivery of the requested documents that are referenced in the Draft Environmental Impact Report ("DEIR"), we want to clarify that the City is required by law to extend the CEQA comment period to 30-days after we receive the requested documents. Merely accepting our letter does not constitute compliance with the law if the CEQA comment period has already closed. The City must also accept our comments as part of the CEQA administrative record, respond to each comment in the Final EIR, and register our comments as proper exhaustion of administrative remedies for CEQA purposes.

The comment period must be extended for the general public as well since any member of the affected public has the same right to review the requested documents and submit timely CEQA comments to the City. Since the requested documents discuss significant toxic and even radioactive soil contamination at the Project site, members of the public may well want to review these important documents and propose mitigation

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measures to safeguard their health and safety. By failing to provide “all documents referenced” in the DEIR for public review for the minimum 30 day review period, the City is violating the procedural mandates of CEQA.

Therefore, we request that the comment period for this Project be extended to at least 30-days after the requested documents are provided to us, and are made available by the City for review by the general public. Please clarify whether it is your intention to extend the CEQA comment period or merely to accept our comment letter after the close of the CEQA comment period.

#### **B. DEIR Does Not Reflect City’s Independent Judgment.**

A CEQA document must reflect the lead agency’s “independent judgment.”<sup>2</sup> While a CEQA lead agency may retain independent contractors to prepare CEQA documents, the lead agency must ensure that the final document must “reflect the independent judgment of the lead agency.” *Id.* CEQA Guidelines §15074 requires CEQA documents to “reflect the lead agency’s independent judgment and analysis.”

All of the cases allowing consultants hired by applicants to prepare draft EIRs have required the lead agency to exercise its “independent judgment” to review and revise the draft EIR prepared by the applicant’s independent consultant. For example, in *Gentry v. Murietta* (1995) 36 Cal.App.4<sup>th</sup> 1359, 1397-98, the court emphasized that even though the lead agency did not prepare the CEQA document itself (the document was prepared by a different public agency), the lead agency revised the draft document extensively, thereby exercising “independent judgment.”

In this case, the City, acting as CEQA lead agency, did not even possess critical documents referenced in the DEIR. Clearly the DEIR cannot reflect the City’s “independent judgment.” The City has no way of ensuring that the representations made in the DEIR concerning the cited documents are accurate having never reviewed or even possessed those documents.

Therefore, we request that the City obtain all documents referenced in the DEIR, independently review those documents, and revise and recirculate a DEIR that reflects the City’s independent judgment.

<sup>2</sup> CEQA §21082.1(c); *People v. County of Kern* (1976) 62 Cal.App.3d 761, 775; *Gentry v. Murietta* (1995) 36 Cal.App.4<sup>th</sup> 1359, 1397-98.

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**V. THE DEIR FAILS TO PROVIDE SUBSTANTIAL EVIDENCE TO SUPPORT A FINDING OF OVERRIDING CONSIDERATIONS**

The DEIR concludes that the Project will have significant, unmitigated environmental impacts. As a result a statement of overriding considerations will be required. Under CEQA, when an agency approves a project with significant environmental impacts that will not be fully mitigated, it must adopt a “statement of overriding considerations” finding that, because of the project’s overriding benefits, it is approving the project despite its environmental harm. (14 Cal.Code Regs. §15043; Pub. Res. Code §21081(B); *Sierra Club v. Contra Costa County* (1992) 10 Cal.App.4<sup>th</sup> 1212, 1222) A statement of overriding considerations expresses the “larger, more general reasons for approving the project, such as the need to create new jobs, provide housing, generate taxes and the like.” (*Concerned Citizens of South Central LA v. Los Angeles Unif. Sch. Dist.* (1994) 24 Cal.App.4<sup>th</sup> 826, 847)

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A statement of overriding considerations must be supported by substantial evidence in the record. (14 Cal.Code Regs. §15093(b); *Sierra Club v. Contra Costa Co.* (1992) 10 Cal.App.4<sup>th</sup> 1212, 1223)) The agency must make “a fully informed and publicly disclosed” decision that “specifically identified expected benefits from the project outweigh the policy of reducing or avoiding significant environmental impacts of the project.” (15 Cal.Code Regs. §15043(b)) As with all findings, the agency must present an explanation to supply the logical steps between the ultimate finding and the facts in the record. (*Topanga Assn. for a Scenic Community v. County of Los Angeles* (1974) 11 Cal.3d 506, 515)

Key among the findings that the lead agency *must* make is that:

“Specific economic, legal, social, technological, or other considerations, including ***the provision of employment opportunities for highly trained workers***, make infeasible the mitigation measures or alternatives identified in the environmental impact report.. [and that those] benefits of the project outweigh the significant effects on the environment.”

(Pub. Res. Code §21081(a)(3), (b))

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Thus, the City must make specific findings, supported by substantial evidence, concerning both the environmental impacts of the Project, and the economic benefits including “the provision of employment opportunities for highly trained workers” created. The DEIR fails to provide substantial evidence to support a statement of overriding considerations.

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There appears to be no adequate economic analysis of the Project, and no analysis of whether the Project will provide employment opportunities for highly skilled workers, either during the construction or the operation phase. The DEIR is devoid of any analysis of whether the new jobs to be created will be high or low-skilled jobs. CEQA expressly requires an analysis of: "Specific economic, legal, social, technological, or other considerations, including *the provision of employment opportunities for highly trained workers.*" (Pub. Res. Code §21081(a)(3), (b)) The Fiscal Analysis makes no attempt to determine whether new jobs created by the Project, in either the construction phase or the operational phase, will be for "highly trained workers," and what the likely salary and wage ranges of these jobs will be. Without this information, the City lack substantial evidence to make any statement of overriding considerations.

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In short, the City cannot find that the economic benefits of the Project outweigh the environmental costs if it does not know what the economic benefits will be. A revised DEIR is required to provide this information.

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**VI. THE DEIR FAILS TO IDENTIFY THE ENVIRONMENTALLY SUPERIOR ALTERNATIVE AND MISCALCULATES THE IMPACTS OF THE VARIOUS ALTERNATIVES**

One of CEQA's fundamental requirements is that the DEIR must identify the "environmentally superior alternative." (14 Cal.Code Regs. §1526.6(e)(2); Kostka & Zischke, *Practice Under the California Environmental Quality Act* §15.37 (Cont. Educ. Of the Bar, 2008)) An EIR must describe a range of reasonable alternatives to the Project, or to the location of the Project, which would feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the project, and evaluate the comparative merits of the alternatives. "An EIR's discussion of alternatives must contain analysis sufficient to allow informed decision making." (*Laurel Heights I*, 47 Cal.3d at 404.) An EIR must also include "detail sufficient to enable those who did not participate in its preparation to understand and to consider meaningfully the issues raised by the proposed project." (*Id.* at 405.)

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The analysis of project alternatives must contain an accurate quantitative assessment of the impacts of the alternatives. In *Kings County Farm Bureau v. City of Hanford* (1990) 221 Cal.App.3d 692, 733-735, the court found the EIR's discussion of a natural gas alternative to a coal-fired power plant project to be inadequate because it lacked necessary "quantitative, comparative analysis" of air emissions and water use.

A "feasible" alternative is one that is capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, legal, social and technological factors. (Pub. Res. Code § 21061.1; 14 Cal. Code Regs. § 15364.) California courts provide guidance on how to apply these

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factors in determining whether an alternative or mitigation measure is economically feasible.

The lead agency is required to select the environmentally preferable alternative unless it is infeasible. As explained by the Supreme Court, an environmentally superior alternative may not be rejected simply because it is more expensive or less profitable:

The fact that an alternative may be more expensive or less profitable is not sufficient to show that the alternative is financially infeasible. What is required is evidence that the additional costs or lost profitability are sufficiently severe as to render it impractical to proceed with the project.

(*Citizens of Goleta Valley v. Bd. of Supervisors* (1988) 197 Cal.App.3d 1167, 1180-81; see also, *Burger v. County of Mendocino* (1975) 45 Cal.App.3d 322 (county's approval of 80 unit hotel over smaller 64 unit alternative was not supported by substantial evidence).)

As discussed below, the EIR fails to meet the legal standards for an adequate CEQA alternatives analysis.

**A. Existing General Plan and Zoning Alternative**

The DEIR admits that the Existing Zoning Alternative ("EZ Alternative") would be the environmentally superior alternative. The EZ Alternative reduces impacts from traffic by 70% and also reduces greenhouse gas impacts. (DEIR 233) Nevertheless, the DEIR fails to conduct any more than a cursory analysis of the EZ Alternative, and instead selects the much larger Project for full analysis.

A new DEIR should be prepared fully analyzing the EZ Alternative, to allow the City to select this Alternative. Even if the EZ Alternative is less desirable economically, it still must be selected if it can be implemented. The DEIR contains no analysis indicating that the EZ Alternative is economically infeasible, which is the legal standard under CEQA. The EZ Alternative may only be rejected if the City has evidence to show that it is economically infeasible, not just that another alternative would be more profitable.

In *Burger v. County of Mendocino* (1975) 45 Cal.App.3d 322, the court held that the county's approval of an 80 unit hotel project over a smaller 64 unit alternative was not supported by substantial evidence. The EIR discussed numerous adverse environmental effects that would be caused by the 80 unit project and recommended that the developer be allowed to construct a smaller 64 unit hotel so long as certain mitigation measures were completed, including relocation of some of the proposed buildings. In evaluating whether substantial evidence supported the county's rejection of the smaller

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alternative as economically infeasible, the court found that “there is no estimate of income or expenditures, and thus no evidence that a reduction of the motel from 80 to 64 units, or relocation of some units, would make the project unprofitable.” Thus, the court identified three criteria that should be evaluated in a comparative analysis to determine whether a project alternative or mitigation measure would be economically feasible: (1) estimated income; (2) estimated expenditures; and (3) estimated profitability between the proposed project and alternative, with and without recommended mitigation measures. (See also, *County of El Dorado v. Dept. of Transp.* (2005) 133 Cal.App.4th 1376 (agency must consider smaller alternative to casino project).)

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The DEIR contains no such economic analysis sufficient to reject the EZ Alternative.

**B. Off-Site Alternative**

It is well-established that off-site alternatives should be considered under CEQA. As the Supreme Court has explained, an EIR is required to explain in detail why various alternatives were deemed infeasible, and should explore the potential to locate the project somewhere other than proposed. (*Laurel Heights I*, 47 Cal.3d at 404-406; *Goleta Valley*, 197 Cal.App.3d 1180-81) The DEIR contains no alternative site analysis at all. This is a patent deficiency in the document. A new DEIR is required to consider an alternative site analysis.

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**VII. THE DEIR FAILS TO ANALYZE AND MITIGATE ALL POTENTIALLY SIGNIFICANT IMPACTS**

An EIR must disclose all potentially significant adverse environmental impacts of a project. (Pub. Res. Code § 21100(b)(1); 14 Cal.Code Regs. § 15126(a); *Berkeley Jets*, 91 Cal. App. 4th 1344, 1354) CEQA requires that an EIR must not only identify the impacts, but must also provide “information about how adverse the impacts will be.” (*Santiago County Water Dist. v. County of Orange* (1981) 118 Cal.App.3d 818, 831). The lead agency may deem a particular impact to be insignificant only if it produces rigorous analysis and concrete substantial evidence justifying the finding. (*Kings County Farm Bureau v. City of Hanford* (1990) 221 Cal.App.3d 692). The DEIR for this Project fails to do so.

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**A. DEIR Inadequately Analyzes Potential Toxic Contamination on the Site.**

Commenters retained Mr. Matthew Hagemann, MS, a professional geologist who was formerly West Coast Regional Superfund Program Director for the U.S. Environmental Protection Agency. Mr. Hagemann reviewed the DEIR and other

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documents and concludes that the DEIR fails to adequately assess potential contamination on the site. An EIR must describe the proposed Project's "environmental setting." Under CEQA, an EIR must include a description of the physical environmental conditions in the vicinity of the project, as they exist at the time the Notice of Preparation is published, from both a local and a regional perspective. (*Save Our Peninsula Committee v. Monterey Board of Supervisors* (2001) 87 Cal.App.4th 99, 121) Knowledge of the regional setting is critical to an assessment of environmental impacts. (Guidelines section 15125(c)) The CEQA document environmental setting must disclose any existing toxic chemical contamination at the site so that the lead agency can propose ways to mitigate the contamination. (*Assoc. for a Cleaner Environ. v. Yosemite Comm. College* (2004) 116 Cal.App.4th 629; *McQueen v. Bd. of Directors* (1988) 202 Cal.App.3d 1136) The DEIR in this case fails even to mention potentially significant levels of toxic chemical contamination on the site.

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1. **Hazards and hazardous materials, potentially present at the Site, were not evaluated in the DEIR, nor were additional documents assessing these materials (Phase I and II reports) provided**

The DEIR states that several issues were not discussed in the DEIR because "the City as Lead Agency determined that the project would not cause significant impacts related to these topics" (p. 3). The lead agency may deem a particular impact to be insignificant only if it produces rigorous analysis and concrete substantial evidence justifying the finding. (*Kings County Farm Bureau v. City of Hanford* (1990) 221 Cal.App.3d 692). Mr. Hagemann points out that the DEIR lacks such a rigorous analysis to back-up its finding of insignificance. Two of the topics specifically are not addressed in the DEIR are:

- Hazards and Hazardous Materials; and
- Geology and Soils.

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The DEIR makes reference to the Initial Study/Environmental Checklist, which is included as Appendix A of the DEIR, for discussion of these issues. However, the Initial Study/Environmental Checklist includes only a short description of hazardous materials and geology/soils issues. The Initial Study does not mention past uses of the site and the potential risks that might be imposed due to exposure of hazardous materials previously used or stored at the site.

In 2003, ENSR conducted a Phase I Environmental Site Assessment which identified

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several potential sources of environmental contamination, including residues from the former use of pesticides, radioactive materials, polychlorinated biphenyls (PCBs) in transformers, asbestos containing materials, and lead based paint. (DEIR, p. 237)

The 2003 Phase I report was not included in the DEIR or appendices. Despite repeated and timely written and verbal requests, the City of Albany and the University of California were unable to provide the report prior to the preparation of these comments. Additionally, despite repeated requests, the City of Albany and the University of California were unable to confirm if a Phase II investigation was performed.

In a March 2004 email communication to the City of Albany,<sup>3</sup> the City of Berkeley Toxics Management Division director<sup>4</sup> emphasized the importance of conducting a Phase II investigation and the need for adequate samples in order to “judge the potential hazmat impacts.” Furthermore, in the email, the Toxics Management Division director recommended:

UCB enter into a voluntary agreement with DTSC. Otherwise, there is no agency who will oversee the potential health impacts for soils contamination.

Given the findings of the 2003 Phase I report, we believe it is more reasonable than not that contaminants are present in soil and groundwater at the project site at concentrations that would exceed regulatory screening levels. Until we receive the Phase I report and the Phase II report (if conducted), we are unable to provide detailed comments on the potential for the presence of soil contamination and the need for mitigation to prevent worker exposure during construction and exposure to future occupants of the site following construction.

The toxic chemicals identified in the Phase I report may have very significant potential impacts on construction workers and future residents of the Project. This makes it extremely important to identify and mitigate these risks prior to Project approval, as part of the EIR process. For example the Phase I report identifies the following potential toxic chemicals at the site:

- **Pesticides:** According to the U.S. Environmental Protection Agency (US EPA), “The health effects of pesticides depend on the type of pesticide. Some, such as the organophosphates and carbamates, affect the nervous

<sup>3</sup> Email from Nabil Al Hadithy to Vivian Kahn, Kahn Mortimer Associates. Subject: RE: Response to UC Albany Village EIR. March 1, 2004. Included as part of Appendix A to the DEIR. No page numbers provided.

<sup>4</sup> Confirmation by phone that the author of the email referenced above is the director of the City of Berkeley Toxics Management Division. Phone: (510) 981-7460. September 28, 2009.

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system. Others may irritate the skin or eyes. Some pesticides may be carcinogens. Others may affect the hormone or endocrine system in the body." (See, <http://www.epa.gov/opp00001/health/human.htm>) Therefore, it is critically important to identify which pesticides are in the soil at the Project site and to develop effective mitigation measures to protect workers and future residents.

- **Radioactive materials:** According to US EPA, "Unsealed or powdered radioactive sources pose serious health hazards because these materials can be easily ingested or inhaled if mishandled. Once inside the body even minor or low energy radioactive material can become potentially lethal in nature." (See, [http://www.epa.gov/region7/education\\_resources/teachers/ehsstudy/ehs6.htm](http://www.epa.gov/region7/education_resources/teachers/ehsstudy/ehs6.htm))

"What kinds of health effects does exposure to radiation cause? In general, the amount and duration of radiation exposure affects the severity or type of health effect. There are two broad categories of health effects: stochastic and non-stochastic.

Stochastic Health Effects: Stochastic effects are associated with long-term, low-level (chronic) exposure to radiation. ("Stochastic" refers to the likelihood that something will happen.) Increased levels of exposure make these health effects more likely to occur, but do not influence the type or severity of the effect.

Cancer is considered by most people the primary health effect from radiation exposure. Simply put, cancer is the uncontrolled growth of cells. Ordinarily, natural processes control the rate at which cells grow and replace themselves. They also control the body's processes for repairing or replacing damaged tissue. Damage occurring at the cellular or molecular level, can disrupt the control processes, permitting the uncontrolled growth of cells--cancer. This is why ionizing radiation's ability to break chemical bonds in atoms and molecules makes it such a potent carcinogen. Other stochastic effects also occur. Radiation can cause changes in DNA, the "blueprints" that ensure cell repair and replacement produces a perfect copy of the original cell. Changes in DNA are called mutations. Sometimes the body fails to repair these mutations or even creates mutations during repair. The mutations can be teratogenic or genetic. Teratogenic mutations are caused by exposure of the fetus in the uterus and affect only the individual who was exposed. Genetic mutations are passed on to offspring.

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**Non-Stochastic Health Effects:** Non-stochastic effects appear in cases of exposure to high levels of radiation, and become more severe as the exposure increases. Short-term, high-level exposure is referred to as 'acute' exposure.

Many non-cancerous health effects of radiation are non-stochastic. Unlike cancer, health effects from 'acute' exposure to radiation usually appear quickly. Acute health effects include burns and radiation sickness. Radiation sickness is also called 'radiation poisoning.' It can cause premature aging or even death. If the dose is fatal, death usually occurs within two months. The symptoms of radiation sickness include: nausea, weakness, hair loss, skin burns or diminished organ function." (See, [http://www.epa.gov/radiation/understand/health\\_effects.html](http://www.epa.gov/radiation/understand/health_effects.html))

- **Polychlorinated biphenyls (PCBs):** "PCBs have been demonstrated to cause a variety of adverse health effects. PCBs have been shown to cause cancer in animals. PCBs have also been shown to cause a number of serious non-cancer health effects in animals, including effects on the immune system, reproductive system, nervous system, endocrine system and other health effects. Studies in humans provide supportive evidence for potential carcinogenic and non-carcinogenic effects of PCBs. The different health effects of PCBs may be interrelated, as alterations in one system may have significant implications for the other systems of the body." (See, <http://www.epa.gov/osw/hazard/tsd/pcbs/pubs/effects.htm>)
- **Asbestos containing materials:** "No safe exposure threshold (with respect to for inhaling asbestos fibers) has been established, but the risk of disease generally increases with the length and amount of exposure. Another key factor which increases the risk of asbestos-related diseases is smoking cigarettes. As noted above, eating or drinking asbestos fibers may increase risk of cancer, but this is not certain. Eating or drinking asbestos fibers is not thought to cause any harmful noncancer effects. . . . Despite the ongoing debate concerning health effects resulting from the different asbestos fiber types, Agency for Toxic Substances and Disease Registry (ATSDR) considers the different mineral forms of asbestos to be known, human cancer-causing substances with a prolonged latency period of between 10 and 30 years between exposure and the onset of disease." (See, <http://yosemite.epa.gov/R10/OWCM.NSF/0/1892d33bca669504882566d700671e50?OpenDocument>)

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- **Lead based paint:** "Lead affects practically all systems within the body. Lead at high levels (lead levels at or above 80 micrograms per deciliter of blood) can cause convulsions, coma, and even death. Lower levels of lead can cause adverse health effects on the central nervous system, kidney, and blood cells. Blood lead levels as low as 10 micrograms per deciliter can impair mental and physical development. EPA's Integrated Risk Information System profile on Lead and Lead Compounds - [epa.gov/iris/subst/0277.htm](http://epa.gov/iris/subst/0277.htm) The effects of lead exposure on fetuses and young children can be severe. They include delays in physical and mental development, lower IQ levels, shortened attention spans, and increased behavioral problems. Fetuses, infants, and children are more vulnerable to lead exposure than adults since lead is more easily absorbed into growing bodies, and the tissues of small children are more sensitive to the damaging effects of lead. Children may have higher exposures since they are more likely to get lead dust on their hands and then put their fingers or other lead-contaminated objects into their mouths." (See, <http://www.epa.gov/iaq/lead.html>)

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In light of the significant risks that may be posed by the chemicals identified in the soil at the Project site, it is clear that a new DEIR must be prepared to fully analyze the extent of contamination at the site, and to propose feasible mitigation measures to safeguard the health of workers and future residents. It is also clear that the City has failed to conduct any type of rigorous analysis to support its conclusion that risks from contaminated soil have are less than significant.

## 2. Impacts to nearby schools were not evaluated in the DEIR

Two schools are located within close proximity to the project Site: Albany Children's Center, and Albany Unified School District preschool, is located approximately 900 feet west of the southern part of the Site (Block B), and Ocean View Elementary School is located approximately 950 feet northwest of the northern part of the Site (Block A). If contaminants are present, any soil removal activities would need to include provisions to protect children and nearby residents from exposure to dust. The Initial Study/ Environmental Checklist includes only the following evaluation criterion (p. 25 of Appendix A to the DEIR):

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The project would emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one quarter mile of an existing or proposed school?

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The following conclusion was reached in the Initial Study/Environmental Checklist (p. 25 of Appendix A to the DEIR):

Less than significant impact

A revised DEIR must discuss in detail the potential impacts to school children from dust that may be generated from potentially hazardous soils or dust that may stem from truck traffic from cleanup of contaminated soils. In light of the significant contamination on the site, and that fact that this contamination will be disturbed during Project construction, there is simply no basis to support the DEIR's conclusion that this impact will be less than significant on nearby schools.

**B. The DEIR Fails to Adequately Analyze and Mitigate Air Quality Impacts of the Project.**

**1. The DEIR fails to adequately analyze impacts of existing air pollution sources on the proposed project and to evaluate those impacts on to sensitive receptors in the community**

a. Freeways, Rail Lines, and Trucks

The project lies within 2,400 feet of a major freeway and rail lines to the west and south of the site. In addition, the Whole Foods market will be served by steady stream of diesel trucks. Atmospheric Scientist Dr. James Clark concludes that these sources are likely to contribute significantly to air quality and odor issues at the site. The proximity of the proposed site to a major freeway and the rail lines (Interstate 80/580) ensures that residents of the proposed project will be subject to a number of toxic air contaminants including diesel particulate matter (DPM) from freeway sources.

Diesel exhaust contains nearly 40 toxic substances and may pose a serious public health risk for residents in the vicinity of the facility. Diesel exhaust has been linked to a range of serious health problems including an increase in respiratory disease, lung damage, cancer, and premature death. Fine diesel particles are deposited deep in the lungs in the smallest airways and can result in increased respiratory symptoms and disease; decreased lung function, particularly in children and individuals with asthma; alterations in lung tissue and respiratory tract defense mechanisms; and premature death.<sup>5</sup> Exposure to diesel exhaust increases the risk of lung cancer. It also causes non-cancer

<sup>5</sup> California Air Resources Board (CARB), Initial Statement of Reasons for Rulemaking, Proposed Identification of Diesel Exhaust as a Toxic Air Contaminant, Staff Report, June 1998.  
[http://www.arb.ca.gov/research/diesel/dpm\\_draft\\_3-01-06.pdf](http://www.arb.ca.gov/research/diesel/dpm_draft_3-01-06.pdf)

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effects including chronic bronchitis, inflammation of lung tissue, thickening of the alveolar walls, immunological allergic reactions, and airway constriction.<sup>6</sup>

As early as 1988, the National Institute for Occupational Safety and Health identified diesel exhaust as a potential occupational carcinogen. Diesel exhaust is estimated to contribute to more than 75% of the added cancer risk from air toxics in the United States.<sup>7</sup>

In 1998, the California Air Resources Board (CARB) formally identified the particulate fraction of diesel exhaust as a toxic air contaminant and concluded that exposure to diesel exhaust particulate matter causes cancer and acute respiratory effects.<sup>8</sup> The U.S. EPA followed suit in 2002 and concluded:

long-term (*i.e.*, chronic) exposure to diesel exhaust is likely to pose a lung cancer hazard, as well as damage the lung in other ways depending on exposure. ... Short-term (*i.e.*, acute) exposures can cause transient irritation and inflammatory symptoms. ... The assessment also states that evidence is emerging that diesel exhaust exacerbates existing allergies and asthma symptoms."<sup>9</sup>

Because of the significant sources of diesel emissions near the project site, a revised DEIR should be prepared to evaluate the impacts of existing nearby freeways, diesel trucks making deliveries to the Project site, and railyards on future occupants of the proposed project.

While the DEIR contains a cursory analysis of the impacts of diesel emissions from the nearby freeway, it entirely ignores the nearby rail lines and trucks that will serve the Project. These rail lines together with trucks and nearby roadways may create a significant risk to future residents from diesel pollution. A revised DEIR must analyze and propose mitigation measures for these impacts.

<sup>6</sup> Findings of the Scientific Review Panel on The Report on Diesel Exhaust as adopted at the Panel's April 22, 1998 Meeting. <http://www.arb.ca.gov/toxics/dieseltac/de-fnds.pdf>

<sup>7</sup> Environmental Defense Fund, Cleaner Diesel Handbook, Bring Cleaner Fuel and Diesel Retrofits into Your Neighborhood, April 2005. [http://www.edf.org/documents/4941\\_cleanerdieselhandbook.pdf](http://www.edf.org/documents/4941_cleanerdieselhandbook.pdf), accessed March 27, 2008.

<sup>8</sup> California Air Resources Board (CARB), Initial Statement of Reasons for Rulemaking, Proposed Identification of Diesel Exhaust as a Toxic Air Contaminant, Staff Report, June 1998. [http://www.arb.ca.gov/research/diesel/dpm\\_draft\\_3-01-06.pdf](http://www.arb.ca.gov/research/diesel/dpm_draft_3-01-06.pdf)

<sup>9</sup> U.S. EPA, Health Assessment Document for Diesel Engine Exhaust, Report EPA/600/8-90/057F, May 2002. <http://www.epa.gov/fedrgstr/EPA-AIR/2002/September/Day-03/a22368.htm>

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b. PM<sub>2.5</sub> and PM<sub>10</sub>

The City of Berkeley undertook a monitoring program at Harrison Park from July 2001 through January 2003. Harrison Park is located approximately 1000 feet southwest of the project site. Particulate matter less than 10 microns (PM<sub>10</sub>) and particulate matter less than 2.5 microns (PM<sub>2.5</sub>) were measured in the park and at sources near the park. The monitoring showed elevated concentrations of PM<sub>10</sub> and PM<sub>2.5</sub>.

The City concluded that the elevated concentrations of PM<sub>10</sub> and PM<sub>2.5</sub> measured in Harrison Park were due to local industrial sources, in particular the City of Berkeley Transfer Station<sup>10</sup>, located approximately 2000 feet west of the project site. According to the U.S. EPA 2002 National Emission Inventory,<sup>11</sup> the City of Berkeley Transfer Station was responsible for the emission of 14,804 pounds of particulate matter (PM<sub>10</sub> and PM<sub>2.5</sub> combined).

Because of a significant existing source of emissions near the project site, a revised DEIR should be prepared to evaluate the impacts of existing PM<sub>2.5</sub> and PM<sub>10</sub> emissions on future occupants at the proposed project. The DEIR ignores this issue entirely.

c. Pacific Steel Casting Company

The Pacific Steel Casting Company (PSC) is located at Gilman and Second Streets, approximately 0.6 miles southwest of the proposed project site. PSC is a significant emitter of pollutants in the City and has a long history of air quality and odor complaints associated with its operation. According to the U.S. EPA 2002 National Emission Inventory,<sup>12</sup> PSC was responsible for the emission of 59,037 pounds of pollutants including nearly 8,745 pounds of particulate matter (PM<sub>10</sub> and PM<sub>2.5</sub> combined).

<sup>10</sup> Applied Measurement Science. PM10/PM2.5 Monitoring at Harrison Park, Berkeley, California. Dated June 3, 2003. [http://www.ci.berkeley.ca.us/uploadedFiles/Parks\\_Rec\\_Waterfront/Level\\_3\\_-\\_General/HarrisonFieldFinalReport.pdf](http://www.ci.berkeley.ca.us/uploadedFiles/Parks_Rec_Waterfront/Level_3_-_General/HarrisonFieldFinalReport.pdf)

<sup>11</sup> Planet Hazard. Polluters in Berkeley, California. Based on the 2002 draft of the EPA National Emission Inventory. <http://www.planethazard.com/phpolluters.aspx?mode=polluters&area=city&state=CA&placefip=0606000>

<sup>12</sup> Planet Hazard. Polluters in Berkeley, California. Based on the 2002 draft of the EPA National Emission Inventory. <http://www.planethazard.com/phpolluters.aspx?mode=polluters&area=city&state=CA&placefip=0606000>

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**Reported Emissions from PSC in 2002 (pounds)**

|   |           |
|---|-----------|
| Total Emissions                                     | 59,037.03 |
| Volatile Organic Compounds                          | 43,684.28 |
| Primary PM <sub>10</sub> , Filterable Portion Only  | 4,792.13  |
| Nitrogen Oxides                                     | 3,994.00  |
| Primary PM <sub>2.5</sub> , Filterable Portion Only | 3,952.83  |
| Phenol  | 1,349.53  |
| Formaldehyde  | 387.05    |
| Carbon Monoxide                                     | 354.00    |
| Cresol  | 302.20    |
| Manganese   | 185.72    |
| Nickel  | 15.04     |
| Lead  | 12.17     |
| Sulfur Dioxide                                      | 8.00      |
| Benzene   | 0.09      |

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cont.

PSC has a long history of odor complaints associated with the operations of the facility (dating back to 1981)<sup>13</sup>... In December 2005, DSC entered into a settlement agreement with the Bay Area Air Quality Management District (BAAQMD) to resolve nine outstanding Notices of Violation (NOV) issued to PSC<sup>14</sup>.

The DEIR ignores emission from PSC entirely, and these emissions may pose a significant risk to future residents of the Project. A revised DEIR should be prepared to evaluate the impacts of pollutants emissions by Pacific Steel Casting on future occupants at the proposed Project. Specifically, an evaluation of particulate matter, volatile organic compounds, semi-volatile organic compounds, and metals, is necessary.

<sup>13</sup> BAAQMD. 2009. Pacific Steel Casting Company (PSC) Site #A0703, Fact Sheet. Bay Area Air Quality Management District. January 5, 2009.  
[http://www.baaqmd.gov/~media/Files/Compliance%20and%20Enforcement/Fact%20Sheets/pacific\\_steel\\_casting\\_fact\\_sheet\\_010509.ashx](http://www.baaqmd.gov/~media/Files/Compliance%20and%20Enforcement/Fact%20Sheets/pacific_steel_casting_fact_sheet_010509.ashx)

<sup>14</sup> BAAQMD. 2009. Pacific Steel Casting Company (PSC) Site #A0703, Fact Sheet. Bay Area Air Quality Management District. January 5, 2009.  
[http://www.baaqmd.gov/~media/Files/Compliance%20and%20Enforcement/Fact%20Sheets/pacific\\_steel\\_casting\\_fact\\_sheet\\_010509.ashx](http://www.baaqmd.gov/~media/Files/Compliance%20and%20Enforcement/Fact%20Sheets/pacific_steel_casting_fact_sheet_010509.ashx)

**2. The removal of asbestos must be documented in a revised DEIR**

The 2003 Phase I Environmental Site Assessment documented asbestos-containing materials in buildings at the project site and a subsequent University study confirmed the findings (DEIR, p. 237). The University apparently removed the asbestos material, along with lead-based paint and other hazards in 2009 (DEIR, p. 237); however, the report was not included in the DEIR.

As mitigation, the DEIR states that asbestos containing materials within the project site are to be remediated or removed from the project site as part of the building demolition process (HAZ-1, p. 28). A report documenting the removal of the asbestos containing material should be included in a revised DEIR. The revised DEIR should also document compliance with BAAQMD notification requirements. The BAAQMD is to have been notified 10 days in advance of any proposed demolition or abatement work in accordance with State regulations. BAAQMD notification requires: list of names and addresses of operations and persons responsible; description and location of the structure to be demolished/alterd including size, age, and prior use, and the approximate amount of friable asbestos; scheduled start and end dates of demolition or abatement; nature of planned work and methods to be employed; procedures to be employed to meet BAAQMD requirements; and the name and location of the waste disposal site to be used.<sup>15</sup>

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**3. Proponents failed to adequately report the long-term operational emissions from the Project, ignoring the cumulative impacts of indirect and direct sources**

The DEIR failed to adequately report the long-term emissions from the project. The air quality analysis performed and presented in the DEIR is only for the construction of the proposed project and does not include long-term project-related emissions.

The DEIR ignores entirely the issue of the amount of energy that would be consumed by the Project itself. As well as depleting fossil fuel resources, the consumption of energy causes air pollution and greenhouse gas emissions, which have been linked to global warming. This building will clearly generate significant emissions from lights, elevators, heating, air conditioning, and other energy needs. The grocery store will consume significant energy to power refrigerators, freezers, lights, doors, etc. The DEIR ignores these emission entirely.

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<sup>15</sup> Bay Area Air Quality Management District, Regulation 11 Hazardous Pollutants Rule 2 Asbestos Demolition, Renovation and Manufacturing. October 7, 1998. <http://www.baaqmd.gov/dst/regulations/rg1102.pdf>

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Under CEQA, a Project's direct and indirect emissions must be analyzed, including emissions from off-site power generation. (*Kings County Farm Bureau v. City of Hanford* (1990) 221 Cal.App.3d 692) These emissions must be quantified and added to the other emission sources to accurately assess the impacts of the project on air quality in a revised DEIR.

Additionally, new facilities such as the proposed project typically have one or more emergency generators on-site which provide backup power to the facility in case of power outages. Emergency generators are frequently diesel-powered and, even if operated only a few hours per year, emit large quantities of criteria pollutants and diesel particulate matter, a hazardous air pollutant. Depending on the size and emissions rates of the emergency generator(s) used for the Project, this equipment may require permits to construct and operate from the BAAQMD and may trigger best available control technology (BACT) and toxics best available control technology (T-BACT) requirements. These emissions must be quantified and added to the other emission sources to accurately assess the impacts of the project on air quality in a revised DEIR.

A revised DEIR must include an analysis in which the indirect and direct emissions are clearly defined and combined to provide a cumulative estimate of the project impacts. Indirect sources are any land use that generates or attracts vehicular activity which results in pollutant emissions. The California Air Resources Board (CARB) defines indirect sources as "any facility, building, structure or installation, or combination thereof which generates or attracts mobile source activity that results in the emissions of any pollutant for which there is a state ambient air quality standard (California Clean Air Act Guidance for the Development of Indirect Source Control Programs, 1990, Appendix A, p.2)."<sup>16</sup>

Dr. Clark concludes that with the addition of these sources, it is likely that the Project will have significant emissions of nitrogen oxides (NO<sub>x</sub>), contrary to the conclusions of the DEIR. The DEIR appears to improperly analyze criteria air pollutants, for example, oxides of nitrogen (NO<sub>x</sub>), generated by the Project. The DEIR assumes that there will be NO<sub>x</sub> emissions of 50 pounds per day (ppd) from the supermarket to be constructed at the Project Site. This is below the 80 ppd significance threshold from BAAQMD. According to the BAAQMD CEQA handbook a 24,000 square foot supermarket typically generates 80 pound of NO<sub>x</sub> per day. The proposed Whole Foods to be constructed at the Project is estimated to be 55,000 square feet (twice as large as the

<sup>16</sup> BAAQMD CEQA Guidelines: Assessing the Air Quality Impacts of Projects and Plans. Bay Area Air Quality Management District. December 1999. [http://www.baaqmd.gov/pln/ceqa/ceqa\\_guide.pdf](http://www.baaqmd.gov/pln/ceqa/ceqa_guide.pdf)

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24,000 square foot market analyzed by BAAQMD). Therefore, the estimate of 50 pounds per day for the supermarket would appear to be low.

Additionally, the analysis of criteria air pollutants does not include consideration of the 175 residential units to be constructed or the 30,000 square feet of additional retail to be included in the project. The proponents have clearly not analyzed the amount of criteria air pollutants that will be generated and must re-evaluate the emissions in a revised DEIR. The revised DEIR must propose feasible mitigation measures to reduce these significant air pollution emissions.

#### **4. NOx, ROG, and PM10 emissions from construction are likely significant and not adequately mitigated**

In addition to failing to discuss the long term impacts of the project operation, the DEIR fails to discuss the short term implications of construction emissions for the adjacent community. Large quantities of materials (diesel particulates, ROGs, dust, architectural coatings, etc.) will be released to the environment over relatively short periods of time.

High short term concentrations may have significant impacts on the surrounding community. While the BAAQMD has not yet developed short term significance levels, a revised DEIR should include the analysis consistent with guidance from other agencies in California, such as Sacramento Air Quality Management District<sup>17</sup>, South Coast Air Quality Management District<sup>18</sup>, Monterey Bay Unified Air Pollution Control District<sup>19</sup>, Feather River Air Quality District<sup>20</sup>, and El Dorado County Air Pollution Control District<sup>21</sup>.

Any increase in ozone precursors or particulate matter concentrations in this region could aggravate the already existing severe air quality problems that exist in this region. All mitigation measures available should be required to reduce emissions and resulting significant adverse impacts on air quality during the Project's 1.5- to 2-year construction period. The DEIR should be revised to include these items.

<sup>17</sup> Sacramento Metropolitan Air Quality Management District, Guide to Air Quality Assessment, July 2004.  
<http://www.airquality.org/ceqa/2004AQMDCEQAGuidelines.pdf>

<sup>18</sup> South Coast Air Quality Management District, SCAQMD Air Quality Significance Thresholds, March 2009.  
<http://www.aqmd.gov/ceqa/handbook/signthres.pdf>

<sup>19</sup> Monterey Bay Unified Air Pollution Control District, CEQA Air Quality Guidelines, February 2008  
[http://www.mbuapcd.org/~mbuapcd/mbuapcd/pdf/mbuapcd/pdf/CEQA\\_full.pdf](http://www.mbuapcd.org/~mbuapcd/mbuapcd/pdf/mbuapcd/pdf/CEQA_full.pdf)

<sup>20</sup> Feather River Air Quality Management District, [http://www.fraqmd.org/CEQA\\_Thresholds.htm](http://www.fraqmd.org/CEQA_Thresholds.htm)

<sup>21</sup> El Dorado County Air Pollution Control District, CEQA Guide, February 2002.  
[http://www.edcgov.us/emd/apcd/guide\\_airquality.htm](http://www.edcgov.us/emd/apcd/guide_airquality.htm)

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#### **5. The DEIR fails to analyze potential health risks from diesel particulate matter emissions during project construction**

During construction, a large number of diesel-powered vehicles and other equipment would be operated on site and numerous diesel-powered trucks would deliver supplies. The DEIR does not address the potential health risks associated with exhaust emissions of diesel particulate matter from these sources.

The construction air emissions analysis is flawed. The project has very significant construction air emissions of 200 pounds per day of PM and 303 pounds per day of Reactive Organic Gases (ROG).<sup>22</sup> However, the DEIR concludes that after mitigation these impacts will be insignificant. This conclusion is without basis since none of the mitigation measures proposed will address the large quantities of ROG that will be emitted on a daily basis from the project. Additionally, there are no calculations of PM emissions provided by the Proponent to document that the mitigation measures will reduce emissions to below the significance threshold. A revised DEIR should be prepared to include all PM and ROG emissions calculations in order for them to be evaluated and adequately mitigated. Therefore, the DEIR lacks the required "rigorous analysis" to conclude that these significant impacts will be rendered less than significant through mitigation.

Diesel exhaust is a serious public health risk for the surrounding communities. A recent analysis found that air pollution from diesel construction equipment is already taking a heavy toll on the health and economic well-being of Californians<sup>23</sup>. This study found that the San Francisco Bay Area air basin is second only to the Los Angeles area in health and economic damage from construction equipment emissions. For 2005, this includes estimates of more than 150 premature deaths, 100 hospitalizations for respiratory and cardio-vascular disease, more than 280 cases of acute bronchitis, 3,000 incidences of asthma attacks and other lower respiratory symptoms, 44,000 days of lost work and school absences, and well over 100,000 days of restricted activity. This loss of life and productivity cost the residents of the San Francisco Bay Area air basin an estimated \$1.2 billion. These estimates are conservative because they do not include emissions from a large number of small construction projects (residential and commercial and projects smaller than one acre in size).

<sup>22</sup> Draft Environmental Impact Report for the University Village At San Pablo Avenue. Prepared for the City of Albany, California by LSA Associates, Inc. State Clearinghouse No. 2008042004. July 2009. pg 147

<sup>23</sup> Union of Concerned Scientists, Digging up Trouble: Construction Pollution in the Bay Area; [http://www.ucsusa.org/clean\\_vehicles/vehicle\\_impacts/diesel/digging-up-trouble-the.html](http://www.ucsusa.org/clean_vehicles/vehicle_impacts/diesel/digging-up-trouble-the.html), accessed September 28, 2009.

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Diesel exhaust has been linked to a range of serious health problems including an increase in respiratory disease, lung damage, cancer, and premature death. Exposure to diesel exhaust increases the risk of lung cancer. It also causes non-cancer effects including chronic bronchitis, inflammation of lung tissue, thickening of the alveolar walls, immunological allergic reactions, and airway constriction.<sup>24</sup>

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Over the construction period the project would contribute significant quantities of diesel particulate matter increasing ambient concentrations and adversely affecting the surrounding community. Dr. Clark concludes that these impacts are likely significant and should be quantified and evaluated in a health risk assessment.

**6. The DEIR improperly analyzes odor issues associated with the Project**

The BAAQMD CEQA Guidelines<sup>25</sup> state that a project is presumed to have significant odor impacts if people are to be located within one mile of facilities known to generate odorous compounds. Those facilities and the screening distances are included in the table below (Table 4 in the BAAQMD CEQA Guidelines handbook).

| Facilities Known To Generate Odors                 | Screening Distance |
|--|--------------------|
| Wastewater Treatment Plant                         | 1 mile             |
| Sanitary Landfill                                  | 1 mile             |
| Transfer Station                                   | 1 mile             |
| Composting Facility                                | 1 mile             |
| Petroleum Refinery                                 | 2 miles            |
| Asphalt Batch Plant                                | 1 mile             |
| Chemical Manufacturing                             | 1 mile             |
| Fiberglass Manufacturing                           | 1 mile             |
| Painting/Coating Operations (e.g. auto body shops) | 1 mile             |
| Rendering Plant                                    | 1 mile             |
| Coffee Roaster                                     | 1 mile             |

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According to the BAAQMD CEQA Guidelines<sup>26</sup>

<sup>24</sup> Findings of the Scientific Review Panel on The Report on Diesel Exhaust as adopted at the Panel's April 22, 1998 Meeting. <http://www.arb.ca.gov/toxics/dieseltac/de-fnds.pdf>

<sup>25</sup> BAAQMD CEQA Guidelines: Assessing the Air Quality Impacts of Projects and Plans. Bay Area Air Quality Management District, December 1999. [http://www.baaqmd.gov/pln/ceqa/ceqa\\_guide.pdf](http://www.baaqmd.gov/pln/ceqa/ceqa_guide.pdf)

<sup>26</sup> BAAQMD CEQA Guidelines: Assessing the Air Quality Impacts of Projects and Plans. Bay Area Air Quality Management District, December 1999. [http://www.baaqmd.gov/pln/ceqa/ceqa\\_guide.pdf](http://www.baaqmd.gov/pln/ceqa/ceqa_guide.pdf)

Any project with the potential to frequently expose members of the public to objectionable odors would be deemed to have a *significant impact* [emphasis added]. Odor impacts on residential areas and other sensitive receptors warrant the closest scrutiny, but consideration should also be given to other land uses where people may congregate, such as recreational facilities, worksites and commercial areas. Analysis of potential odor impacts should be conducted for both of the following situations: 1) sources of odorous emissions locating near existing receptors, and 2) receptors locating near existing odor sources.

Determining the significance of potential odor impacts involves a two-step process. First, determine whether the project would result in an odor source and receptors being located within the distances indicated in Table 4. Table 4 lists types of facilities known to emit objectionable odors. The Lead Agency should evaluate facilities not included in Table 4 or projects separated by greater distances than indicated in Table 4 if warranted by local conditions or special circumstances. Second, if the proposed project would result in an odor source and receptors being located closer than the screening level distances indicated in Table 4, a more detailed analysis, as described in Chapter 3, should be conducted.

Dr. Clark conducted a review of businesses in the immediate vicinity of the proposed Project showing a large number of facilities that have the potential to generate odors. The following list is not meant to be comprehensive but is an indication of the types of businesses currently existing within a one-mile radius of the proposed project.

| <b>Business</b>                   | <b>Address</b>              | <b>Type of Business</b> | <b>BAAQMD Screening Distance (Mile)</b> | <b>Distance To Proposed Project (Mile)</b> |
|-----------------------------------|-----------------------------|-------------------------|---|--|
| 101 Autobody Shop                 | 1223 San Pablo              | Auto body shop          | 1                                       | 0.14                                       |
| Allied Body and Frame Shop        | 1375 San Pablo              | Auto body shop          | 1                                       | 0.31                                       |
| Classic Auto Body                 | 1239 5 <sup>th</sup> Street | Auto body shop          | 1                                       | 0.34                                       |
| Avenue Body Shop                  | 1425 San Pablo              | Auto body shop          | 1                                       | 0.39                                       |
| City of Berkeley Transfer Station | 1201 2 <sup>nd</sup> Street | Transfer Station        | 1                                       | 0.45                                       |
| Pacific Steel Casting Company     | 1333 Second Street          | Steel Foundry           |   | 0.45                                       |

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|                               |                        |                     |   |      |
|-------------------------------|------------------------|---------------------|---|------|
| M&M Garage                    | 1505 San Pablo         | Auto body shop      | 1 | 0.50 |
| Berkeley Forge & Tool Company | 1331 Eastshore Highway | Foundry             |   | 0.55 |
| Berkeley Asphalt Company      | 699 Virginia           | Asphalt Batch Plant | 1 | 0.73 |
| Koehler Auto Body             | 1712 San Pablo         | Auto body shop      | 1 | 0.73 |
| Berkeley Auto Body            | 1829 San Pablo         | Auto body shop      | 1 | 0.88 |

In March, 2004, comments from the City of Berkeley Toxics Management Division<sup>27</sup> detailed concerns regarding air quality and odors from the City's waste transfer station, which is located approximately ½ mile from the proposed project site. Specifically, the City's Toxics Management Division said that it has been aware for at least 10 years of complaints from Albany Village residents regarding odors and air pollution. A revised DEIR should be prepared to address the City of Berkeley comments and offer adequate mitigation measures.

By placing workers and visitors within one mile of these potential odor sources, the Project would be deemed to have a significant impact under the applicable BAAQMD CEQA Guidelines. A revised DEIR should analyze the Project's odor impacts, and to determine if other listed odor sources are within the screening distances. The DEIR's conclusion that the Project will have no significant odor impacts is clearly not supported by the evidence and contravenes applicable CEQA Guidance from the BAAQMD.

**C. The DEIR fails to Properly Analyze the Greenhouse Gas impacts from the Project**

The project has significant Greenhouse Gas (GHG) impacts but the EIR concludes that the mitigation measures render those impacts less than significant. However, the proponent does not provide the calculations of the GHG emissions. Since the proponent has failed to demonstrate the amount of GHG emissions from the project they cannot therefore conclude that mitigation measures will make the GHG emission less than significant. A revised DEIR should include all GHG emissions calculations in order for such emission to be evaluated and adequately mitigated.

<sup>27</sup> Email from Nabil Al Hadithy to Vivian Kahn, Kahn Mortimer Associates. Subject: RE: Response to UC Albany Village EIR. March 1, 2004. Included as part of Appendix A to the DEIR. No page numbers provided.

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The Draft EIR presents GHG emissions estimates concluding that the Project will generate 8,500 tons per year of carbon dioxide and carbon equivalents. (DEIR 166) While the DEIR proposes some GHG mitigation measures, it concludes without any calculation whatsoever that these measures render the Project's GHG impacts insignificant. (DEIR 169) This conclusion lacks any "rigorous analysis" required to declare an impact to be insignificant.

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The Project's emissions exceed the 8000 ton per year threshold adopted by the California Air Resources Board, and far exceeds the 800 ton per year threshold adopted by the San Diego air District. It also exceeds several proposed thresholds from the California Air Pollution Control Officers' Association ("CAPCOA"). A recirculated DEIR must therefore disclose this impact to the public and decision-makers.

**1. The DEIR Improperly Defers the Development of GHG Mitigation Measures.**

The Draft EIR does not adopt enforceable mitigation measures. Instead, the Draft EIR merely sets forth a menu of various GHG mitigation measures, with no assurance that any will actually be adopted or implemented. For example, the DEIR states that solar panels should be installed "as appropriate." Clearly, such an unenforceable measure is inadequate to render this significant impact insignificant. The DEIR fails also to describe the mitigation measures with any adequate level of detail.

CEQA does not permit deferring the development of mitigation measures until after project approval. The overall emission reduction efficiency of the proposed mitigation must be evaluated in the Draft EIR and subjected to public comment. CEQA disallows deferring the formulation of mitigation measures to until after project approval. (CEQA Guidelines § 15126.4(a)(1)(B); *Sundstrom v. County of Mendocino* (1988) 202 Cal.App.3d 296, 308-309.) An agency may not rely on mitigation measures of uncertain efficacy or feasibility. (*Kings County Farm Bureau v. City of Hanford* (1990) 221 Cal.App.3d 692, 727) This approach helps "insure the integrity of the process of decision-making by precluding stubborn problems or serious criticism from being swept under the rug." (*Concerned Citizens of Costa Mesa, Inc. v. 32nd Dist. Agricultural Assn.* (1986) 42 Cal.3d 929, 935) A recirculated DEIR must be prepared to set forth the specific mitigation measures that will be required to reduce the Projects carbon impacts.

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**2. The DEIR Improperly Fails to Impose Feasible Mitigation Measure to Reduce GHG Impacts**

There are literally dozens of feasible mitigation measure that should be required to reduce this massive Project's GHG impacts. Buildings are responsible for about 37% of

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energy-related GHG emissions in North America and studies have found that implementation of “[c]urrent best practices can reduce carbon emissions for buildings by at least 60% for offices and up to 70% for homes.” (U.S. Climate Change Science Program, First State of the Carbon Cycle Report: The North American Carbon Budget and Implications for the Global Carbon Cycle, May 2006, p. 96) Therefore, many of the proposed measures relate to improved building design. These measures should either be required for the Project, or specific findings should be made explaining why each is infeasible.

Also, even the scantily described measures set forth in the DEIR do not provide the maximally achievable reductions. For example, the DEIR fails to require LEED construction. (DEIR 168) LEED gold or platinum has been required for many buildings and is clearly a feasible mitigation measures that has been implemented in practice.

In addition, a recirculated DEIR should analyze the following measures in detail:

- A local employment requirement to reduce vehicle miles travelled by construction workers during the 30-year construction phase of the Project.
- Green roof. (See attached article on Green Roof GHG benefits)
- Include onsite solar photovoltaic systems on building roofs.
- Reduce the urban heat island effect by using “cool” roofs with the highest commercially available solar reflectance and thermal emittance; use lighter-colored pavements; plant shade trees.
- Use the most efficient commercially available heating and heating and cooling systems; use solar heating.
- Design and locate pedestrian routes and bike paths and minimize road crossings to allow safe walking and bicycling.
- Provide bus service to and from the Project from local population centers and rail stations.
- Establish free parking spaces in retail/commercial areas reserved for electric and hybrid cars and free parking spaces at the transit station reserved for carpools.
- Develop and follow “green construction guidelines” that require the following: use lowest-emitting off-road construction vehicles; use cement blended with the maximum feasible amount of flyash or other materials that reduce GHG

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emissions from cement production; and recycle construction and demolition waste.

- Develop and follow a “green streets guide” that requires LED street lights and traffic lights, minimal amount of concrete and asphalt, permeable pavement (i.e., “Ecoconcrete” pervious concrete), and incorporating shade trees where feasible.
- Install gray water systems.
- Consider the feasibility of wind turbines and/or solar farms to meet a portion of the Project’s electricity needs.
- Require the developer to subsidize a car-share “pod(s)” (i.e., “Zipcar”), using hybrid, electric or ultra-low emission vehicles.

While this list is not intended to be exhaustive, it contains measures that should be considered and evaluated for this Project.

**D. Traffic Impacts From The Project Are Significant, Unavoidable, Underestimated, And In Conflict With The General Plan.**

Traffic Engineer Tom Brohard analyzed the traffic analysis of the DEIR and found that it contains numerous error, inconsistencies, and miscalculations. A new analysis must be presented in a recirculated DEIR. Mr. Brohard identifies the following significant deficiencies in the DEIR’s traffic analysis:

- 1) Failure to Address Cut-Through Traffic Berkeley’s Response to NOP – In a May 6, 2008 email response to the Notice of Preparation from the City of Berkeley Office of Transportation, Berkeley requested an analysis of the additional traffic generated by the Project that would likely cut-through on 6<sup>th</sup> Street and 8<sup>th</sup> Street from Gillman Street to bypass congested left turns from Gillman Street to San Pablo Avenue. The email also suggested a plan to monitor the amount of cut-through traffic six months after completion of the Project.

In comparing Figure IV.A-7a (Existing 2008 Weekday Peak Hour Volumes without Project) to Figure IV.A-12a (Existing 2008 Weekday Peak Hour Volumes with Project), no trips to or from the Project have been forecast to cut-through on 6<sup>th</sup> Street or 8<sup>th</sup> Street from Gillman Street to bypass congested left turns to San Pablo Avenue. Similarly, in comparing Figure IV.A-7b (Existing 2008 Saturday Peak Hour Volumes without Project) to Figure IV.A-12b (Existing 2008 Saturday Peak Hour Volumes with Project), no trips to or from the Project have been forecast to cut-through on 6<sup>th</sup>

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Street or 8<sup>th</sup> Street from Gillman Street to bypass congested left turns to San Pablo Avenue. Comparisons of other figures in the Draft EIR indicate no cut-through traffic has been forecast in the near-term (2015) analysis or in the cumulative (2035) analysis.

It is reasonable to expect that some traffic traveling to and from the Project will seek to avoid the Gillman Street/San Pablo Avenue intersection. For existing conditions in 2008 without Project traffic, Table IV.A-5 of the Draft EIR indicates this intersection currently operates at LOS "E" during the weekday PM peak hour whereas Gilman Street/6<sup>th</sup> Street and Gillman Street/8<sup>th</sup> Street both operate at LOS "A" or LOS "B" at all times. In the near-term (2015) analysis without Project traffic, Table IV.A-7 of the Draft EIR indicates Gillman Street/San Pablo Avenue will operate at LOS "E" during the weekday AM peak hour and at LOS "F" during the weekday PM peak and Saturday peak hours whereas Gilman Street/6<sup>th</sup> Street and Gillman Street/8<sup>th</sup> Street both operate at LOS "A" or LOS "B" at all times. In the cumulative (2035) analysis without Project traffic, Table IV.A-9 of the Draft EIR indicates Gillman Street/San Pablo Avenue will operate at LOS "F" during all peak hours whereas Gilman Street/6<sup>th</sup> Street and Gillman Street/8<sup>th</sup> Street both operate at LOS "A", LOS "B", or LOS "C" at all times.

The Draft EIR must address and analyze the City of Berkeley concern in response to the NOP regarding cut-through traffic to and from the Project on 6<sup>th</sup> Street and on 8<sup>th</sup> Street that will avoid severely congested conditions at Gillman Street/San Pablo Avenue. The Draft EIR must develop additional mitigation measures for any significant traffic impacts that are identified, and include a monitoring plan as was suggested by the City of Berkeley.

- 2) Faulty Methodology Understates AM Peak Hour Project Trip Generation – Table IV.A-11 provides the forecasts of Project trips that were then analyzed and used to identify and mitigate significant traffic impacts. Footnotes e) and f) to this table reference the ITE Trip Generation Handbook, 2<sup>nd</sup> Edition for pass-by trips for the supermarket and the retail shops. Both footnotes indicate that the average weekday AM peak hour pass-by rate was not available and that the weekday PM peak hour pass-by rate was assumed for both the supermarket and the retail shops. Page 90 of the Draft EIR reiterates the footnotes but provides no other rationale to justify the application of published PM peak hour pass-by rates to the AM peak hour.

As stated on Page 89 of the Draft EIR, "Pass-by vehicle trips are trips attracted to the project from traffic already on adjacent roadways as an interim stop on the way to their ultimate destination." While it is reasonable to assume pass-by trips in the PM peak hour when commuting motorists have extra time to stop and shop at

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supermarkets, it is not reasonable to assume that commuters will buy groceries on their way to work in the AM peak hour and have produce, meats, dairy products, and other perishable items stored in the vehicles during the entire workday. For the small retail shops, it is also unreasonable to assume that commuting motorists have extra time to stop and shop, particularly when most small retail shops will not be open for business until 9 or 10 AM, after the AM peak hour is over.

Faulty methodology used in the Draft EIR deducts pass-by trips in the AM peak hour for the supermarket and the retail shops and results in lower AM peak hour trip generation forecasts than will otherwise occur. When the AM peak hour pass-by trips for the supermarket and the retail shops are added back into Table IV.A-11, the Project will generate 375 AM peak hour trips, not the 247 AM peak hour trips that were analyzed in the Draft EIR.

There is at least a "fair argument" that the additional 128 AM peak hour trips for the Project may have an adverse impact on AM peak hour traffic flow in 2015 at the San Pablo Avenue intersections with Marin Avenue and with Dartmouth Street. The AM peak hour trips must be properly analyzed without any pass-by reductions during this time for the supermarket and the retail shops. The faulty methodology in the Draft EIR must be corrected to properly disclose, analyze, and mitigate significant traffic impacts caused by the additional AM peak hour trips that will be generated by the Project.

- 3) Significant Project Traffic Impacts Are Not Adequately Mitigated – Eleven (11) significant project traffic impacts are identified on Pages 95 through 106 of the Draft EIR. Nearly all of these significant project traffic impacts are identified as "significant and unavoidable" since improvements needed are within another jurisdiction outside of the control of the City of Albany. For some mitigation measures, the Draft EIR calls for a "fair share" payment but does not specify a percentage or an amount that would be the responsibility of the Project. For other mitigation measures, the Draft EIR does not recommend any "fair share" payment or percentage. Without identifying the amounts and percentages of "fair share" payments for all mitigation measures, the Draft EIR is incomplete and falls short of providing what is required.

Mitigation fees are not adequate mitigation unless the lead agency can show that the fees will fund a specific mitigation plan that will actually be implemented in its entirety. *Napa Citizens for Honest Gov. v. Bd. Of Supervisors* (2001) 91 CallApp.4th 342 (no evidence that impacts will be mitigated simply by paying a fee); *Anderson First Coal. v. City of Anderson* (2005) 130 Ca.App.4th 1173 (traffic mitigation fee is inadequate because it does not ensure that mitigation measure will actually be implemented); *Kings Co. Farm Bureau v. Hanford* (1990) 221 Cal.App.3d 692. But

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see, *Save Our Peninsula Comm v. Monterey Co.* (2001) 87 Cal.App.4th 99 (mitigation fee allowed when evidence in the record demonstrates that the fee will fund a specific mitigation plan that will actually be implemented in its entirety). The mitigation fees set forth in the DEIR fails to meet the minimum requirements of CEQA because they do not guarantee implementation of any specific mitigation measures.

In the near-term (2015) analysis on Page 98, the Draft EIR states that the intersection of San Pablo Avenue and Harrison Street does not satisfy the peak hour signal warrant for urban conditions, and the Project does not cause a significant traffic impact even though the eastbound approach will operate at LOS "F". While Page 53 of the Draft EIR states the posted speed limit on San Pablo Avenue is 35 MPH, the critical (i.e., 85<sup>th</sup> percentile) speed is used to determine if traffic signal warrants are satisfied. If the critical speed on San Pablo Avenue is above 40 MPH, very likely with a 35 MPH posted speed limit, then 70% of the values shown on the urban warrant sheet in the Appendix B3 must be used. If the signal warrant for higher speed conditions applies, then the intersection of San Pablo Avenue at Harrison Street does satisfy the peak hour signal warrant and the Project would cause a significant traffic impact for near-term (2015) conditions that must be mitigated.

In the cumulative (2035) analysis on Page 101, the Draft EIR states that the intersection of San Pablo Avenue and Dartmouth Street does not satisfy the peak hour signal warrant for urban conditions, and the Project does not cause a significant traffic impact even though the westbound approach will operate at LOS "F". In the review of the traffic signal warrants in Appendix B3 for San Pablo Avenue and Dartmouth Street, the warrant sheet for lower speeds was used to analyze existing, near-term (2015), and cumulative (2035) conditions with the Project traffic added. If the critical speed on San Pablo Avenue is above 40 MPH, very likely with a 35 MPH posted speed limit, then 70% of the values shown on the urban warrant sheet in Appendix B3 must be used. If the signal warrant for higher speed conditions applies, then the intersection of San Pablo Avenue at Dartmouth Street does satisfy the peak hour signal warrant and the Project would cause a significant traffic impact for existing plus Project conditions that must be mitigated.

In the traffic signal warrant analyses, it appears that incorrect traffic volumes on Dartmouth Street at San Pablo Avenue were used in the near-term (2015) and cumulative (2035) conditions with the Project traffic added. There is no plausible explanation why the peak hour traffic volumes on Dartmouth Street used in the warrant sheets would drop from 89 in the existing condition to 40 in the near-term (2015) and to 50 in the cumulative (2035) conditions.

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- 4) All Feasible Mitigation Measures Have Not Been Analyzed – In the discussion of Impact TRANS-8 on Page 101, the Draft EIR quickly dismisses significant project traffic impacts at San Pablo Avenue and Solano Avenue by stating that no improvements are currently feasible due to lack of right-of-way and the presence of existing lights and utilities.

A Draft EIR cannot simply dismiss significant traffic impacts without exploring all potentially feasible mitigation measures. While within the jurisdiction of Caltrans, it may be possible to implement full-time or peak hour parking restrictions on San Pablo Avenue and then to restripe the roadway without widening to provide additional through lanes midblock or turning lanes at intersections. These types of low cost improvements should also be considered at the many other intersections that have been identified as significantly impacted in the Draft EIR. There are clearly feasible mitigation measures available that are required by CEQA.

A CEQA lead agency cannot defer mitigation measure development to a responsible agency, or avoid feasible mitigation because a matter may be out of its jurisdiction. In such cases the lead agency must work with responsible agencies to ensure proper mitigation. In *Lexington Hills v. State of Calif.* (1988) 200 Cal.App.3d 415, that court held that a CEQA lead agency cannot delegate responsibility to develop mitigation measures to a responsible agency, even if the responsible agency has more expertise in a particular area. Lead agency must use its authority to analyze the entire project and to devise mitigation measures. (Id. at 433-435) In *Citizens for Quality Growth v. City of Mount Shasta* (1988) 198 Cal.App.3d 43, the court held that a CEQA lead agency cannot refrain from considering means of exercising its own regulatory power simply because another agency has general authority over the impacted natural resource. In that case the lead agency City could not delegate mitigation measure development for project impacts to wetlands to US Army Corps of Engineers. (Id. at 443) (See also, *Sundstrom v. Mendocino* (1988) 202 Cal.app.3d 296, 208-209 (Lead agency city could not delegate mitigation measure for sewage sludge impact of hotel project to regional water quality control board); *Federation of Hillside and Canyon Associations v. City of Los Angeles* (2000) 83 Cal.App.4th 1252, 1261)

- 5) Site Access and Circulation Analysis Is Incomplete – Beginning on Page 106 of the Draft EIR, some recommendations are made to improve access to the site and circulation within the site. However, further analysis of the site is required to address the following issues and concerns:

- a) Monroe Street/San Pablo Avenue Queuing – In the review of the site plan shown in Figure III-3, Page 111 of the Draft EIR states “Vehicle queuing was analyzed at the Monroe Street/San Pablo Avenue intersection during the PM and Saturday

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peak hours...maximum peak hour queues would exceed these storage spaces and would intermittently block access to and from the angled parking spaces on Monroe Street...to accommodate the estimated maximum queues on Monroe Street without interfering with parking maneuvers, most angled parking spaces along eastbound Monroe Street would need to be eliminated. Thus, providing adequate queuing space along eastbound Monroe Street must be balanced with the need to provide adequate parking supply... If excessive peak hour queuing is observed, then parking at some of the parking spaces along eastbound Monroe Street can be prohibited during the peak commute times to accommodate queues."

Significant circulation impacts will be created by the proposed back-in angle parking on both sides of Monroe Street. The rationale for and any potential benefits of permitting back-in angle parking on Monroe Street, a public street, have not been adequately described or analyzed in the Draft EIR. Compounding this, "...most drivers are not familiar with back-in angled parking..." as stated on Page 113 of the Draft EIR.

There are many negative aspects associated with the proposal to provide 15 back-in angle parking spaces on each side of Monroe Street. To access the eastbound parking spaces closest to San Pablo Avenue, motorists must back up from within the queue on Monroe Street. During peak hours, this movement will not be possible with vehicles waiting in line behind the motorist seeking to back up into the angle parking space. Balancing queuing space with on-street parking should not be considered as the Project must provide an adequate number of off-street spaces to accommodate its parking demand. Prohibiting parking on eastbound Monroe Street in some of the back-in angle parking spaces during the weekday PM and Saturday peak hours as suggested in the Draft EIR will be very difficult to effectively sign and will not likely result in the expanded use of this area as driving lanes. To adequately accommodate queuing on Monroe Street and to facilitate access at the primary entry for the Project, back-in angle parking must be replaced with parallel parking at the curbs.

- b) Right Turn Access at San Pablo Avenue Driveway for Whole Foods – The site plan on Figure III-3 depicts right turns only at the San Pablo Avenue driveway serving the Whole Foods parking lot. The site plan also shows an existing left turn lane on San Pablo Avenue at this location. To prevent motorists from turning left in to or out of this driveway, it will be necessary to construct a raised median in the center of San Pablo Avenue to physically restrict these left turn movements. The Draft EIR must add the construction of a raised median in San Pablo Avenue as a mitigation measure for the Project.

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- c) Monroe Street/10<sup>th</sup> Street Four-Way Stop – Page 112 of the Draft EIR recommends that STOP signs should be installed on all four approaches of the Monroe Street/10<sup>th</sup> Street intersection. If both Monroe Street and 10<sup>th</sup> Street are public streets, then the Draft EIR should provide warrants justifying the proposed four-way STOP at Monroe Street and 10<sup>th</sup> Street.

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### Parking Issues

Based on the Draft EIR for the University Village at San Pablo Avenue Project, Mr. Brohard's review indicates the following parking issues and areas of concern:

- 1) Parking Demand for Whole Foods Market Has Been Underestimated – In estimating trips to and from the Project, trip generation forecasts for the Whole Foods component were determined by applying the results of a study conducted at the Berkeley Whole Foods Market in September 2003 for the weekday rates and September 2008 for the Saturday rates. In comparison to supermarket trip generation rates published by ITE in Trip Generation, 8<sup>th</sup> Edition, trip generation rates for the Berkeley Whole Foods Market are significantly higher in peak hours. As examples, the Berkeley Whole Foods Market trip generation is 29% higher than the ITE supermarket data in the weekday PM peak hour and 34% higher in the Saturday peak hour.

To forecast the parking demand for the Whole Foods Market component, the Draft EIR relies upon parking demand data published by ITE for urban supermarkets. With the significantly higher peak hour trip generation identified at the Berkeley Whole Foods Store, it is not appropriate to assume that the parking demand for the Whole Foods Market component of the Project will only occur at the urban supermarket parking demand rate published by ITE.

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The ITE parking data published in Parking Generation, 3<sup>rd</sup> Edition for 8 urban supermarkets indicates a range of parking demand up to 3.74 parked vehicles per 1,000 square feet of floor area. Applying the maximum ITE parking demand rate to the 55,000 square foot Whole Foods Market component of the proposed Project indicates a parking demand for 206 spaces, 32% higher than the parking demand forecast of 156 spaces used in the parking analysis in the Draft EIR. The Berkeley Whole Foods Market was found to generate 29% more vehicle trips in the weekday PM peak hour and 34% more vehicle trips in the Saturday peak hour. With this information, there is at least a "fair argument" that the Project will not provide sufficient off-street parking and this may have adverse environmental impacts that have not been properly disclosed, analyzed, and mitigated in the Draft EIR.

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- 2) Off-Street Parking for the Overall Project Is Inadequate – Table IV.A-24 of the Draft EIR indicates that the Project will provide 326 off-street parking spaces. Included within the parking supply are 14 head-in parking spaces on 10<sup>th</sup> Street south of Monroe Street. It is my understanding that 10<sup>th</sup> Street, like Monroe Street, is a public street. On-street parking on public streets cannot be counted as part of the required off-street parking supply. While Table IV.A-24 indicates a parking deficit of 9 spaces on weekdays and 7 spaces on Saturdays, the Project will actually have a deficit of 23 parking spaces on weekdays and 21 parking spaces on Saturdays when the 14 parking spaces on 10<sup>th</sup> Street are deducted from the off-street parking supply.

As discussed above, the parking demand created by the Whole Foods Market component of the Project will be much greater than forecast in the Draft EIR. Assuming the parking demand for Whole Foods will be 206 parking spaces, the Project will have an additional parking deficit of 50 more parking spaces. In combination with the deduction of the 14 parking spaces on 10<sup>th</sup> Street from the off-street parking supply, the Project will have an overall deficit of 73 parking spaces on weekdays and 71 parking spaces on Saturdays. There is at least a “fair argument” that the Project will not provide sufficient off-street parking and this may have adverse environmental impacts that have not been properly disclosed, analyzed, and mitigated in the Draft EIR.

- 3) Parking Shortage For Block B Will Be Acute – Table IV.A-24 indicates there will be an acute parking shortage in Block B. Within this area, 88 parking spaces will be provided under the building. From the table, 100 senior units plus the 75 assisted living units will create a demand for 88 parking spaces. In addition, some of the senior housing units with two occupants will have two vehicles rather than just one vehicle. Most seniors can be expected to make their vehicle trips outside of normal weekday commute hours and will likely park within the garage before the weekday PM peak hour begins.

Table IV.A-24 shows a parking demand of 85 parking spaces for the 28,000 square feet of retail uses in Block B. With all parking in the garage essentially taken up by seniors, there will not be any off-street parking available for the employees or the customers of the small retail uses in Block B. As indicated above, the 14 on-street parking spaces on 10<sup>th</sup> Street cannot be counted toward fulfilling the Project’s off-street parking demand. While the automated parking space counting system recommended on Page 126 of the Draft EIR can be expected to achieve better utilization of the parking garage under Whole Foods, it will not solve the acute parking shortage in Block B.

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- 4) Project Will Reduce Available On-Street Parking – At least eight on-street parking spaces will be eliminated on the west side of San Pablo Avenue at and adjacent to the proposed right turn only driveway serving the Whole Foods parking lot. Conversion of back-in angle parking to parallel parking on both sides of Monroe Street west of San Pablo Avenue is necessary to provide adequate queuing at the traffic signal and proper access at the major entry to the Project. However, this will eliminate 16 of the 30 on-street parking spaces adjacent to the Project. The Draft EIR has not properly considered the loss of these 24 on-street parking spaces in reaching its conclusion that on-street parking is available to relieve the off-street parking deficit within the Project. Further, public on-street parking spaces will be open and available to anyone and these on street spaces cannot be assumed to be available to satisfy the Project’s parking demand.
- 5) On-Street Parking Is Fully Utilized During Events at the Playing Fields - With inadequate parking provided on site, the Project will depend heavily upon on-street parking to meet the expected parking demands of the development. Page 126 of the Draft EIR states “...the parking spaces along Monroe Street and 10<sup>th</sup> Street are at or near capacity during events at the playing fields on the west side of 10<sup>th</sup> Street. Thus, there may be a parking shortage at the project parking facilities and the surrounding streets when events at the playing fields coincide with peak parking demand at the project.”

In all likelihood, events at the playing fields such as Little League games will continue to be scheduled at times which conflict with the peak parking demand for the Project which occurs during weekday PM and Saturday peak hours. The final portion of Recommendation TRANS-3 on Page 126 of the Draft EIR states “The University should identify appropriate off-street parking supply for the playing fields so that adequate parking supply is available when events at the playing fields coincide with peak parking demand at the proposed project.” Instead, the Project must be required to develop and implement a plan to provide adequate parking capacity during events at the playing fields before Project occupancy is permitted.

- 6) Additional Study of Parking Is Needed – Further study is required to address the parking issues identified in this letter and to then incorporate appropriate mitigation and additional parking into the Project. Given the absence of adequate off-street parking, creating a demand for additional parking spaces, and the lack of evidence that there is adequate on-street parking to meet that demand, there is at the very least a “fair argument” that the Project may have significant adverse environmental impacts related to parking. For example, it is likely that cars will circulate in the area in search of parking. This traffic will be in addition to the traffic calculated in the Draft EIR, and may add to the numerous significant traffic impacts discussed in the Draft EIR.

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Further, the additional traffic circulating in search of parking may increase air pollution, and accident risks to the many pedestrians in the area. The Draft EIR must analyze these issues and propose feasible mitigation measures.

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As indicated, Mr. Brohard's review disclosed a number of transportation, circulation, and parking issues associated with the proposed University Village at San Pablo Avenue Project. The various issues and concerns outlined above in this letter must be carefully studied before reaching the conclusion this Project has transportation, circulation, and parking impacts that are insignificant, can be reduced to insignificance, or are "significant and unavoidable".

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#### VIII. THE CITY SHOULD PREPARE AND RECIRCULATE A SUPPLEMENTAL DEIR

A supplemental draft EIR ("SEIR") should be prepared and circulated for full public review to address the impacts identified above and to propose feasible mitigation measures. CEQA requires re-circulation of an EIR when significant new information is added to the EIR following public review but before certification. (Pub. Res. Code § 21092.1.) The Guidelines clarify that new information is significant if "the EIR is changed in a way that deprives the public of a meaningful opportunity to comment upon a substantial adverse environmental effect of the project" including, for example, "a disclosure showing that ... [a] new significant environmental impact would result from the project." (CEQA Guidelines § 15088.5.) The above significant environmental impacts have not been analyzed in the EIR and must be addressed in a supplemental DEIR that is re-circulated for public review.

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CEQA Guidelines Section 15088.5 sets the standard for requiring recirculation. Recirculation of an EIR is required when "significant new information is added to the EIR after public notice is given of the availability of the draft EIR for public review under Section 15087 but before certification [of the Final EIR]." New information added to an EIR is significant when "the EIR is changed in a way that deprives the public of a meaningful opportunity to comment upon a substantial adverse environmental effect of the project or a feasible way to mitigate or avoid such an effect (including a feasible project alternative) that the project's proponents have declined to implement." The Guidelines require recirculation when:

- (1) A new significant environmental impact would result from the project or from a new mitigation measure proposed to be implemented.

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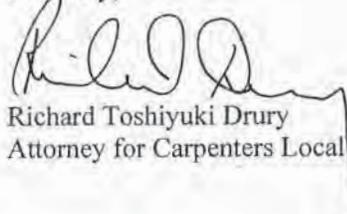
- (2) A substantial increase in the severity of an environmental impact would result unless mitigation measures are adopted that reduce the impact to a level of insignificance.
- (3) A feasible project alternative or mitigation measure considerably different from others previously analyzed would clearly lessen the environmental impacts of the project, but the project's proponents decline to adopt it.
- (4) The draft EIR was so fundamentally and basically inadequate and conclusory in nature that meaningful public review and comment were precluded.

(*Mountain Lion Coalition v. Fish and Game Com.* (1989) 214 Cal.App.3d 1043) A recirculated DEIR is required to disclose this information to the public and to consider additional mitigation measures.

#### CONCLUSION

For the foregoing reasons, the DEIR is inadequate, and fails to inform the public of the impacts of the Project or its alternatives, and fails to impose adequate mitigation to reduce the Project's impacts. We urge the City to correct the DEIR's deficiencies in a future CEQA document.

Sincerely,



Richard Toshiryuki Drury  
Attorney for Carpenters Local 713

cc: Scott Littlehale  
Alex Lantsberg

**COMMENTER B12**

**Weinberg Roger & Rosenfeld**

**Richard Toshiyuki Drury**

**October 5, 2009**

- Response B12-1: This comment, which introduces subsequent comments pertaining to the adequacy of the Draft EIR, is noted. As a preliminary response, although the comments in this letter raise questions about the analysis in the Draft EIR, the City's review of the Draft EIR in light of these comments has shown that the Draft EIR is adequate and does not suffer from any serious errors or emissions such that recirculation of the Draft EIR would be required pursuant to *CEQA Guidelines* Section 15088.5.
- Response B12-2: The assertions set forth in this paragraph are not accurate. The proposed project does not include "multiple major amendments to the General Plan...". This comment derives from another draft environmental impact report on which Weinberg, Roger and Rosenfeld previously submitted comments (*Chess-Hatch Master Plan Draft EIR*, Foster City; letter dated May, 8, 2009) and does not pertain to the Draft EIR for the University Village at San Pablo Avenue Project (which addresses entitlement requests for a rezoning, planned unit development, design review, parking exception, affordable housing agreement, and use permit as described on page 46).
- Response B12-3: As with Comment B12-2, the assertions set forth in this comment are not accurate. Again, this comment derives from another draft environmental impact report on which Weinberg, Roger and Rosenfeld previously submitted comments (*Chess-Hatch Master Plan Draft EIR*, Foster City; letter dated May, 8, 2009) and does not pertain to the Draft EIR for the University Village at San Pablo Avenue Project.
- Response B12-4: This comment describes the residential and work locations of Local 713's members and describes those members' connection to the impacts that would result from the proposed project. To the extent that there are such impacts, they are studied in the Draft EIR.
- Response B12-5: This comment describes the purpose of CEQA and standards that courts use in reviewing the adequacy of CEQA documents. In summary, the Draft EIR meets these criteria, including the use of technical analyses that were reviewed for adequacy by LSA, City staff, and outside legal counsel.
- Response B12-6: The referenced reports are approximately 800 pages in length. Their assertions are summarized and presented in the form of comments throughout the forty pages of this main comment letter (B12) and they are not independently

enumerated and responded to. A copy of these exhibits is available for review at the City of Albany Planning Department.

Response B12-7: The request that the public review period be extended to allow more time for the public to review the Draft EIR and provide comments was granted by the City. It is not clear why the commenter believes that the time required to assemble and transmit a number of technical background documents would preclude the City's decision makers from exercising independent judgment by the time that the Final EIR would be ready for consideration. When the request for the cited documents was presented, the public review period on the Draft EIR was only a few weeks old and consideration of the entire project by City decision makers was – under even the most optimistic of schedules – still months away, more than adequate time for those decision makers to review the Draft EIR, the Responses to Comments document, and any technical background documents that they would wish to review.

The documents requested by the commenter were provided in August and September of 2009 (but in no case less than ten days prior to the close of the extended comment period on October 5, 2009). Under the original schedule, the CEQA-mandated 45-day public comment period for the Draft EIR would have ended on August 17, 2009. However, the City extended the public comment period for an extra 49 days (for a total of 94 days) to October 5, 2009 and notified the commenter of the extension.

Response B12-8: See Response to Comment B12-7. In addition all materials in support of the EIR will be available to appointed and elected City decision makers for at least ten days before the hearings begin, consistent with City regulations.

Response B12-9: The City of Albany is aware of the requirements of CEQA that are introduced in this comment. Please see Response to Comment B12-10.

Response B12-10: This comment claims that the Draft EIR does not contain sufficient analysis showing that the economic or other benefits of the project outweigh its environmental costs. However, neither CEQA nor the *CEQA Guidelines* require that this analysis be provided in the Draft EIR. In the event that a proposed project would have significant adverse impacts, and where these impacts could not be mitigated to a less-than-significant level, a Statement of Overriding Considerations would be prepared by the time of project approval. Per *CEQA Guidelines* Section 15093, the Statement of Overriding Considerations would “state in writing the specific reasons to support [the agency’s] action based on the final EIR and/or other information in the record.” As of the date of preparation of this Response to Comments Document, the City has not yet prepared a Statement of Overriding Considerations for the project. However, if the City approves the project, it will prepare a Statement of Overriding Considerations supported by both the environmental and demographic findings in the Draft EIR and other analysis prepared for the project (independent of the Draft EIR).

- Response B12-11: Please see Response to Comment B12-10 regarding the need for economic analysis related to “the provision of employment opportunities for highly trained workers”. The comment’s reference to “the Fiscal Analysis” is unclear, as no fiscal analysis was conducted, nor was one necessary, for the proposed project.
- Response B12-12: Please refer to Response B12-10 regarding the statement of overriding considerations that would be made by the City if the project is approved. It should be noted that, under CEQA Section 21081, “the provision of employment opportunities for highly trained workers” is among several findings that may be made by the City (“economic, legal, social, technological, or other considerations”) if and when it rejects one of the project alternatives or deems certain mitigation measures to be infeasible. However, this specific finding is not required. A City could make findings for a project that contain no economic considerations, if adequate legal, social, technological, or other findings are identified.
- Response B12-13: This comment outlines requirements for an adequate alternatives analysis in an EIR, based on CEQA, the *CEQA Guidelines*, and case law. The alternatives analysis in the Draft EIR, which identifies a reasonable range of feasible alternatives and an environmentally superior alternative, and evaluates the identified alternatives at an appropriate level of detail, is consistent with the guidance discussed in the comment. No additional response is required.
- Response B12-14: This comment introduces the subsequent specific comments regarding the alternatives analysis in the Draft EIR. The City believes that the alternatives analysis in the Draft EIR meets the letter and spirit of CEQA and the *CEQA Guidelines*.
- Response B12-15: The proposed University Village at San Pablo Avenue project was analyzed in detail because it was proposed by the applicant. The Existing Zoning alternative does not need any more detailed analysis in order for it to be chosen by the City in place of the proposed project. While the Existing Zoning alternative would lead to reductions in the severity of select impacts when compared to the proposed project, it would achieve most but not all of the project’s objectives. Several significant and unavoidable adverse impacts would remain under the Existing Zoning alternative. In such instances, the purpose of the Draft EIR is to provide information to lead agency decision makers to assist in their choices. But ultimately, the decision of how to balance environmental impacts and the project’s objectives falls to those decision makers.
- Response B12-16: Please refer to Responses to Comments B12-12 and B12-15.
- Response B12-17: *CEQA Guidelines* Section 15126.6 provides the following guidance for evaluating an off-site alternative in an EIR:

“(A) Key question. The key question and first step in analysis is whether any of the significant effects of the project would be avoided or substantially lessened by putting the project in another location. Only locations that would avoid or substantially lessen any of the significant effects of the project need be considered for inclusion in the EIR.”

The alternatives analysis in Chapter V of the Draft EIR is consistent with this guidance. None of the significant effects of the project would be avoided or substantially reduced by putting the project in another location. All of the significant and unavoidable impacts relate to intersection level of service shortcomings and span locations throughout Albany and West Berkeley. Relocating the project farther north on San Pablo would likely just shift intersection LOS effects northward as well. Because no off-site location was identified that would avoid or substantially lessen the significant effects of the project, such an alternative was not evaluated in detail in the Draft EIR.

Response B12-18: This comment, which states that the Draft EIR fails to provide “rigorous analysis and concrete substantial evidence” to support the finding that certain environmental topics would be associated with less-than-significant impacts, is noted. As a general response, the conclusions in the Draft EIR must be supported by substantial evidence; the “substantial evidence” standard is the one used by the City and its consultants in preparing the Draft EIR. This introductory comment is discussed in more detail in subsequent responses.

Response B12-19: This introductory comment which concludes with the line “The Draft EIR in this case fails even to mention potentially significant levels of toxic chemical contamination on the site” is confusing to the EIR’s authors. After making this factually inaccurate assertion, subsequent comments proceed to cite from the Draft EIR where hazards and hazardous materials are described and potential impacts of the project are analyzed. The two assertions are in conflict with one another.

For the record, the Draft EIR includes a section titled “Hazards and Hazardous Materials” in Chapter VI, CEQA-Required Assessment Conclusions on pages 237 and 238. That section summarizes and cross-references the longer analysis presented in the Initial Study/Environmental Checklist under the same heading of “Hazards and Hazardous Materials” that is provided in Appendix A to the Draft EIR (pages 25 through 29). It should be noted that one Mitigation Measure (HAZ-1) is set forth there. It is also listed in the Draft EIR Summary of Impacts and Mitigation Measures (Table II-1, page 28).

Response B12-20: The key assertion in this comment is that “The Initial Study does not mention past uses of the site and the potential risks that might be imposed due to exposure of hazardous materials used or stored on the site.” This claim is

contradicted by the descriptive and analytical material that is presented in the Initial Study on pages 26 through 28.

The Phase I Environmental Site Assessment report (Phase I report) was provided to the commenter in August of 2009.

Despite the comment's claim that the Phase I report was unavailable, the comment next proceeds to quote liberally from the report for the next four pages.

In specific regard to potential contamination due to radioactive materials, the Draft EIR (in the Initial Study on pages 27 and 28) provides information that was current as of the publication of the Draft EIR in July 2009. Therein, it describes then upcoming steps that would be taken in coming months. More recently, the University of California's Radiation Safety Officer<sup>6</sup> has provided the following summary of the status of its remediation:

“On November 10, 2009, the California Department of Public Health (CDPH) released the Gill Tract for unrestricted use in accordance with 17 CCR § 30256. *Vacating Installations: Records and Notice*. The Gill Tract was formally removed as an “use location” by Amendment 82 of UC Berkeley Radioactive Material License No: 1333-01, Condition 13 (g), copy attached. This means the CDPH Radiologic Health Branch reviewed the results of third party measurements made on the property to determine the levels of residual radioactive material and conducted its own independent measurements to confirm licensed radioactive materials had been removed and concluded the property is safe for unrestricted use.”

Response B12-21: “Accomplishment of recommended Mitigation Measure HAZ-1 would insure that all nearby uses, including existing residential uses in the nearby University Village and the students at nearby schools would be fully protected from any potential hazards of the sort addressed therein. See also Response to Comment B12-20.

Response B12-22: The comment states that the “project lies within 2,400 feet of a major freeway and rail lines to the west and south of the site.” BAAQMD recommends that a Lead Agency identify all toxic air contaminant (TAC) sources, including diesel particulate matter, located within a 1,000 foot radius of the proposed project site.

Key health findings of the ARB's *Air Quality and Land Use Handbook: A Community Health Perspective* indicates that California freeway studies show about a 70 percent drop off in particulate pollution levels at 500 feet.

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<sup>6</sup> Greg Yuhas, 2010. Radiation Safety Officer, Office of Environment, Health and Safety, University of California, Berkeley. Correspondence with LSA Associates, Inc. October 20, 2010.

At 2,400 feet from the freeway, the dispersion of pollutants from the freeway would minimize concentrations at the project site and are not expected to generate adverse health effects. Any emissions from trains on the rail line, also located approximately 2,400 feet from the project site, would also be expected to disperse before reaching the project site. It should be noted that a rail line is not a pollution source for which the ARB makes advisory land use siting recommendations for because trains on a rail line typically are moving and emissions are released for a very short period of time and are not considered significant. Rail yards with service and maintenance activities are considered a source of toxic emissions and have the highest impact within 1,000 feet. The project site is not located within 1,000 feet of a rail yard.

The Whole Foods Market would require the occasional use of diesel trucks used for deliveries to the project site. The future residential uses on the project site would be located approximately 300 feet from the delivery area. Idling of diesel engines associated with deliveries on the project site would be limited by State Law (California airborne toxics control measure Title 13, Section 2485 of California Code of Regulations [CCR]) and would not idle for more than 5 minutes. While Whole Foods Market expects to have a small number of semi truck deliveries per day, other deliveries would be made with smaller trucks that are typically gasoline operated. Based on this minimal level of activity, significant acute or chronic health risks are not anticipated. Therefore, additional analysis or mitigation measures would not be required.

Response B12-23: According to the finding of the ARB's *Air Quality and Land Use Handbook*, major pollutant concentrations substantially decline beyond 1,000 feet from the source. For example, the ARB estimates a reduction of 80 percent at approximately 1,000 feet from a distribution center. Pollutant concentrations from the Transfer Station, located 2,000 feet from the project site would be substantially reduced at the project site. BAAQMD recommends that a Lead Agency identify all TAC sources located within a 1,000 foot radius of the proposed project site. At 2,000 feet from the project site, additional analysis of the transfer station is not necessary.

Response B12-24: The Pacific Steel Casting Company (PSC) located at Gilman and Second Street is subject to the reporting requirements of the Air Toxics Hot Spots program and has prepared a Health Risk Assessment in accordance with the Cal/EPA's Office of Environmental Health Hazard Assessment (OEHHA) statewide ATHS Health Risk Assessment Guidelines to determine the Best Available Control Technology for Toxics (T-BACT) to reduce toxic emissions to a less than significant level. The Hot Spots program is designed to ensure that stationary facilities do not add an unacceptable risk to an already considerable burden from background sources in communities surrounding stationary facilities such as PSC and, therefore, requires facilities such as PSC to implement T-BACT measures. The project would not locate new sensitive receptors within 1,000 feet of PSC (PSC is located over 3,000 feet to the southwest of the site) and additional analysis of PSC's impacts to the

project site is not necessary. It should be noted that the baseline conditions for analysis of the proposed project include existing emissions from PSC.

Response B12-25: See Response to Comment B6-1. The proposed project analyzed in this Draft EIR does not involve demolition of structures and therefore BAAQMD would not be involved in the ways asserted in the comment.

Response B12-26: The comment is incorrect in stating that the Draft EIR “does not include long-term project related emissions.” Tables IV.B-6 through IV.B-8 indicate the long-term carbon monoxide (CO) and criteria pollutant estimates for the project.

The comment is also incorrect in stating that the Draft EIR “ignores entirely the issue of the amount of energy that would be consumed by the Project itself.” Please see Response to Comment B8-20. The greenhouse gas analysis includes emissions that result from consumption of electricity and natural gas; these emissions are presented in Table IV.C-2.

The comment states that emissions related to emergency generators must be quantified and added to the other emission sources. According to the BAAQMD CEQA Air Quality Guidelines, permitted stationary sources are subject to a different threshold than land use developments and “if a proposed project anticipates having a permitted stationary source on site, such as a back-up generator, the GHG emissions from the generator should not be added to the project’s total emissions.” The proposed project is a land use development that is subject to a different threshold. If applicable, an on-site generator may be subject to applicable BAAQMD regulations that would limit emissions.

The comment also states that the Draft EIR “appears to improperly analyze criteria pollutants.” The emission estimates used in the Draft EIR were developed using URBEMIS 2007, which is the model recommended for air quality analysis by the BAAQMD. The assumptions that are included in that model are consistent with the University Village development proposed in the project description. The comment cites that BAAQMD *CEQA Guidelines* (dated December 1999) related to the typical generation of NO<sub>x</sub> emissions for a 24,000 square foot supermarket. The comment then states that the proposed 55,000 square foot Whole Foods Market estimate of 50 pounds per day appears to be low. The 24,000 square foot estimate referenced in the comment is simply a screening threshold that indicates the project might exceed the applicable air quality threshold. The 1999 *CEQA Guidelines* recommend that a more detailed analysis be conducted for any project whose size is within 20 percent of that value. The May 2010 *CEQA Guidelines* indicate that a supermarket might exceed the NO<sub>x</sub> threshold at 42,000 square feet. However, these screening thresholds do not account for other project specific data, such as location, reduced vehicle trips due to transit use, or other on-site improvements that may differ between projects. The detailed analysis presented in the Draft EIR indicates that the University Village

project would not exceed the BAAQMD thresholds for criteria air pollutants related to project operations.

The comment is incorrect in stating that the Draft EIR “does not include consideration of the 175 residential units” or the “30,000 square feet of additional retail.” The URBEMIS 2007 analysis includes all components of the project including construction and operation of the grocery store, retail stores, and residential units.

Apart from the question of long-term operational emissions, it should be noted that the “proponents” (as cited in the comment) have not participated in the environmental analysis of the proposed project. The EIR has been prepared by the City of Albany with the assistance of the Berkeley environmental consulting firm LSA Associates, Inc.

Response B12-27:

The potential impacts of construction-period air quality emissions are analyzed in the Draft EIR on pages 146 through 148.

Construction activities would vary from day to day and so would the associated emissions. The BAAQMD has not established construction period significance thresholds and does not recommend modeling of construction emissions. As stated in the BAAQMD *CEQA Guidelines*, BAAQMD accounts for construction emission estimates in its regional air pollutant emissions inventories that are used for air quality planning purposes to reduce regional air pollutant levels. It would be inappropriate to apply another air district’s standard to this project, because the BAAQMD has its own guidelines for evaluating air quality impacts that are customized to the conditions of the air basin.

Diesel emissions would occur temporarily during the construction period. However, the construction period of the project would last only a short time, relative to the length of time required for carcinogenic and chronic health impacts to manifest themselves (i.e., 30 years or more). Therefore the health risk to sensitive receptors associated with construction emissions would be less than significant.

Consistent with BAAQMD standards, no additional construction-period pollution reduction measures, besides those included in Mitigation Measures AIR-1a and AIR-1b, would be required. Mitigation Measure AIR-1a includes 18 discrete requirements to deal with fugitive dust and AIR-1b includes 6 components to deal with NO<sub>x</sub> and other emissions.

Response B12-28:

As discussed in the Draft EIR, emission of diesel particulate matter would not cause a significant health risk. This finding derives from the recognition that, while emissions of diesel particulate matter may be high during some parts of the construction period (e.g., demolition and grading), they would occur over a relatively short period and would not make a significant contri-

bution to a lifetime health risk; and 2) sensitive receptors are not located in close proximity to the project site, so exposures would be low. Thus no Health Risk Assessment would be called for.

Generation of particulate matter (PM<sub>10</sub>) and Reactive Organic Gases (ROG) during the construction period would be mitigated by the emissions control measures set forth in Mitigation Measure AIR-1b (Draft EIR, p.148). These include the following steps that the BAAQMD has determined will reduce short-term construction-period emissions to less than significant levels: alternative powered construction equipment; limited idling time for diesel powered construction equipment; achievement of a project-wide fleet average of 40 percent NO<sub>x</sub> reduction and 45 percent particulate reduction compared to the most recent CARB fleet average for heavy-duty (>50 horsepower) off-road vehicles; use of add-on control devices such as diesel oxidation catalysts or particulate filters; location of construction equipment away from sensitive receptors; and minimization of the operating hours of heavy duty equipment.

Response B12-29:

The comment indicates that the Draft EIR does not support a finding of no significant impacts related to odors. The presence of an odor impact is dependent on a number of variables including the nature of the odor source (e.g., wastewater treatment plan, food processing plant), frequency of odor generation (e.g., daily, seasonal, activity-specific), intensity of odor (e.g., concentration), distance of odor source to sensitive receptors (e.g., miles), wind direction (e.g., upwind or downwind), and sensitivity of the receptor.

The 1999 BAAQMD *CEQA Guidelines* suggest that analysis of potential odor impacts should be conducted for both (1) sources of odor locating near existing receptors, and (2) receptors locating near existing odor sources. For a project locating near an existing source of odors, the project should be identified as having a significant odor impact if it is proposed for a site that is closer to an existing odor source than any location where there has been (1) more than one confirmed complaint per year averaged over a three year period, or (2) three unconfirmed complaints per year averaged over a three year period.

The 1999 BAAQMD *CEQA Guidelines* consider a source to have a substantial number of odor complaints if the complaint history includes five or more confirmed complaints per year averaged over a 3-year period.

A public request for odor complaints for the 3-year period from 2006 to 2009 was made to BAAQMD on May 26, 2010 with regard to the waste transfer station discussed in the comment letter. BAAQMD responded that a search of the database indicated no complaints for that facility had been reported. The distances (e.g., one mile) mentioned in the comment letter are screening criteria only and do not determine whether the project would have a significant odor impact. The number of odor complaints does not exceed the

BAAQMD threshold; therefore, the impact that the project would have a less than significant impact is supported.

Response B12-30: The comment incorrectly states that the Draft EIR “does not provide the calculations of the GHG emissions.” Appendix D includes the assumptions and calculations for the GHG emissions related to the project.

The comment indicates the conclusion of the Draft EIR that the impact is insignificant lacks any “rigorous analysis.” The amended *CEQA Guidelines* (initially proposed in 2009 and effective in March 2010) confirm that a lead agency shall have the discretion to determine, in the context of a particular project, whether to: (1) Use a model or methodology to quantify greenhouse gas emissions resulting from a project...and/or (2) Rely on a qualitative analysis or performance based standards.”

The comment is also incorrect in stating and describing the thresholds that have been adopted by the Air Resources Board and San Diego Air District. The Air Resources Board staff proposed GHG thresholds in October 2008 that included a 7,000 metric ton threshold for industrial sources, but did not include a numeric threshold for residential and commercial development. ARB has not adopted these standards and this threshold is no longer under consideration. San Diego County’s “Interim Approach to Addressing Climate Change in CEQA Documents” indicates 900 metric tons as a “screening criteria” that would require further analysis of the impacts. While several quantitative thresholds have been proposed throughout the State, the thresholds differ and have not been adopted at this time.

For the analyses of significance, the Draft EIR relies on a qualitative analysis to demonstrate consistency with the State goals and plans. Incorporation of mitigation measures demonstrates that consistency, and using a qualitative analysis, the impacts are less than significant.

Response B12-31: The Draft EIR incorporates appropriate mitigation measures to minimize the impacts of the project. Selection of mitigation measures is permissible “for kinds of impacts for which mitigation is known to be feasible, but where practical considerations prohibit devising such measures early in the planning process. The agency can commit itself to eventually devising measures that will satisfy specific performance criteria articulated at the time of project approval. Where future action to carry a project forward is contingent on devising means to satisfy such criteria, the agency should be able to rely on its commitment as evidence that significant impacts will in fact be mitigated.” (Sacramento Old City Assn. v. City Council (1991) 229 Cal.App.3d 1011, 1028-1029 [SOCA]). The project must comply with the City of Albany Green Building Standards of Compliance, which includes LEED certification for commercial buildings and completion of the Greenpoint checklist for residential buildings. The project proponent selects a number of features, including the use of renewable energy, to meet the minimum green building

standards. Not all of the project features need to be selected at the time of completion of the Draft EIR to meet the City of Albany and CEQA requirements for enforceable mitigation measures.

Subsequent to the publication of the Draft EIR in July 2009, the City of Albany adopted its Climate Action Plan (CAP) in April 2010. The CAP includes documentation and background calculations that document the efficacy of measures such as those in the Draft EIR. The measures in the Draft EIR are entirely consistent with those subsequently set forth in the adopted CAP and may be supplemented at the time of their implementation by other more refined measures set forth in the CAP.

- Response B12-32: Please see response B12-31. The City of Albany Green Building Standards of Compliance lists the requirements for new construction, including LEED certification. The comment provides a list of mitigation measures that should be considered and evaluated for this project. The comment fails to acknowledge that many of these measures are adopted as part of the Draft EIR and listed on pages 167 through 170 of Section IV.C, Global Climate Change. For example, solar or LED outdoor lighting, bike paths, and pedestrian walkways are required mitigation measures listed in the Draft EIR.
- Response B12-33: This comment introduces several traffic-related comments that follow. Please see responses to those specific comments immediately below.
- Response B12-34: Please see Response to Comments A5-2 and A5-4.
- Response B12-35: Since specific tenants have not been identified for the retail component of the project, it may include uses, such as coffee shops or dry cleaners, that have high pass-by trips during AM peak hour. Commuters, on their way to work, can also stop at the Whole Foods Market for coffee, breakfast or to pick-up lunch. AM peak hour pass-by trips may also include parents stopping at the site before or after dropping children off at schools. As stated in the comment, many retail stores may not be open during the weekday AM peak hour; thus, the estimated trip generation may overestimate actual trips. Even without a pass-by trip reduction, the AM peak hour would generate fewer trips than the PM or Saturday peak hours.
- Fehr & Peers completed an additional analysis of traffic operations at the study intersections during the AM peak hour under Existing, 2015 and 2035 conditions to determine if eliminating the AM peak hour pass-by reduction would result in additional impacts. Although the project would generate 128 additional trips during the AM peak hour, the elimination of the AM peak hour pass-by reduction would not result in additional impacts at the study intersections.
- Response B12-36: As stated in the comment, several mitigation measures require a fair share contribution from the project applicant. Mitigation Measure TRANS-1

requires project applicant to implement the mitigation measure. For mitigation measures that identify fair share contribution, the methodology to calculate project's fair contribution has not been determined yet, nor is such information necessary to reach impact conclusions or to ensure that recommended mitigation measures would be effective.

The posted speed limit on San Pablo Avenue is 30 miles per hour (see Response to Comment A6-4). Considering intersection spacing and the current and expected congestion on this segment of San Pablo Avenue, it is very unlikely that the 85<sup>th</sup> percentile speed on San Pablo Avenue would exceed 40 mph. Thus, the urban warrant used for the signal warrant analysis presented in the EIR is valid and applicable for the Harrison Street/San Pablo Avenue and Dartmouth Street/San Pablo Avenue intersections.

The signal warrant analysis for Dartmouth Street/San Pablo Avenue and Harrison Street/San Pablo Avenue intersections under Near-Term (2015) and Cumulative (2035) conditions did not include the right-turn volume from the minor street (e.g., Dartmouth or Harrison Street) because the right-turn movements would not benefit from a new signal at these intersections. The peak hour volumes presented on warrant analysis sheets decrease between existing conditions and other scenarios because the existing conditions analysis erroneously included these right-turn volumes.

Response B12-37: The comment suggests that the significant impact TRANS-8 at the Solano Avenue/San Pablo Avenue intersection can be mitigated by implementing full-time or peak period parking prohibition along San Pablo Avenue and converting the parking lane to a through or turning traffic lane. Considering that the parking lane on San Pablo Avenue is currently 8-foot wide, it does not provide adequate width for a vehicle travel lane. Providing a third vehicle travel lane with adequate width on San Pablo Avenue would require narrowing existing travel lanes to substandard width or narrowing the sidewalk. Neither may be feasible. In addition, considering that parking along San Pablo Avenue is at or near capacity and that there are existing bus stops in the parking lane along San Pablo Avenue, the mitigation measure suggested in the comment would result in significant secondary impacts on parking and transit operations. Thus, the significant and unavoidable impact identified in the Draft EIR at this intersection remains the appropriate designation.

Response B12-38: Please see Response to Comments B12-39, B12-40, and B12-41.

Response B12-39: As described on page 113 of the Draft EIR, the main benefits of back-in angled parking are that they allow direct access to vehicle trunks from the curb instead of the roadway and drivers have better view of on-coming traffic and bicycles when leaving the parking space. Considering that the on-street parking spaces on Monroe Street would be mostly used by shoppers and considering the amount of bicyclists expected on Monroe Street, the proposed back-in angled spaces would be appropriate.

The comment suggests that the proposed back-in angled parking spaces along Monroe Street should be converted to parallel parking spaces because drivers on eastbound Monroe Street would have difficulty backing into the angled parking spaces during the peak commute periods because they must back up from within a queue on Monroe Street. However, parallel parking spaces would have the same issue when queues are present as most drivers back into parallel parking spaces. Furthermore, the suggested parallel parking spaces on Monroe Street would result in fewer parking spaces and would not reduce potential conflicts between vehicles in the queue on eastbound Monroe Street and vehicles executing the parking maneuvers.

Response B12-40: As stated in the comment, the project proposes to limit the Whole Foods Market driveway on San Pablo Avenue north of Monroe Street to right-in/right-out only. Although a two-way-left-turn lane is currently provided on this segment of San Pablo Avenue, as shown in the project site plan on Figure IV.A-15 on page 115 of the Draft EIR, the project is currently proposing to replace the existing two-way-left-turn lane with a painted median with hatchings to prohibit left-turns to and from the Whole Foods Market driveway. The proposed striping is consistent with current Caltrans design standards and is believed by the EIR team's transportation technical consultants to be sufficiently clear to drivers so as to reduce the potential safety concern.

Response B12-41: The segments of 10<sup>th</sup> Street, north and south of Monroe Street, that provide access to the project site are private streets. They are currently owned by the University. In addition, the proposed stop signs on all approaches of the Monroe Street/10<sup>th</sup> Street intersection are provided as a recommendation and not a mitigation measure. This recommendation is provided in order to further improve access and circulation for automobiles, bicycles, and pedestrians at the intersection but is not required to reduce or eliminate a significant adverse impact.

Response B12-42: Responses to various parts of this comment are provided below:

- a. As shown in Table IV.A-24, the parking demand for the Whole Foods Market was estimated using the 85<sup>th</sup> percentile rates for an urban super-market as published in ITE's *Parking Generation, 3<sup>rd</sup> Edition*. The 85<sup>th</sup> percentile rate represents the rate that 85 percent of the sites surveyed for ITE generate parking demand below. The 85<sup>th</sup> percentile rate was used instead of the average rate because the project would generate more trips than a typical grocery store. Also see Response to Comment B17-19.
- b. See Response to Comment B12-41 regarding ownership of 10<sup>th</sup> Street. Since 10<sup>th</sup> Street is not a public street, the 14 perpendicular on-street parking spaces on 10<sup>th</sup> Street can be counted towards the overall parking supply.

- c. As stated in the comment and shown in Table IV.A-24 on page 125 of the Draft EIR, Block B would have a parking deficit during peak periods. However, Block A is expected to have a parking surplus and since parking would be shared between the two blocks, Block B retail shoppers can use the parking available in Block A.
- d. It is not clear how the comment estimates that the driveway for Whole Foods Market on San Pablo Avenue would result in loss of eight on-street parking spaces on San Pablo Avenue. See Response to Comment B12-39 regarding back-in angled parking along Monroe Street. As shown on page 67 of the Draft EIR, the on-street parking spaces along the project frontage are currently generally unoccupied. Thus, they are expected to be available for use by the proposed project.
- e. Comment is consistent with page 126 of the Draft EIR. The Draft EIR had identified the potential shortage of parking when events at the playing fields coincide with peak activity at the project site. Recommendation TRANS-3 includes identification of appropriate off-street parking supply for the playing fields.
- f. Based on the above responses, the parking analysis and conclusions presented in the Draft EIR remain valid.

Response B12-43: Each of the earlier comments referred to in this wrap-up comment relating to issues of transportation, circulation and parking is responded to above. As set forth in the responses, the City believes that the research, methods and analytical results set forth in the Draft EIR are accurate, appropriate and serve the purpose of providing information to decision makers that is called for by CEQA.

Response B12-44: For all of the reasons set forth above in Responses to Comments B12-1 through B12-43, and because none of the criteria from the *CEQA Guidelines* that would require recirculation (set forth in the comment letter just below this comment) are present, the City believes that no reason to recirculate the Draft EIR exists.

Response B12-45: The Draft EIR when combined with this Response to Comments document constitutes the Final EIR for the University Village at San Pablo Avenue Project. The City of Albany believes that by responding carefully and thoroughly to all questions and comments raised, the EIR meets the standards for completeness set forth in the *CEQA Guidelines* and in numerous court cases on the subject.

**Amber Curl**

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**From:** Gerhard Brostrom [brost@earthlink.net]  
**Sent:** Monday, October 05, 2009 11:09 PM  
**To:** Amber Curl  
**Subject:** Draft EIR environmental impacts comments

City of Albany  
Planning and Zoning Commissioners

Associate Planner Amber Curl

Dear Commissioners and Ms. Amber Curl,  
We appreciate the chance to register our concerns about the extensive adverse environmental impacts of the proposed Whole Foods construction plans on a key relatively undisturbed part of our town of Albany, and the inadequacy of the mitigation measures discussed in the draft EIR. We're life-long Albany residents who have been skeptical from the beginning about this large corporate development from the vantage point of 50 years of living here during with we have been witnessing with dismay as the wide open spaces that once existed in Albany have almost completely disappeared, typically as a result of their short-sighted development for commercial uses.

We view the land being considered for the Whole Foods store and the related high-density large scale senior and general residential development as a threat to the precious remnant of undeveloped use-free land in Albany, which in its current undeveloped state provides room to breath and have a view of something other than asphalt and buildings and affluent acquisitiveness and consumer shopping activity. Given our basic underlying preference for open space and parkland and our advocacy of environmental preservation and strict limits on large-scale corporate commercial development, it is only with considerable reluctance that we can view even modest development uses as acceptable.

In general we believe that the disruptive and unacceptably gargantuan Whole Foods market and related development should be considerably reduced in scale from what has been proposed and the land otherwise being envisioned for building should be preserved instead for open space and recreational uses tied to its increasingly rare value as long-term pastoral and natural open space, uses bound to have increasing importance in coming decades for future generations.

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More specifically, we're quite concerned about the all but inevitable negative impacts that seem unacceptable to us from the greatly increased traffic envisioned under current plans, especially at San Pablo intersections near Marin Avenue and Gilman Street, which already are congested and at near gridlock for appreciable parts of the day. The present proposed mitigation efforts are quite inadequate at these intersections, as are the mitigation efforts proposed for reducing the harmful effects of traffic increases at the freeway intersections.

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Increasing the number of automobiles entering and departing the area, as the planned development does, even with the mitigation measures being considered, will have a substantial negative effect on pedestrian safety and biking feasibility, effects that will be unacceptable in a town like ours that has been trying to maintain a green identity and reduce our carbon footprint to slow down global warming. We believe a lot of additional traffic will be generated by shoppers from areas outside Albany who will seek the convenience of an extra large retail grocery store while creating unsafe conditions and significant inconveniences for those of us who live here in Albany. We're also

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concerned that the proximity of the new development to the police and fire departments will impair those city services, while adding substantially to the burden the burgeoning University Village already places on essential protective city services. Fire Department officials have told us they are concerned about the safety of trying to drive large emergency response fire trucks through congested streets close to the fire station if the proposed development is allowed as presently described.

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As members of an energy conscious environmentalist group of Albany residents, known as Transition Albany, we're disquieted by the project's significantly harmful prospective impacts on our town's contribution to the ongoing global climate change trends. At a time when we feel it's imperative that we lessen our individual household and collective community energy use, we see this kind of development proposal as going in the wrong direction from what we see as necessary for our sustainable energy use patterns. Our group is also committed to fostering adaptive household behaviors and improved practices aimed at enhancing appropriate low energy intensity community trends toward small-scale home gardening, and CSA-centered locally-based self sufficiency in our food production and consumption, and we champion pedestrian and bike-based transportation, approaches that are antithetical to the parking lot and automobile-dominated kind of development that the overlarge corporate Whole Foods project represents.

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Far too many impacts are described as unavoidable and far too many, such as those describing energy-conserving approaches, are described in only vague and unquantifiable terms in the EIR. For instance, we view as inadequate the mitigation efforts related to traffic light timing adjustments aimed at reducing traffic at the Marin Avenue intersection, which are described as needing CALTRANS support and clearance.

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We hope that the shortsighted headlong rush towards a misguided focus on commercialization and consumer convenience and ease will be curtailed through the recognition of the unacceptable energy-intensive construction and operational features that the proposal unavoidably entails. We need to take a long term look at the impacts that will affect the environment as we plan for a sustainable future.

Thank for your efforts on our behalf in your ongoing role as civic leaders in Albany's governance.

Gerhard and Marge Brostrom

**COMMENTS B13**  
**Gerhard and Marge Brostrom**  
**October 5, 2009**

Response B13-1: The comment provides general thoughts about the scale of the project and commenter's preference for use of the site for other uses. However, no direct questions or comments about the Draft EIR are offered; therefore, no further response is necessary.

Response B13-2: The commenter's summary of traffic conditions in the vicinity of the project site and general opinions about the proposed mitigation measures are noted. However, in the absence of specific questions or comments, no further response is possible.

Response B13-3: Pedestrian and bicycle safety are specifically addressed in the Draft EIR in Chapter IV.A, Transportation, Circulation and Parking, on pages 114-122. Figures A-15, A-16a and A-16b illustrate recommended site plan improvements and the four San Pablo Avenue/Dartmouth Street crossing options.

The amount of additional traffic that the Whole Foods Market would generate and the effect of this traffic on intersection level of service is described in this same section of the Draft EIR, on pages 88-106.

While some of the market's customers may be comprised of regional commuters who, once they learn of the presence of the new Whole Foods Market on San Pablo Avenue, may divert from I-80 to shop there, it is not expected that more than a small percentage would derive from this source. Most customers of the market would have Albany or Berkeley residences.

Response B13-4: It is unclear why the commenter believes that that "the proximity of the new development to the police and fire departments will impair those city services...". If anything, the nearness of the locations from which these services are dispatched (less than 0.5 mile north) and the central location of both the departments and the project site on San Pablo Avenue should reduce response times for these services. The description of these services, analysis of potential impacts and conclusion that less-than-significant impacts would result can be found in the Initial Study/Environmental Checklist (Appendix A of the Draft EIR) on pages 38-39.

Response B13-5: The comment that the project would lead to "significantly harmful prospective impacts on our town's contribution to the ongoing global climate trends" is overstated. The detailed analysis of potential global climate change (GCC) effects is presented in the Draft EIR in Section IV.C, Global Climate Change (pp. 151-172). The proposed project's compliance with greenhouse gas

emissions strategies is evaluated in Table IV.C-3 (pp. 168-169). The proposed project would also be subject to Mitigation Measure GCC-1 (pp. 167-170), implementation of which would reduce the impact to a less-than-significant level.

See also Responses to Comments B3-1 through B3-7, B12-30 through B12-32, B17-22 through B17-30, which also address issues of global climate change and greenhouse gas emissions.

Response B13-6: Comment describes local group's aims and opposition to projects like that proposed here. This comment does not relate to the adequacy of the information or analysis within the Draft EIR. No further response is required.

Response B13-7: The comment is correct that a number of the impacts set forth in the Draft EIR related to vehicular congestion at intersections along State roadways (e.g. San Pablo Avenue and I-80) or located in the City of Berkeley (e.g., Gilman Street) have been deemed to be significant and unavoidable (SU) due to the lack of jurisdiction over the locations involved by the City of Albany. In other words, in an abundance of caution, given that the City of Albany cannot unilaterally cause the recommended improvements to be made, the City has categorized the impact as SU. In order to approve the proposed project with these SU impacts in place, the City will need to make findings of overriding considerations, explaining what countervailing benefits of the project override the adverse environmental impacts.

However, it should be emphasized that in only two instances – Impact TRANS-8 and Impact TRANS-11 – are there no feasible physical or operational mitigation measures available to reduce the impact, in most cases to a less-than-significant level. In other words, with the cooperation and participation of Caltrans and/or the City of Berkeley, many of the otherwise SU traffic and circulation impacts could be reduced to less-than-significant levels.

**Amber Curl**

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**From:** Dann, Bill [Bill.DANN@Allstate.com]  
**Sent:** Friday, August 14, 2009 3:43 PM  
**To:** Amber Curl  
**Subject:** University Village Phase A Comments

Hi

I have the following comments on the EIR:

1) Please include a requirement that the senior housing actually be constructed as described before the project can be signed off. In the event that the senior housing element is not completed, then a liquidated damages clause should be considered; such that, in the event the senior housing element is not completed as described, then an amount of \$\_\_\_\_\_ shall be considered as an adequate measure of damages. Suggest \$10MM. | 1

In any event, it should be stated requirement that the senior housing element must be completed before any other phase of development at UC Village may proceed.

2) On the traffic mitigation, all the streets in the southside of the village should be opened that currently connect to Harrison Street. Some of the streets currently are blocked to through traffic by fencing and barriers. Otherwise, Dartmouth will take the greatest increase in traffic. When the Marin Ave improvements were installed, Dartmouth suffered a considerable increase in traffic, according to the City of Albany one year study. Opening more streets in the Village to through traffic will take some of the increase off Dartmouth. | 2

More stop signs and/or speed bumps shall be put on Dartmouth, Talbot, and Stannage Avenue in mitigation. | 3

3) An overhead or underground pedestrian/bicycle path should be added to cross San Pablo. Rather than a street level crossing at Dartmouth, an overhead or underground crossing should be constructed. Overhead or underground walkways across busy highways are common features in other US cities (ie, Boston pedestrian crossing over Storrow Drive, Berkeley's overhead near University Ave), as well as overseas (Taipei, Tokyo, Hong Kong). | 4

Further the street corners on Dartmouth and Harrison at San Pablo should have bump outs (like on Solano Ave) to increase pedestrian safety and slow auto traffic. | 5

4) The pedestrian/bicycle crossing is marked as "potential" on the map. This should be a requirement. (Understand that CalTrans must approve notwithstanding.) | 6

5) It's a shame to have so much parking along the south side of Town Creek, which could be a landmark that draws people to the site. At very least, a pathway from San Pablo along the full length of the creek should be constructed. Consider Cerrito Creek at El Cerrito Plaza: it's too bad more land wasn't open between the parking and the creek, but at least there is a pathway along the creek. Suggest deleting spaces that abut the creek so that more land can separate the creek such that a path can be constructed alongside. Town Creek should be open along any development site in the Village. | 7

6) The Gill Tract must be kept as open space. This should be a condition for any further development at UC Village. | 8

7) The height of the buildings in the development should be made directly proportional to the amount of open space in the Gill Tract. If the Gill Tract will be developed, then the height of all the buildings should be reduced proportionately. The less open space, the shorter the buildings on all the development sites in Albany. | 9

8) The legacy/heritage/big established trees on all of the UC property in Albany must be maintained. UC should | 10

University Village Phase A Comments

Page 2 of 2

commit to plant 10 trees in Albany to replace any trees taken down on the full site.

9) Ball fields fully replaced.

**10  
cont.**

Bill Dann  
1056 Stannage Ave  
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(510) 558-9639

## COMMENTS B14

**Bill Dann**

**August 14, 2009**

- Response B14-1: None of the adverse environmental impacts presented in the Draft EIR suggest the need for or benefit of such a phasing requirement. No further response is required.
- Response B14-2: Three streets currently provide access between University Village and areas to the south: 6<sup>th</sup>, 8<sup>th</sup>, and 10<sup>th</sup> Streets. Sixth and 8<sup>th</sup> Streets are currently open to automobiles, bicycles, and pedestrians and are expected to remain open. As described in Response to Comment B1-11, 10<sup>th</sup> Street, just south of the project site, is closed to through traffic by a fence. The Draft EIR authors understand that the fence was installed by City of Berkeley and neither the project nor the City of Albany have jurisdiction over its presence. In any event, recommending that it be opened-up was considered but found during the EIR analysis not to be necessary or effective.
- Response B14-3: Please see Response to Comment A5-4.
- Response B14-4: An overhead or underground pedestrian and/or bicycle path across San Pablo Avenue may not be physically feasible within the current available right-of-way. In addition, they result in circuitous routes for pedestrians. Crosswalks, of the sort described in the Draft EIR, provide the shortest route to cross San Pablo Avenue.
- Response B14-5: Pedestrian bulbouts at the corner of the Dartmouth Street/San Pablo Avenue intersection are included in Mitigation Measure Trans-12 and shown on Figure IV.A-16. Bulbouts may also be integrated in the design for the Harrison Street/San Pablo Avenue intersection for Mitigation Measure TRANS-10 (but, as noted in the mitigation measure text, improvements there are not yet planned).
- Response B14-6: The commenter's support for the improved crossing on San Pablo Avenue at Dartmouth Street is noted. As stated in the comment, the proposed improvements at the Dartmouth Street/San Pablo Avenue intersection are identified as potential because they are outside the jurisdiction of City of Albany and require approval from Caltrans.
- Response B14-7: The City is unaware of the name "Town Creek" to which the author refers when he suggests "...a pathway from San Pablo along the length of the creek." Chapter III, Project Description, describes and illustrates the two pathways that are proposed as part of the project, one along Village Creek on the north side of the site and one along Codornices Creek on the south side of

the site. See Figure III-3 and text describing the two pathways at the following two locations: (1) d. Village Creek Pedestrian Path (p. 43) and (2) d. Pedestrian/Bicycle Path (p. 45).

- Response B14-8: The commenter's opinion about the adjacent Gill Tract is noted but does not relate to the adequacy of the information or analysis within the Draft EIR. No further response is required. Please see Responses to Comments B2-5, B7-1, B7-6 and B7-7 which discuss several aspects of the adjacent Gill Tract.
- Response B14-9: The commenter's opinion about the project's height and a suggestion that the allowable heights of project buildings be proportional to the amount of open space provided is noted but does not relate to the adequacy of the information or analysis within the Draft EIR. There is no environmental relationship between the height of buildings on the proposed project site and retention of open space on or development of the Gill Tract. Furthermore, equating the height of development of the proposed project site with plans for the Gill Tract (either preserved as open space or developed), would require an amendment of the University Village Master Plan. Such an amendment is not part of the proposed University Village at San Pablo Avenue project.
- Response B14-10: The commenter's opinion about the trees on the project site and suggestion regarding replacement ratios is noted but does not relate to the adequacy of the information or analysis within the Draft EIR. See Response to Comment A2-11 regarding the likely replacement ratio of 3:1 (installed:removed) for trees on the site.
- Response B14-11: The proposed project does not propose any changes to baseball fields located within University Village. No further response is required.

CITY OF ALBANY

SEP 29 2009

COMMUNITY DEVELOPMENT  
DEPARTMENT

September 29, 2009

From: Edward Fields  
Albany, CA 94706

To: Amber Curl  
Associate Planner  
City of Albany

Subject: Comments on Draft Environmental Impact Report for the University Village at San Pablo  
Avenue Project

I want to make some general comments about the DEIR, before considering some of the more specific inadequacies in the analysis provided in the DEIR.

The Earth is at a critical point for whether we will reduce our global emissions of greenhouse gases or continue on a path which is leading to destruction. The University of California at Berkeley is the preeminent public university in the world. We have programs dealing with climate change and "sustainability", a College of Natural Resources, a renowned College of Environmental Design; we have programs in "urban agriculture", and on and on. Yet the University proposes not to build a "neighborhood serving" grocery, but a very large store which is designed to serve a regional market. A store which requires a traffic study of its potential impacts on nearby freeways, on and off ramps, and major arterial streets leading to it. A store that is part of a project which, according to data which is incomplete and difficult to find in the DEIR, would add more than 6500 additional vehicle trips per day to already overcrowded streets in Albany and add 8500 metric tons of greenhouse gas emissions per year. A store whose impacts according to the DEIR would be "significant and unavoidable." This answer is no longer an acceptable answer in our current situation.

1

A smaller grocery is considered in the analysis of project alternatives. According to the DEIR "...this alternative would generate about 70 percent fewer trips than the proposed project during the weekday AM and PM and Saturday peak hours (my emphasis.)"

2

Will the University and the project developer instead build this "environmentally superior" alternative project? If not, then how will it be possible for Albany to meet its own targets for greenhouse gas reduction?

What might be part of a suitable "mitigation" for such a smaller project, which would still add to traffic and greenhouse gas emission? The University should agree to use the remaining part of the Gill Tract, (which historically has been used for growing crops for research), for an urban farm and for an educational center about localizing food production and about climate change. Of course, the produce from the farm could be sold at the store.

3

Since I've brought up "Alternatives", let me continue that discussion. The DEIR sets up the alternatives for failure. The bulk of the impacts come from the large grocery market. So why study an alternative (Alternative C) with a large grocery market as originally proposed, but a reduced residential component? The only reason I can fathom is that the University and developer have hinted that when they find someone to develop/operate the senior housing component of the project, it might be smaller than as originally proposed.

4

Alternative B, with a reduced size market, creates problems by relying on "existing zoning" as the reason for reducing the number of residential units. The height limit is only 3 feet lower in an R2 or R3 zone than the SPC zone, and the maximum allowable (housing) density if the project were rezoned to SPC would still be insufficient for the project as originally proposed. The extra height and density would only be achieved through a Planned Unit Development, which can be accomplished even with mixed zoning. This could easily eliminate the diversionary "greater traffic noise impact" issue in the consideration of Alternative B.

5

The alternative which should be studied, and which accomplishes the key objectives of the proposed project, is one which has the market as described in Alternative B, but the full housing component of the proposed project. Of course, it wouldn't be considered the "environmentally superior alternative" next to Alternative B because there is a greater impact from the additional housing. But this impact is small, and is the result of the goal of providing additional housing—if that is what the City feels is a better choice for the site. In any event, of the alternatives studied, Alternative B is clearly an environmentally superior alternative to the proposed project, achieves the project's objectives, and should be preferred by the City of Albany as the lead agency for this project.

6

I also want to discuss the connection of this project to the rest of the University designated "Step 3" area and the Gill Tract, which Block A would be partially built on. Page 38 of the DEIR, "Project Site", Section 2.d. states, "This Master Plan identifies the project site as Commercial or Mixed-Use. The Master Plan identifies this designation as land that will be made available for lease to generate income to subsidize new housing." This statement is contradicted by the 2004 Subsequent Focused Draft EIR which identifies the project site as Residential/Retail Redevelopments, Student Housing, Retail, Parking, with the residential component being 185 units of faculty and graduate student housing located above the retail components. If the housing is now proposed to be built as senior housing, then the EIR needs to account for the impacts to the remaining land in the Step 3 area if, in the future, the additional student housing is to be built elsewhere in that Step 3 area.

7

The statement on page 236, Agricultural Resources, "Decisions by the University of California as to future uses of the Gill Tract would not be affected by implementation of the proposed project." is thus incorrect. This should also lead to a discussion of Agricultural Resources, regardless of the lack of FMMP designation. Again, the City of Albany as lead agency, should insist on this analysis in light of the current world climate crisis and our City's Climate Action goals.

Following, are some specific comments on some of the sections of the DEIR which I have looked at.

|   |    |
|---|----|
| Transportation, Circulation and Parking<br>Page 53, Existing Transportation Setting<br>San Pablo Avenue in Albany has a posted speed limit of 30 mph, not 35 mph as stated.   | 8  |
| Page 54, Existing Transportation Setting<br>Gilman Street in Berkeley has a posted speed limit of 25 mph, not 35 mph as stated.   | 9  |
| Page 62 Existing Transit Service, Bear Transit<br>The shuttle fare for the RFS line is \$1.50 for the public, students, faculty and staff. Students at University Village do not use the shuttle to campus because they can ride free on AC Transit routes with their Class Pass. The University announced in 2009 its intention to discontinue providing shuttle services.                 | 10 |
| Page 73, et seq., What measures are planned so that there will be only a negligible increase in plus project traffic at the Monroe Street and Jackson Street intersection?  | 11 |
| Page 75, Near-Term (Year 2015) No Project Conditions Intersection Analysis and Page 80 Table IV.A-7.<br>Intersection 7 is shown as LOS D and not deficient, but under Existing Conditions it is LOS F. Which improvements were assumed under the Year 2015 No Project Conditions to consider the intersection no longer deficient?  | 12 |
| Page 83, Alameda County Congestion Management Plan <u>requires</u> mitigation where future growth would degrade service levels on MTS roadways. The analysis on pages 105 et seq. analyzes the degradation of segments of San Pablo Avenue but does not provide full mitigation, and provides no analysis of funding adequacy and timelines for the mitigation measures which are proposed. | 13 |
| Page 86, Criteria of Significance<br>Please analyze if "associated changes to the transportation system conflict with adopted environmental plans or goals of the community...." See comments below for Pages 161 and 164.  | 14 |
| Page 89, Project Trip Generation Estimates<br>No data is provided for net project trips (Average Daily Trips), only for peak hour. See my comment below under Page 180-189 Noise.   | 15 |
| Can you use PM peak hour pass-by rates for AM peak hour? It is far less likely that people will stop to shop at a supermarket or retail shops on the way to work, than on the way home. Some of these trips should be accounted for in the Net New Project Trip numbers.  | 16 |

Page 90 Mode Split Survey is based on the Berkeley store. Can the same split be assumed for the proposed store which is located much closer to I-80 and I-580? Currently there are no Whole Foods locations (including stores in development) north of the proposed store along these freeway corridors without going over a bridge to Marin, Napa, or Sonoma counties.

17

Page 95, Impact TRANS-1

If optimizing the traffic signal parameters and coordination along San Pablo Avenue would improve intersection operations at Marin/San Pablo Avenue from current LOS F (PM peak hour) to LOS D, even with all the additional traffic generated by the project, then why hasn't Caltrans made such improvements now? Why don't we see LOS D during the PM peak hour now?

18

Have you taken into account the coordination and synchronization of traffic signals required for the AC Transit Rapid Bus route on San Pablo Avenue, and how would that be impacted by the above Mitigation Measure?

19

Pages 95 and 101

Results of the Peak Hour Signal Warrant Analysis, Warrant 3B: Peak Hour Volume

San Pablo Avenue – Dartmouth Street Near-Term (2015) Plus Project (AM) and Cumulative (2035) Plus Project (AM)

What was the rationale for not counting any of minor street right-turn traffic volume?

Why does traffic analysis assume that project will not generate even one additional peak hour vehicle trip on Dartmouth Street?

20

Harrison Street – San Pablo Avenue Near-Term (2015) Plus Project (PM)

Eastbound minor street traffic is exactly 100 vehicles per hour which falls on the threshold curve, with no right-turning vehicles counted. What was the rationale for not counting any of right-turn traffic volume?

Why does traffic analysis assume that project will not generate even one additional peak hour vehicle trip on Harrison Street by 2015?

Page 98, (Also page 51 and pages 74-75) Near Term (2015) Plus Project Intersection Operations.

The 2015 and 2035 traffic forecasts for the No Project case show substantial increases in traffic. The 2015 and 2035 Plus Project Conditions show the same project-generated traffic numbers which were used for the Existing Plus Project Conditions. Why is there no increase in assigned project generated trips from Existing Plus Project to Near Term (2015) Plus Project and to Cumulative (2035) Plus Project conditions? Is no growth projected in the stores' number of customers and trip generation? Is it correct to assume that there will be no increase in the project-generated traffic from 2003 to 2015 and to 2035? The Existing data inputs for project generated trips for weekdays were based on 2003 data from the Berkeley store, so growth should be projected to 2015 and 2035.

21

|   |           |
|---|-----------|
| Page 111, Queuing at Monroe Street/San Pablo Avenue Intersection.<br>PM Peak hour queuing left turn from Eastbound Monroe Street and left turn from Northbound San Pablo Avenue: With the 2015 Plus Project PM Actuated cycle length of 130 seconds, that only provides 28 cycles per hour. If there are 298 and 285 vehicles turning left from the respective streets, there needs to be storage for an estimated queue of 10 vehicles, which is not possible with the planned storage spaces of 120 feet.   | <b>22</b> |
| Page 112, 4 stop signs are recommended at the intersection of Monroe Avenue and 10 <sup>th</sup> Street. Would peak traffic projected for this intersection justify the need for a traffic signal?  | <b>23</b> |
| Page 114, Following the AC Transit requirements for bus stops of 80 to 120 feet in length, would parking spaces shown on Monroe Avenue need to be removed?  | <b>24</b> |
| Page 123, AC Transit Bus Operations<br>The analysis done was for estimating bus travel times on San Pablo Avenue between Buchanan Street and Solano Avenue with and without the proposed project. Why wasn't the analysis done for a segment of San Pablo Avenue which includes the project? What would the result of the analysis be (for example) for the segment between Harrison Street and Buchanan Streets?   | <b>25</b> |
| Page 124, Parking Demand Analysis<br>How can you guarantee that the parking restrictions on Monroe and 10 <sup>th</sup> Streets for U.C. Village parking permit holders will not be necessary in the future when U.C. completes its Step 3 Development? Isn't U.C. intending to retain ownership of those two streets?  | <b>26</b> |
| Page 126, Recommendation TRANS-3<br>The University should identify appropriate off-street parking supply for the playing fields. Where will that be located?  | <b>27</b> |
| Page 146, Clean Air Plan Consistency, states that providing more housing in Albany will help to reduce regional VMT. Where is the analysis of increase in VMT due to the supermarket component of the project and its consistency? Will the rate of increase in VMT exceed the rate of increase in population? Without this complete analysis, how can it be stated that the impact will be less than significant?  | <b>28</b> |
| Page 161, Global Climate Change, (3) Local Policies<br>On March 19, 2007, the City Council of Albany adopted Resolution #07-09 which established a "greenhouse gas emissions reduction goal of 25% below 2004 levels by 2020." The Impacts and Mitigation Measures, Impact Analysis, and Impact-GCC-1 do not take this into account. If implemented as proposed, this project alone would add an amount of greenhouse gas emissions (8500 metric tons per year) equal to nearly half again as much as the total amount which the City needs to reduce by 2020. Without appropriate additional mitigation measures, this project would create a significant and unacceptable impact. | <b>29</b> |

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|---|-----------|
| Page 164, Would the proposed project “substantially conflict with or obstruct the implementation of GHG emissions reduction goals” under Resolution #07-09?   | <b>30</b> |
| Page 167-170, The analysis of emissions and measures relating to transportation and motor vehicles is completely inadequate and does not go beyond new vehicle standards and fuel standards which are under state and federal jurisdiction.   | <b>31</b> |
| Page 180-189 Noise<br>Average Daily Trip data is not provided or analyzed under “Transportation, Circulation and Parking.” Some data is provided in the Noise section, but not for all significantly affected streets and highways, and none for intersections. None is provided for Near Term (2015). These numbers should be provided to inform the City of Albany and the general public of the number of vehicle trips projected to occur as a result of the project. | <b>32</b> |
| Is the ADT increase of 8800 on San Pablo Avenue-Harrison Street to Gilman Street from Existing 15,200 to Existing Plus Project 24,000 an error? (Tables IV.D-8 and IV.D-10) Please explain how the data for ADT were arrived at. Has the Fehr & Peers 2009, <i>University Village at San Pablo Avenue Project, Transportation Impact Analysis</i> been made available to the public?  | <b>33</b> |
| Requiring air conditioning systems in the residential units adds to energy usage and greenhouse gas emissions. If a project with a grocery similar to Alternative B were constructed, but with the housing component unchanged, would the reduction in traffic generation be sufficient to reduce the noise to a level which would not require air conditioning as a mitigation?  | <b>34</b> |

**COMMENTER B15**  
**Edward Fields**  
**September 29, 2009**

Response B15-1: The commenter's introductory comments and opposition to the proposed project are noted. Several of the brief references to environmental issues are raised in greater detail in subsequent specific comments, but the following points should be noted:

- [a] The proposed Whole Foods Market is not "designed to serve a regional market" (the company has 16 stores in the San Francisco Bay Area, including ones in nearby Berkeley and Oakland);
- [b] A traffic study was conducted as part of the Draft EIR and is summarized in Section IV.A, Transportation, Circulation and Parking (pp. 49-128) and its background data are presented in Appendix B.
- [c] The comment describes the status of global climate change, programs that deal with sustainability, and greenhouse gas emissions related to the proposed project. However, the comment incorrectly states that the impacts would be "significant and unavoidable." As discussed in Section IV.C, Global Climate Change, of the Draft EIR, the impacts related to greenhouse gas emissions were determined to be less than significant.

Response B15-2: The Existing Zoning alternative (in which the grocery store would be reduced to 15,000 square feet and only 70 residential units would be built) would result in a peak hour vehicle trip reduction of approximately 70 percent. However, the City's progress toward its goals for greenhouse gas emissions would not be significantly affected by the development of the proposed project, as long as recommended Mitigation Measure GCC-1 is implemented.

Response B15-3: The comment addresses "mitigation" for the Existing Zoning alternative. As noted in the previous response, no further mitigation for global climate change impacts would be needed for the proposed project and it is not anticipated that the Existing Zoning alternative would require any greater mitigatory steps that those set forth in Mitigation Measure GCC-1. Please see Responses to Comments B7-2 and B7-7 regarding the lack of relationship between the proposed project and the adjacent University of California property known as the Gill Tract.

- Response B15-4: Alternatives are evaluated that reduce both the retail and residential components of the proposed project. The alternatives were developed by the EIR consultant in collaboration with City staff and their characteristics were not based on any expectation that the senior housing component of the proposed project would eventually be reduced in size.
- Response B15-5: The commenter's reference to "...the diversionary 'greater traffic noise impact' issue in the consideration of Alternative B" is unclear to the EIR team. The Draft EIR examines three alternatives to the proposed project: No Project alternative; Existing Zoning alternative; and Reduced Residential alternative. These alternatives were selected and developed with the aim of reducing or eliminating some of the significant impacts of the proposed project. When the Existing Zoning alternative was crafted, the EIR team did not know how it would precisely compare to the proposed project or the other alternatives. The City of Albany believes that these three alternatives constitute a reasonable range of alternatives, as required by the California Environmental Quality Act (CEQA).
- Response B15-6: The commenter's suggestion that another alternative should be studied (one with a smaller market but with the full housing component) is noted. According to *CEQA Guidelines* Section 15126.6, the primary purpose of the alternatives analysis in an EIR is to evaluate project alternatives that "would feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the project." The EIR's authors would not agree that another alternative with a smaller market but with the full housing component would represent a measurably superior alternative to either the proposed project or the Existing Zoning alternative. The commenter's opinion that such an alternative "should be preferred by the City of Albany" is also noted and may be considered by the City's decision makers.
- It should also be noted that the proposed mix of uses on the site is consistent with the University Village Master Plan and that no changes to the master plan are proposed as part of the project.
- Response B15-7: The proposed project for which specific permits and approvals are being sought from the City of Albany and that is evaluated in the Draft EIR is fully described in Chapter III, Project Description (pp. 31-46). The project site is the approximately 5.3-acre site shown on Figure III-2 (p. 33). The project site is a small portion (just over 25 percent in terms of acreage) of the larger "Step 3" development area that was addressed in programmatic environmental terms in the 2004 *Subsequent Focused EIR for the University Village and Albany/Northwest Berkeley Properties Master Plan Amendments*. Please see Response to Comments B7-1, B7-7 and B7-9 regarding the lack of relationship between the proposed project and the adjacent University of California property which includes the lands know as the Gill Tract.

Response B15-8: Please see Response to Comment A6-4.

Response B15-9: The following text revisions are hereby made to page 54 of the Draft EIR:

An at-grade railroad crossing exists on Gilman Street west of 4<sup>th</sup> Street. Gilman Street has a posted speed limit of ~~35~~25 miles per hour. Trucks are prohibited on Gilman Street east of San Pablo Avenue.

The speed limit data was provided for information only and does not change the analysis or its conclusions.

Response B15-10: According to the University's parking and transportation division, the RFS line still operates as described in the Draft EIR. See the following web sites:

- <http://pt.berkeley.edu/print/177>, and
- [http://pt.berkeley.edu/bear\\_transit/html\\_routes/t1113\\_1/htm](http://pt.berkeley.edu/bear_transit/html_routes/t1113_1/htm).

Response B15-11: The Draft EIR analysis does not identify a significant impact at the Monroe Street/Jackson Street intersection. In addition, please see Response to Comment A5-4 regarding reducing traffic intrusion in residential streets.

Response B15-12: The delay and the associated LOS improvement at the Marin Avenue/San Pablo Avenue intersection between Existing Conditions (Table IV.A-5) and Near-Term (2015) No Project conditions (Table IV.A-7) is due to the signal timing and coordination improvements along San Pablo Avenue, included in Mitigation Measure TRANS-1.

Response B15-13: Impact TRANS-11 (Draft EIR, p. 105) identifies a significant impact on the CMP roadway network. Mitigation Measure TRANS-11 (Draft EIR, p. 106) lists improvements that would reduce the magnitude of the impact. However, as explained there, full mitigation of the impacts is not feasible due to the constrained right-of-way along San Pablo Avenue; the Draft EIR identifies the impact as Significant and Unavoidable. Also, see Response to Comment A3-1.

The comment fails to present any suggestions for additional mitigation measures that are within the ability of the City of Albany to implement that would reduce CMP roadway network impacts to less-than-significant levels.

Response B15-14: The Draft EIR considers whether “associated changes to the transportation system conflict with adopted environmental plans or goals of the community...” throughout this subsection (IV.A Transportation, Circulation and Parking). This phraseology serves to introduce the more specific criteria of significance that follow. Wherever plans or goals of the community as expressed in its planning or policy documents would be challenged or put at

risk by implementation of the proposed project, the result is specified as a potential impact.

Response B15-15: The traffic impact analysis presented in the Draft EIR is based on peak hour traffic operations. Therefore only relevant data for peak hour trip generation were collected and presented in the Draft EIR. The City of Albany, and other cities throughout the State, rely on a peak hour analysis to evaluate the worst-case traffic conditions to determine circulation improvements that are necessary to relieve congestion during the heaviest traffic conditions of the day.

Response B15-16: Please see Response to Comment B12-35.

Response B15-17: As described on page 88 of the Draft EIR, both the proposed Albany Whole Foods Market and the existing Berkeley Store (located at the intersection of Ashby and Telegraph Avenues) serve similar demographics and are located in urban areas with good transit service and pedestrian and bicycle connections. Both would require that traffic from the nearest freeway segments travel for a short distance on surface streets and through traffic lights. Neither the existing Berkeley store nor the site of the proposed San Pablo Avenue store are visible from the nearest freeway. For these reasons, both stores are expected to have similar traffic generation and mode choice characteristics.

Response B15-18: It is not clear why Caltrans has not optimized traffic signal timing and coordination parameters along this segment of San Pablo Avenue. However, based on the analysis presented in the Draft EIR, the signal timing and coordination parameters can be optimized to improve operations at intersections along this segment of San Pablo Avenue.

Response B15-19: The traffic operations analysis presented in the Draft EIR accounts for the existing traffic signal coordination along San Pablo Avenue. The analysis did not account for potential future modifications to signal coordination along San Pablo Avenue to accommodate bus operations because this project has not been defined; therefore its effects on traffic flow along San Pablo Avenue cannot be determined.

Response B15-20: Please see Response to Comment B12-35 regarding the signal warrant analysis at Harrison Street/San Pablo Avenue intersection.

Most project-generated traffic was assigned to the major roadways in the area and not local residential streets such as Dartmouth Street or Harrison Street. Considering the relatively low existing traffic volumes on these local streets, assigning project generated traffic to local streets would not trigger any of the significance criteria and cause a significant impact at intersections along these streets. In addition, assigning project traffic to local streets would result in fewer vehicles assigned to the major arterials and potentially fewer significant impacts than identified in the EIR.

- Response B15-21: As stated in the comment, the analysis assumes that the proposed project would generate the same amount of trips under existing, 2015, and 2035 conditions. The trip generation for the proposed Whole Foods Market is based on data collected at the existing Berkeley store and the trip generation for the other project components is based on published average rates for similar uses. These assumptions are consistent with industry standards for analyzing transportation impacts for environmental documents.
- Response B15-22: Based on the significance criteria used in this EIR and consistent with CEQA requirements and other recent EIRs in this area, excessive queuing would not be considered a significant environmental impact. However, as described on page 111 of the Draft EIR, a queuing analysis was completed for the Monroe Street/San Pablo Avenue intersection. Based on the analysis, maximum queues for the left-turn movement from northbound San Pablo Avenue to Monroe Street and from eastbound Monroe Street to San Pablo Avenue would spill out of the provided storage space during the peak hours. However, the Monroe Street/San Pablo Avenue intersection would continue to operate at an acceptable level and queues are expected to clear at the end of each signal cycle. Thus queues are not expected to build-up during the peak hour. Recommendation TRANS-1 includes converting the bulb-outs on eastbound Monroe Street from curb to striping and prohibiting parking along eastbound Monroe Street during peak hours to provide additional queuing space.
- Response B15-23: The projected traffic volumes at the Monroe Street/10<sup>th</sup> Street intersection are not expected to meet signal warrants. See Response to Comment B12-41 regarding the recommended all-way stop installation at the intersection.
- Response B15-24: Recommendation TRANS-2 on page 118 of the Draft EIR includes identifying bus stop location on Monroe Street west of 10<sup>th</sup> Street and lengthening the proposed bulb-outs on Monroe Street to accommodate buses and provide bus shelters. The location and design of the bus stops have not been finalized yet. The project design team and City staff will work with AC Transit to determine the location and size of the bus stops on Monroe Street. The final bus stop design may result in fewer parking spaces than shown on the proposed project site plan.
- Response B15-25: The text on page 123 of the Draft EIR is incorrect. The following text revisions are hereby made to page 123 of the Draft EIR:
- The intersections operations analysis completed for the project was used to estimate bus travel times in the vicinity of the project. Table IV.A-23 summarizes the estimated travel times on San Pablo Avenue between ~~Buchanan Street~~ Gilman Street and Solano Avenue with and without the proposed project. The proposed project is expected to increase bus travel times by less than one minute along this segment of San Pablo Avenue.

- Response B15-26: As described on page 124 of the Draft EIR, parking spaces on Monroe Street and 10<sup>th</sup> Street are currently restricted to University Village parking permit holders only. Since the adjacent University Village uses have been demolished, these parking spaces are currently unoccupied on typical weekdays. Therefore, the parking restrictions are currently not necessary. Parking restrictions may be necessary if and when Step 3 of University Village is developed. Parking needs and potential parking restrictions for Step 3 development would be determined as part of future studies for Step 3 development.
- Response B15-27: Please see Response to Comment B12-42, part e.
- Response B15-28: Please see Response to Comment B7-29.
- Response B15-29: Please see Response to Comment B3-5.
- Response B15-30: Please see Response to Comment B3-5.
- Response B15-31: The GHG emissions analysis is based on URBEMIS 2007, trip generation data developed by Fehr & Peers, and EPA emission factors. URBEMIS 2007 uses vehicle trips, trip length, as well as other factors, to estimate emissions. The methodology and assumptions used the analysis are consistent with the most recent recommendations from BAAQMD at the time the analysis was developed.
- Response B15-32: Average daily traffic (ADT) data is not provided or analyzed under the Transportation, Circulation or Parking chapter, rather, the traffic analysis is based on peak hour traffic volumes. The City of Albany, and other cities throughout the State, rely on a peak hour analysis to evaluate the worst-case traffic conditions to determine circulation improvements that are necessary to relieve congestion during the heaviest traffic conditions of the day. Noise modeling results are presented in terms of weighted 24-hour noise levels; therefore, average daily traffic data is used as input to the model. Standard traffic engineering practice assumes that peak hour traffic is approximately 10 percent of average daily traffic. ADT data used in the Draft EIR for the noise analysis was estimated based on peak hour traffic data provided in the project's traffic impact analysis.
- Response B15-33: Tables IV.D-8 and IV.D-10 should be revised as indicated below. The Existing ADT reported in Table IV.D-8 for the segment of San Pablo Avenue from Harrison Street to Gillman Street should be revised from 15,200 to 21,700 due to a data input error. The error resulted in understated Existing ADT, which then resulted in an overstatement of the noise impacts for this roadway segment. A reevaluation of actual impacts using the revised numbers indicate the actual increase in traffic noise levels under the Existing Plus Project conditions would be 0.5 dBA rather than the reported increase of 2.0 dBA. Based on the Significance Criteria, a significant impact would occur if

the project would permanently increase ambient exterior noise levels by 3 dBA or greater in areas where the ambient noise level without the project exceeds 60 dBA  $L_{dn}$ . Therefore, the actual 0.5 dBA increase would not be considered a significant increase, and therefore would remain less-than-significant. No additional mitigation is required.

Table IV.D-8 and Table IV.D-10 should be revised as follows:

**Table IV.D-8: Existing Traffic Noise Levels**

| Roadway Segment   | Average Daily Trips         | Centerline to 70 dBA $L_{dn}$ (feet) | Centerline to 65 dBA $L_{dn}$ (feet) | Centerline to 60 dBA $L_{dn}$ (feet) | $L_{dn}$ (dBA) 50 Feet From Outermost Lane |
|---|-----------------------------|--------------------------------------|--------------------------------------|--------------------------------------|--|
| Buchanan Street - Eastshore Highway to Jackson Street         | 22,800                      | < 50 <sup>a</sup>                    | < 50                                 | 104                                  | 62.4                                       |
| Marin Avenue - Jackson Street to San Pablo Avenue             | 20,200                      | < 50                                 | < 50                                 | 96                                   | 61.9                                       |
| Marin Avenue - East of San Pablo Avenue                       | 17,300                      | < 50                                 | < 50                                 | 87                                   | 61.2                                       |
| San Pablo Avenue - Marin Avenue to Monroe Street <sup>b</sup> | 20,600                      | < 50                                 | 63                                   | 128                                  | 63.8                                       |
| San Pablo Avenue - Monroe Street to Dartmouth Street          | 20,700                      | < 50                                 | 63                                   | 128                                  | 63.8                                       |
| San Pablo Avenue - Dartmouth Street to Harrison Street        | 21,100                      | < 50                                 | 64                                   | 129                                  | 63.9                                       |
| San Pablo Avenue - Harrison Street to Gillman Street          | <del>15,200</del><br>21,700 | < 50                                 | <del>&lt; 50</del> 65                | <del>105</del> 132                   | <del>62.5</del> 64.0                       |
| Monroe Street - Jackson Street to San Pablo Avenue            | 2,000                       | < 50                                 | < 50                                 | < 50                                 | 53.3                                       |
| Jackson Street - Buchanan Street to Monroe Street             | 5,000                       | < 50                                 | < 50                                 | < 50                                 | 55.1                                       |
| Jackson Street - Monroe Street to Harrison Street             | 3,500                       | < 50                                 | < 50                                 | < 50                                 | 53.6                                       |

<sup>a</sup> Traffic noise within 50 feet of roadway centerline requires site specific analysis.

<sup>b</sup> Shaded cells represent roadway segments adjacent to the project site.

Source: LSA Associates, Inc., March 2009.

**Table IV.D-10: Existing Plus Project Traffic Noise Levels**

| Roadway Segment   | Average Daily Trips | Center-line to 70 dBA L <sub>dn</sub> (feet) | Center-line to 65 dBA L <sub>dn</sub> (feet) | Center-line to 60 dBA L <sub>dn</sub> (feet) | L <sub>dn</sub> (dBA) 50 Feet From Outermost Lane | Increase Over Existing No Project Conditions |
|---|---------------------|--|--|--|---|--|
| Buchanan Street - Eastshore Highway to Jackson Street         | 23,600              | < 50 <sup>a</sup>                            | < 50   | 106  | 62.5  | 0.1  |
| Marin Avenue - Jackson Street to San Pablo Avenue             | 21,300              | < 50   | < 50   | 100  | 62.1  | 0.2  |
| Marin Avenue - East of San Pablo Avenue                       | 17,900              | < 50   | < 50   | 89   | 61.3  | 0.1  |
| San Pablo Avenue - Marin Avenue to Monroe Street <sup>b</sup> | 23,600              | < 50   | 68   | 139  | 64.4  | 0.6  |
| San Pablo Avenue - Monroe Street to Dartmouth Street          | 22,900              | < 50   | 67   | 137  | 64.3  | 0.5  |
| San Pablo Avenue - Dartmouth Street to Harrison Street        | 23,400              | < 50   | 68   | 138  | 64.3  | 0.4  |
| San Pablo Avenue - Harrison Street to Gillman Street          | 24,000              | < 50   | 69   | 141  | 64.5  | <del>2.0</del> 0.5                           |
| Monroe Street - Jackson Street to San Pablo Avenue            | 8,500               | < 50   | < 50   | 53   | 59.6  | 6.3  |
| Jackson Street - Buchanan Street to Monroe Street             | 5,100               | < 50   | < 50   | < 50   | 55.2  | 0.1  |
| Jackson Street - Monroe Street to Harrison Street             | 3,500               | < 50   | < 50   | < 50   | 53.6  | 0.0  |

<sup>a</sup> Traffic noise within 50 feet of roadway centerline requires site specific analysis.

<sup>b</sup> Shaded cells represent roadway segments adjacent to the project site.

Source: LSA Associates, Inc., March 2009.

Response B15-34: Mitigation Measure NOISE-2 requires the installation of air conditioning systems for the senior housing units due to the traffic volumes on San Pablo Avenue which cause noise conditions on the project site to exceed land use compatibility standards established by the City of Albany. Noise conditions on the project site would exceed this standard regardless of additional project traffic; therefore, a change in the grocery store option would not eliminate the need for this mitigation measure for any future housing on the project site.

**Amber Curl**

**From:** dfalbany@aol.com  
**Sent:** Wednesday, August 19, 2009 3:25 PM  
**To:** Amber Curl  
**Subject:** UC Development

Aug. 19, 2009

Ms Curl,

As a resident of Albany, residing west of San Pablo av, I would like to register my concern regarding the proposed development near San Pablo and Monroe.

The draft EIR points towards increased traffic congestion on San Pablo av, basically from El Cerrito to Berkeley, including connector streets to I-80. As you are probably aware, traffic on these streets is already very heavy, approaching gridlock, on weekends and during the evening commute. Additional traffic, noise and pollution will detract from an already unpleasant environment.

The city of Berkeley recently published a preliminary EIR regarding West Berkeley and that cities development plan, including 90 foot tall mixed-use buildings west of San Pablo. That report also pointed to increased congestion on San Pablo av and freeway feeders. More traffic, noise and pollution.

In addition to quality of life issues, it is my opinion that the City stands to lose more than it gains if this property is developed by the University of California. As a state owned property, this land is exempt from paying property taxes which directly support local schools, infrastructure and Public Safety, The only benefit to the City of Albany will be a small portion of sales tax revenue paid on non-food items and prepared meals. The proposed housing will provide even less revenue, but as senior or assisted living will place additional demands on Public Safety and emergency medical response.

As proposed, this development does not seem to benefit the city of Albany or, more importantly, our struggling public school system. Albany has an opportunity to help our schools by allowing development of this property, only if the land it is built on is sold as surplus property by UC and put on the tax rolls.

Zoning changes should not be made for the benefit of the University of California at the detriment of the residents of Albany.

Sincerely, Dennis Foster  
932 Taylor st.  
525-6050

1

**COMMENTS B16**  
**Dennis Foster**  
**September 29, 2009**

Response B16-1: This comment includes a number of thoughts and arguments in opposition to the proposed project, but does not pose questions or raise concerns in regard to the Draft EIR. No further response is necessary.

Comments on University Village at San Pablo Avenue Project Draft EIR  
Andrea Gardner

Summary

Section II.B.1 (Page 5). Need to indicate where scoping comments are addressed in the EIR.

1

Alternatives (Page 7) - Per Section 15126.6(e)(3)(B) of the Guidelines, if disapproval of the project under consideration would result in predictable actions by others, such as the proposal of some other project, this "no project" consequence should be discussed. Where failure to proceed with the project will not result in preservation of existing environmental conditions, the analysis of the No Project scenario should identify the practical result of the project's non-approval. The lead agency should proceed to analyze the impacts of the no project alternative by projecting what would reasonably be expected to occur in the foreseeable future if the project were not approved, based on current plans and consistent with available infrastructure and community services. Therefore, the "No Project" alternative for the proposed project should be development under the existing zoning.

2

Project Description

Project objectives (page 38) - While I understand that the applicant, working with the City, has established the project objectives and is not likely to change them, I am providing some comment on the objectives.

- The objectives presented are quite detailed and could be expressed to better capture the underlying purposes of the project - for example, one project objective is to generate income to subsidize new student housing, as described at the top of page 38.
- Would have preferred to see more emphasis on the creeks in the objectives, such as "Create a creek-oriented community asset," and more emphasis on improving alternative transportation options to the site.
- Relevant objectives from the University Village Master Plan should be listed and not just referenced to provide context.

3

Figure III-3:

- What is the "outdoor seating area of community garden" at the north end of the site? A seating area, a community garden, or both?
- Design comment - It appears that the patio by the creekside retail will have to provide a portion of the handicap access given its location immediately adjacent to the handicap parking. How will this affect patio use? In general, patio would be better oriented toward creek.
- The designated bike parking appears too small (two locations, each about the size of half a parking space).

4

5

6

Transportation, Circulation and Parking.

Overall, the analysis needs to better address potential impacts to unsignalized sections. Use of Berkeley's significance criteria for impacts to unsignalized intersections (e.g. use

7

of Warrant 3) seems arbitrary and may overlook impacts that are significant to the community. In addition, there is a “passive” acceptance of the level of car trip generation, with no mitigation measures or coherent strategy to encourage use of alternative transportation.

**7  
cont.**

Page 54, first line - this appears to be a mis-placed sentence fragment (“Trucks are prohibited on Marin Avenue”). Should be corrected.

**8**

Intersection versus roadway LOS: page 51 describes that intersection LOS was used for the study. However, there are references to roadway LOS (page 73, CMA’s list of roadway segments operating at LOS F; page 87, significance criteria 3 on impacts to roadway segments). A discussion of the definitions of and differences between intersection and roadway LOS should be provided on page 51.

**9**

Page 72, Signal Warrants - this paragraph states that meeting any of the signal warrants could justify signalization, but that the “full set of warrants should be considered as part of an evaluation.”

- Peak hour volume warrant (Warrant 3) is then stated as being the basis for the analysis; please provide an explanation for this choice.
- Is Warrant 3 the most appropriate warrant for this situation and the community, regardless of what the City of Berkeley uses for its significance criteria? Per the FHWA Manual of Uniform Traffic Control Devices, Warrant 3 is intended on for unusual cases such as office complexes that attract or discharge large numbers of vehicles over a short time, which is not the case for most (if not all) unsignalized intersections in the study area. Other warrants, such as Warrant 1 (eight hour traffic volume), Warrant 4 (Pedestrian Volume, which includes bicycles), Warrant 7 (Crash Experience), or Warrant 8 (Roadway Network) may be more appropriate. Different warrants may be appropriate for different intersections depending on the particular issue at an intersection.

**10**

Table IV.A-7:

- Please discuss why there is a significant improvement to the Marin/San Pablo intersection LOS at the PM peak hour for 2015 No Project conditions compared to existing conditions (when all other intersections have same or worse LOS).
- Are the planned improvements listed on page 73 included in the Near-Term analysis (and in Table IV.A-9 Cumulative analysis)?

**11**

Table IV.A-11 and Pass-By Analysis (page 89) - the number of pass-by trips was based on the ITE average rate for supermarkets. However, this rate is likely too high because Whole Foods will be a regional draw and not simply another supermarket at which to get basic groceries; more trips are likely to be generated from out of the study area than for a standard supermarket. The net new project trips in Table IV.A-11 likely underestimate the number of new trips, especially along the section of San Pablo between Solano and Gilman.

**12**

|   |           |
|---|-----------|
| Page 90, first paragraph - there are contradictory statements that should be clarified: weekday PM peak hour was assumed for Saturday peak hours because there is no pass-by data for Saturday peak hours, and average pass-by reduction rate is 26 percent during Saturday peak hour.  | <b>13</b> |
| Pages 95 and 98 - Please provide an explanation for why the Harrison Street/San Pablo Avenue intersection does not meet the peak hour signal warrant conditions, and if/why no other signal warrants would apply (see comment above on Signal Warrants).  | <b>14</b> |
| Mitigation Measure TRANS-1 (page 95) - was the traffic model run with the optimized traffic signal timing parameters to demonstrate that the LOS would be improved to D at Marin Avenue/San Pablo?  | <b>15</b> |
| Page 101 - Please provide an explanation for why the Dartmouth Street/San Pablo Avenue intersection does not meet the peak hour signal warrant conditions, and if/why no other signal warrants would apply (see comment above on Signal Warrants).  | <b>16</b> |
| Mitigation Measures for significant intersection and roadway impacts: There may be other, potentially feasible, mitigation measures in addition to roadway changes by Berkeley and Caltrans. Consider incentives for use of transit/walking/biking to and from the project site as mitigation or methods to reduce car use - discounts for use of transit/biking; employee transit passes; charging for car parking; a comprehensive alternative transportation plan per LEED Sustainable Site credits; etc.                      | <b>17</b> |
| Pages 121-122 - why is it mentioned that SimTraffic would provide a more accurate analysis of traffic conditions between the intersections of Monroe and Dartmouth along San Pablo? Was such analysis done? Is it being suggested as a mitigation?  | <b>18</b> |
| Table IV.A-24 (page 125) - based on the 446 Saturday peak hour trips shown in Table IV.A-11 (page 89), 162 parking space demand on Saturday seems too low (this would require total time in the stores to be just over 20 minutes). <ul style="list-style-type: none"><li>• How does this compare to the typical shopping “duration” in a Whole Foods?</li><li>• Was available on-street parking evaluated during use of the adjacent ball fields? How might the project affect on-street parking during those periods?</li></ul> | <b>19</b> |
| Recommendation TRANS-4 (page 127): these measures, including increased bike parking and employee shower and locker facilities, should be converted to a mitigation measure to address some of the impacts from increased auto trips.  | <b>20</b> |
| Mitigation Measure TRANS-13 - this measure should be revised to specify that no construction traffic will be allowed on Jackson between Buchanan and Monroe due to Oceanview Elementary School and related safety concerns.   | <b>21</b> |
| <u>Air Quality</u><br>Page 146, paragraph on Smart Growth Project - this discussion does not account for the regional draw of the Whole Foods that may increase VMT and the lack of a strategy  | <b>22</b> |

|   |                     |
|---|---------------------|
| to encourage alternative transportation use by residents or shoppers. In addition, since the housing is for seniors and includes assisted living units, its proximity to centers of employment will not have a notable improvement on commuting VMT.  | <b>22<br/>cont.</b> |
| <u>Global Climate Change</u><br>General comment - correct any references to “tons” where “metric tons” is intended, as both terms are used throughout the chapter.  | <b>23</b>           |
| Page 158, paragraph on Albany emissions - assume that city emitted 83,429 <u>metric tons</u> (the unit of measure is missing).  | <b>24</b>           |
| Page 159, Kyoto Protocol - this paragraph does not state whether the U.S. is a signatory to the protocol.   | <b>25</b>           |
| Page 161, Local Policies - it should be noted that the City of Albany has a Green Building Standard that includes a requirement for LEED Gold certification for new commercial construction greater than 5,000 square feet. The energy and water efficiency aspects of LEED certification will help reduce the GHG emissions.   | <b>26</b>           |
| Page 166, 4th paragraph - because the project includes a large grocery store, refrigerant use could be significant. Information on typical quantities of refrigerant use should be available from other Whole Foods grocery stores and emissions should be estimated using typical leakage and recharge rates.  | <b>27</b>           |
| Impact GCC-1 (page 167) - this impact states “policies included in the project may conflict with applicable plans etc.” It is not clear what project policies are being referenced; please specify.   | <b>28</b>           |
| It is not clear if the net loss of mature trees has been incorporated into the estimated GHG emissions; please clarify.   | <b>29</b>           |
| Mitigation Measure GCC-1 - This mitigation measure does not meet the requirements in Section 15126.4 of the Guidelines because it has no performance standards and is not enforceable. Either performance standards/enforcement process should be added or it should be noted that the measure cannot be imposed. The LEED certification included in Albany’s Green Building requirements would define specific performance thresholds for recycling, use of local and green materials, minimum energy efficiency, alternative transportation strategies, etc. These should be considered to establish more specific mitigation measure performance requirements so that actual reductions in GHG emissions are achieved. | <b>30</b>           |
| <u>Noise</u><br>Page 178, General Plan noise policies - provide the noise levels from Noise Policy CHS 4.1 Table 1, since these levels are used in the impact analysis (page 187).  | <b>31</b>           |

|   |    |
|---|----|
| Page 178, Existing Ambient Noise Levels - indicate that October 9, 2008 was a Thursday.   | 32 |
| Page 180, Existing Railroad Noise Levels - please provide a figure showing the 60 dBA Ldn noise contours for BART and the Union Pacific railroad line relative to the project site.   | 33 |
| Page 184, Stationary Noise Impacts - the significance criterion regarding substantial temporary or periodic increase in noise levels is intended to capture sudden, unusual noise that is noticeably different than ambient noise levels (regardless of local standards). If loading docks are used during the nighttime, they could disturb residents along Jackson Street. Additional analysis should be provided - when are deliveries expected to occur; where is the expected limit of the occasional 65 dBA Lmax in the residential areas (per a map); etc.   | 34 |
| Page 187, noise increase along Monroe Street - another reason the traffic noise level increase is less than significant, per the significance criteria on page 183, is that the <u>existing</u> noise level is less than 60 dBA Ldn (so the increase of more than 3 dBA is not significant).  | 35 |
| <u>Biological Resources</u><br>Page 197, last paragraph - there is a reference to a Codornices Creek "bypass," which is not described nor included on Figure IV.E-1. Please provide a description.  | 36 |
| Pages 205-206 - several landscaping conditions are listed here that are apparently needed to ensure that the project does not result in significant impacts to migratory birds or wildlife corridors. <ul style="list-style-type: none"><li>• If this is the case, then this should be identified as a significant impact and the conditions incorporated into a mitigation measure.</li><li>• A condition should be added to revegetate riparian areas with native species consistent with the Lower Codornices Creek Improvement Plan.</li><li>• Add a reference to mitigation measure BIO-2 regarding nesting birds.</li></ul> | 37 |
| <u>Hydrology and Water Quality</u><br>Impact HYDRO-3 - although the impact statement references an increase in runoff volume, the analysis does not address runoff quantity; at least a brief discussion should be added.   | 38 |

**COMMENTS B17**

**Andrea Gardner**

**No date**

- Response B17-1: Comments offered at the scoping session and in formal letters in response to the Notice of Preparation (NOP) were many in number of spanned each of the six main environmental topic areas addressed in detail in Chapter IV of the Draft EIR. The scoping period comments informed the background research and environmental analysis presented in the Draft EIR at dozens of locations. The *CEQA Guidelines* do not suggest that EIRs cross reference each early-stage question or comment with a location in the Draft where it is addressed.
- Response B17-2: While the City and EIR authors may disagree with the commenter's assertion that the "Existing Zoning" alternative should be re-named as the "No Project" alternative, such a change would have no practical effect, as the Existing Zoning alternative is already analyzed in the Draft EIR (pp. 229-232) and one need only look there to see the outcome of that scenario.
- Response B17-3: The commenter's opinions and suggestions about the project objectives are noted. However, incorporation of any of the objectives from the 2004 *Subsequent Focused EIR for the University Village and Albany/Northwest Berkeley Properties Master Plan Amendments* would not be appropriate as that document is a programmatic EIR prepared for the master plan amendments and the "project" (as viewed from a CEQA perspective) that is addressed there is quite different from the project-specific considerations of the current University Village at San Pablo Avenue Project.
- Response B17-4: Figure III-3 (Draft EIR, p. 39) is hereby revised on the left-hand (northern) side of the figure to delete the word "community" and correct the conjunction "of" which should have said "or". This very minor change in the graphic is consistent with the text of the Project Description in the Draft EIR. A revised version of Figure III-3 is provided in Chapter IV of this Response to Comments document.
- Response B17-5: The City appreciates this insightful comment but notes that it relates to a design issue that would more appropriately be addressed at the time of the Planning Commission's consideration of the project. It does not concern the Draft EIR's adequacy and there is no reason to think that adequate bicycle parking could not be provided on the site; no further response is necessary.
- Response B17-6: See Response to Comment B17-5.

Response B17-7: The use of signal warrant 3 (peak hour volumes) is consistent with other recent environmental documents prepared in Albany, Berkeley, and other nearby jurisdictions. Considering that the traffic operations analysis was conducted for the peak hour, the peak hour signal warrant criterion is appropriate.

Please see Response to Comment A3-3 regarding encouraging the use of non-automobile transportation modes.

Response B17-8: The following text revisions are hereby made to page 53 and 54 of the Draft EIR:

- *Buchanan Street* is a two to four-lane east-west arterial that extends west of I-80/580 to San Pablo Avenue in the east in Albany. On-street parking is allowed on some segments of the westbound direction. There is a posted speed limit of 25 miles per hour. ~~Trucks are prohibited on Marin Avenue~~
- *Marin Avenue* is a two-lane east-west arterial with a center two-way left turn lane. It extends from Buchanan Street in the west and continues to Grizzly Peak Boulevard in the east. Marin Avenue has fronting single-family residential uses with on-street parking and bicycle lanes on both sides and a posted speed limit of 25 miles per hour. Trucks are prohibited on Marin Avenue east of San Pablo Avenue.

Response B17-9: The methodology used for the roadway segment LOS analysis, as required by the Alameda County Congestion Management Agency (ACCMA), is described on page 105 of the Draft EIR. As described there, the methodology is based on a volume-to-capacity (v/c) ratio and assumes a per-lane capacity of 2,000 vehicles per hour per lane for freeway segments and 800 vehicles per hour per lane for surface streets. The methodology is different from the methodology used to evaluate intersection operations which is based on average intersection delay and is calculated based on a number of inputs including volumes for all movements at the intersection, lane configuration at the intersection, and signal timing parameters for signalized intersections. In addition to the differences in analysis methodology, the traffic volume forecasts used for the ACCMA required roadway segment analysis are different as described on page 105 of the Draft EIR. Due to differences in analysis methodology and traffic volume forecasts, the two analyses may produce different results. However, as described on page 106 of the Draft EIR, the impacts identified in the roadway segment analysis along northbound and southbound San Pablo Avenue are consistent with the findings of the intersection LOS analysis.

Response B17-10: Please see Response to Comment B17-7 regarding the use of the peak hour signal warrant. Warrant 3 (peak hour volumes) was selected as one of the criteria to determine significant impacts at unsignalized intersections because

the traffic operations analysis was conducted for the peak hours; therefore, the peak hour volumes are available for analysis. However, as described on page 72 of the Draft EIR, the full set of warrants should be considered as part of the evaluation to install a traffic signal. In addition, meeting one or more of the signal warrants is not, in itself, a reason to signalize. While not necessary for a complete CEQA document, City staff intends to undertake further signal warrant analysis as part of project review.

Response B17-11: Please see Response to Comment B15-12 regarding traffic operations at Marin Avenue/San Pablo Avenue intersection.

Page 73 lists the planned and proposed roadway improvements in the project area. Only the improvements at Buchanan Street/Jackson Street intersection were included in the Near-Term (2015) and Cumulative (2035) conditions analyses.

Response B17-12: Please see Response to Comment B12-35 regarding the use of pass-by trips during the weekday AM peak hour. In addition, considering that the Draft EIR identifies significant impacts at the major study intersections, it is unlikely that a lower pass-by rate for weekday PM or Saturday peak hours would result in additional impacts.

Response B17-13: As shown in Table IV.A-11 on page 89 and described on page 90 of the Draft EIR, different pass-by rates were used for the Whole Foods Market and the retail components of the proposed project. The average pass-by rates for supermarket land use as published in the ITE *Trip Generation Handbook, 2<sup>nd</sup> Edition* were used for the Whole Foods Market component of the project and the ITE published average pass-by rates for shopping center land use were used for the retail component of the proposed project. ITE provides an average pass-by rate of 36 percent for supermarkets during the weekday PM peak hour. Since ITE does not provide average pass-by rates for weekday AM and Saturday peak hours, the PM peak hour rate was applied to these time periods. For the shopping center land use category, ITE provides average pass-by rates of 34 percent for weekday PM peak hour and 26 percent for Saturday peak hour. Since ITE does not provide average pass-by rates for weekday AM peak hour, the PM peak hour rate was applied.

Response B17-14: The Harrison Street/San Pablo Avenue intersection is not expected to meet the peak hour signal warrant (warrant 3) under Existing Plus Project or Near-Term (2015) Plus Project conditions as described on pages 95 and 98 of the Draft EIR. The peak hour signal warrant would be met if the traffic volumes on the side-street stop-controlled Harrison Street approaches were higher. Other MUTCD signal warrants were not evaluated because data required for the analysis cannot be easily forecast. However, the intersection would meet the peak hour signal warrant under Cumulative (2035) Plus Project conditions as described on page 104.

- Response B17-15: Mitigation Measure TRANS-1 and other mitigation measures were evaluated using the Synchro software. The LOS worksheets are provided in Appendix B-2. The Marin Avenue/San Pablo Avenue intersection would operate at LOS D during the weekday AM and PM peak hours and LOS C during the Saturday peak hour under Existing Plus Project conditions with the implementation of Mitigation Measure TRANS-1 which consists of optimizing traffic signal timing and coordination parameters.
- Response B17-16: The Dartmouth Street/San Pablo Avenue intersection is not expected to meet the peak hour signal warrant (warrant 3) under Existing Plus Project, Near-Term (2015) Plus Project, or Cumulative (2035) Plus Project conditions. The peak hour signal warrant would be met if the traffic volumes on the side-street stop-controlled Dartmouth Street approach were higher. Other MUTCD signal warrants were not evaluated because data required for the analysis cannot be easily forecast. However, Option 2 of Mitigation Measure TRANS-12 includes the signalization of this intersection.
- Response B17-17: Please see Response to Comment A3-3.
- Response B17-18: As described on page 121 of the Draft EIR, SimTraffic software was used to analyze traffic operations under Option 2 of Mitigation Measure TRANS-12 (signalization of Dartmouth Street/San Pablo Avenue intersection). Synchro was used to analyze traffic operations for the majority of the analysis and to identify potential significant impacts. SimTraffic is a traffic operations microsimulation software based on the behavior of individual vehicles that provides a more detailed analysis than Synchro. Considering the close spacing on San Pablo Avenue between Dartmouth Street and Monroe Street, and potential effects of a new signal at Dartmouth Street on traffic operations at Monroe Street, SimTraffic was used to provide a more refined analysis that better simulates these complex conditions. The results of the SimTraffic analysis are summarized in Tables IV.A-20 and IV.A-21 on page 122 of the Draft EIR.
- Response B17-19: As stated in the comment and considering the estimated trip generation and parking demand, the average shopping trip to the Whole Foods Market would be just over 20 minutes. Some shoppers enter and exit in only a few minutes while others take more than 30 minutes. This is consistent with operations at typical grocery stores. The key point in regard to parking though, is that there would generally be sufficient supplies to accommodate store customers. Also, it should be noted that recent revisions to the *CEQA Guidelines* (December 30, 2009) and the State's suggested Environmental Checklist have deleted the previously long-standing question about whether a proposed project would "Result in inadequate parking capacity". Thus, a simple mismatch between vehicular parking demand and supply is no longer likely to be found a significant adverse impact under CEQA.

See Response to Comment B12-42-e regarding parking demand generated by the playing fields and Recommendation TRANS-3 which includes identification of appropriate off-street parking supply for the playing fields.

Response B17-20: Since lack of bicycle parking would not trigger any of the significance criteria listed on page 86 of the Draft EIR, the bicycle parking improvements in Recommendation TRANS-4 are provided as a recommendation, rather than a mitigation measure. In addition, as described in Response to Comment A3-3, these improvements would not be adequate to reduce the significant traffic impacts to less-than-significant levels.

Response B17-21: The comment suggests prohibiting construction trucks on Jackson Street between Monroe and Buchanan Streets. Mitigation Measure TRANS-13 on page 127 of the Draft EIR requires the preparation and approval by the City of a Construction Traffic Management Plan prior to start of construction.

Response B17-22: The significance criterion this comment refers to is “Would the project conflict with the applicable Clean Air Plan.” As discussed on pages 145 and 146 of the Draft EIR, the proposed project would be consistent with the land use assumptions used in Clean Air Plan, and therefore, the proposed project would be consistent with the Clean Air Plan.

The Draft EIR accounts for increased VMT and associated emissions that would occur as a result of project. The comment does not provide support for the concept of the “regional draw of the Whole Foods Market that may increase VMT.” Other Whole Foods Markets are located within 5 miles of the proposed project, as well as in Oakland and San Francisco. The proposed project could reduce the length of trips that residents of the City of Albany travel to existing Whole Foods Markets. The proposed project is an infill development located within proximity to transit and is a mixed-use development; these features are anticipated to reduce overall VMT.

Response B17-23: There are references to both “metric tons” and “tons” listed in Section IV.C, Global Climate Change; however, these references are correct. For example, the City of Albany GHG Inventory was reported in “tons”, not “metric tons.” The emissions were reported in a manner consistent with the City of Albany report. The Climate Action Plan, developed after the Draft EIR, updates this information and uses “metric tons,” consistent with other reports. Construction emission are correctly presented as 1,060 tons, which is the output provided by URBEMIS 2007. For comparison to other results, the construction emissions would be equivalent to approximately 965 metric tons.

Response B17-24: Please see Response to Comment B17-23.

Response B17-25: The United States is a signatory to the Kyoto Protocol (November 12, 1998), but has not ratified the Protocol. The signature does not bind the United

States to the requirements of the Protocol, and the provisions are not enforceable unless the Protocol is ratified.

Response B17-26: The City of Albany Green Building Standards are listed as part of Mitigation Measure GCC-1.

Response B17-27: On December 9, 2009 (after the Draft EIR was published), the Air Resources Board (ARB) approved “The Management of High Global Warming Potential Refrigerants for Stationary Sources” regulation (known as the Refrigerant Management Program). The Refrigerant Management Program was developed to implement an early action measure to reduce GHG emissions from refrigerant equipment through refrigerant leak detection and monitoring, leak repair, system retirement and retrofitting, reporting and recordkeeping, and proper refrigerant cylinder use, sale, and disposal.

The details regarding refrigerants to be used within the project site are unknown at this time. However, based on refrigerant systems typically used in supermarkets, the proposed project could use between 200 and 2,000 pounds of a high-GWP refrigerant.<sup>7</sup> Using the BAAQMD GHG Model (BGM), it is estimated that the proposed project could generate up to 292 metric tons of CO<sub>2</sub>eq per year.

On January 1, 2011, the regulation is scheduled to go into effect. The proposed project would then be subject to timelines and requirements of the Refrigerant Management Program, reducing GHG emissions related to refrigerant use.

Response B17-28: The impact is intended to refer to the implementation of the project. The following text revision is made to pages 16 and 167 of the Draft EIR:

“Impact GCC-1: ~~Policies included in t~~The project may conflict with applicable plans, policies and regulations of other agencies to the degree that GHG reduction goals may not be met. (S)”

Response B17-29: Please see Response to Comment B7-3.

Response B17-30: Please see Response to Comments B12-31 and B12-32.

Response B17-31: The requested table is provided as Appendix A to this Response to Comments document.

<sup>7</sup> Air Resources Board, 2010. Frequently Asked Questions. Refrigerant Management Program. May. Available at [http://www.arb.ca.gov/cc/reftrack/refrigerant\\_management\\_program\\_faq\\_10may10.pdf](http://www.arb.ca.gov/cc/reftrack/refrigerant_management_program_faq_10may10.pdf).

Response B17-32: The following text revision is made to page 178 of the Draft EIR:

**(1) Existing Ambient Noise Levels.** An LSA noise technician conducted short-term ambient noise monitoring on the project site on October 9, 2008 (a Thursday) between the hours of 2:00 p.m. and 4:00 p.m. at three separate locations on the project site. [paragraph continues]

Response B17-33: The proposed project is located more than 2,000 feet east of the railroad line and more than 1,500 feet from BART. Due to the distance and intervening structures between the project site and the noise source, the project site is not located within any of the 60 dBA noise contours for these sources. Please refer to the City of Albany General Plan technical appendix for noise contour data.

Response B17-34: Large truck deliveries to the Whole Foods Market would take place from the loading dock in the rear of the building immediately north and slightly east of the existing “T” intersection of Monroe Street and 10<sup>th</sup> Street. As discussed in the Draft EIR, Chapter IV.D Noise (p. 184), the nearest sensitive receptors for noise generated in the loading dock area would be the University Village multi-family housing located over 500 feet west of the dock area (across Jackson Street). As summarized there:

“At this distance these residential land uses could experience noise levels from delivery truck activities ranging up to 55 dBA, with noise levels occasionally reaching 65 dBA  $L_{max}$  for brief moments. However, these noise levels would not exceed the City’s nighttime stationary noise level standard...of 65 dBA for more than 1 minute within any one hour time period at the receiving property line of the multi-family residences located on Jackson Street.

The Draft EIR analysis goes on to address the senior housing component of the project by stating:

“While the proposed residential senior housing component of the project would also be located close to these stationary noise sources, the proposed design of the market on Block A of the project site would shield this residential land use from direct exposure to the loading dock facilities. Thus, noise impacts from delivery loading/unloading activities would be considered less-than-significant and mitigation would not be required.”

Response B17-35: Comment noted. No further response is required.

Response B17-36: The bypass referred to in this descriptive paragraph about the Lower Codornices Creek Improvement Plan Project and its wetland delineation is located far west of the project site and would not show on Figure IV.E-1. It

was apparently constructed for flood control purposes, but does not relate directly to the proposed project.

Response B17-37: The components of the landscaping plan described in these bullet points are standard City of Albany conditions of approval that will be imposed on the project by the City. Some are already reflected in the conceptual site plan for the project, but all would be required in the landscaping plan. They are not mitigation measures recommended by the Draft EIR.

Response B17-38: As described on pages 214 and 215 of the Draft EIR, new development that would create or replace more than 10,000 square feet of impervious surfaces would be subject to Provision C.3 of the Water Board order. The proposed project would create or replace more than 10,000 square feet of impervious surface and therefore would be required to meet all the terms of the permit which include (but not limited to) numeric sizing criteria for pollutant removal treatment systems, operation and maintenance of treatment measures, and limitation on increase of peak storm water runoff discharge rates (see Draft EIR, page 215 for a more detailed description).

As described on pages 215 and 216 in the Draft EIR, construction of the project would be similarly regulated under the Construction General Permit for Discharges of Storm Water Associated with Construction Activity (CGP). A Storm Water Pollution Prevention Plan (SWPPP) must be developed and implemented for each site covered by the CGP. Required elements of the SWPPP are described there.

Mitigation Measure HYDRO-3 references runoff quantity by including language such as:

“...Increases in runoff flow and volume shall be managed so that post-project runoff shall not exceed estimated pre-project rates and durations, where such increased flow and/or volume is likely to cause increased potential for erosion of creek beds and banks...or other adverse impacts to beneficial uses due to increased erosive force. Such management shall be through implementation of the hydromodification requirements of Provision C.3.F of Order No. 2003-0021 as amended. These features shall be included in the project drainage plan and final development drawings...

The final design team for the project shall review and incorporate as many concepts as practicable from...the California Storm water Quality Association’s *Storm Water Best Management Practice Handbook, Development and Redevelopment*, and the Alameda County Clean Water Program (ACCWP) technical guidelines.”

**Amber Curl**

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**From:** Julie Griffith [migriffi@pacbell.net]  
**Sent:** Thursday, August 20, 2009 6:13 PM  
**To:** Amber Curl  
**Subject:** UC Village EIR Comment

I'd like to go on record as opposing the Whole Foods plan, due to the traffic congestion and the high cost of shopping at Whole Foods. Have the Albany demographics been shown to support this expensive store, when Trader Joe's, the EC Plaza Farmers' Mkt., Albertson's, & Safeway are so near? I'd go to the new Berkeley Bowl West, before "Whole Paycheck."

Which of the population of Albany will be shopping at Whole Foods? The UC Village residents? The working class poor? I'm guessing just the hills folks, and they don't have to live near the store, just come down from the hills & then go back up.

Secondly, I seem to remember Target promising to mitigate the traffic on Buchanan St., by funding a solution at the Gilman St. exit. Did Albany ever follow up on this, as nothing's been done at the Gilman St. fiasco. I don't trust that a Whole Foods on the UC site won't make the whole Buchanan/Marin corridor a nightmare.

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| 2

Julie Griffith  
10-Year Resident  
Jackson St. on Albany Hill

## COMMENTS B18

**Julie Griffith**

**August 20, 2009**

Response B18-1: The commenter's opinions about the potential customers of the Whole Foods Market are noted but do not relate to the adequacy of the information or analysis within the Draft EIR. No further response is required.

Response B18-2: As described on page 73 of Section IV.A, Transportation, Circulation and Parking, of the Draft EIR, at the time of the transportation analysis for this proposed project, improvements to the Gilman Street/I-80 Interchange (Intersections #13, 14 and 15) were still in the preliminary design phase and did not yet have full funding. Therefore potential future improvements there were not assumed for the analysis in the Draft EIR. Other comments related to Target Stores and the City of Albany do not relate to the adequacy of the Draft EIR; no further response is necessary.

As described on page 49 of Section IV.A, Transportation, Circulation and Parking, of the Draft EIR, the effects of the proposed project on roadways and intersections along the Buchanan Street/Marin Avenue corridor are a focus of the analysis. Seven intersections, numbered 2, 3, 4, 5, 6, 7 and 8 in the text and illustrated in Figure IV.A-1 (p. 50) were specifically measured and analyzed. Those intersections include the following:

2. Buchanan Street/I-80/I-580 Westbound ramps
3. Buchanan Street/I-80/I-580 Eastbound ramps
4. Buchanan Street/Eastshore Highway
5. Buchanan Street/Jackson Street
6. Buchanan Street/San Pablo Avenue
7. Marin Avenue/San Pablo Avenue
8. Marin Avenue/Masonic Avenue

These intersections are the subject of detailed analysis under the following six future scenarios:

- Scenario 1: Existing Conditions
- Scenario 2: Existing Plus Project Conditions
- Scenario 3: Near-Term (Year 2015) No Project Conditions
- Scenario 4: Near-Term (Year 2015) Plus Project Conditions
- Scenario 5: Cumulative (Year 2035) No Project Conditions
- Scenario 6: Cumulative (Year 2035) Plus Project Conditions

Please see Section IV.A, Transportation, Circulation and Parking, for a detailed presentation of the effects of the proposed project on roadways and intersections along the Buchanan Street/Marin Avenue corridor.

**Amber Curl**

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**From:** Eileen Harrington  
**Sent:** Friday, July 31, 2009 8:44 AM  
**To:** Amber Curl  
**Cc:** Jeff Bond  
**Subject:** FW: For Planning and Zoning Commission

Hi Amber:

This came into our Cityhall email box for the planning and zoning commission with the exception of Dave Arkin as noted below. Can you forward to your commission members?

Thanks,  
Eileen

-----Original Message-----

From: Nick Pilch [mailto:nicky@mindspring.com]  
Sent: Thursday, July 30, 2009 7:34 PM  
To: City General Email Box  
Subject: For Planning and Zoning Commission

[Please forward to the Planning and Zoning Commission, but please exclude Commissioner Arkin from this email as he has to recuse himself from the discussion of this particular matter]

Commissioners,

I wanted to make some formal corrections to my remarks made the other evening concerning the UC Village Development. I had to leave before your discussions on the matter, but fortunately, Amy Smolens of Albany Strollers and Rollers was there and was able to correct my errors and provide clarification. But for the record, here is an important correction to my statements:

For the crossing of Dartmouth at San Pablo, we favor option 2 first (a fully signalized intersection), then option 1, and then option 3. We find option 4 unacceptable.

Thank you for your time and consideration.

Nick Pilch, Albany Strollers and Rollers  
--

Nick Pilch / nicky@mindspring.com  
Yahoo IM: npilch  
GTalk: npilch

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**COMMENTER B19**

**Eileen Harington (forwarding Nick Pilch)  
July 31, 2009**

Response B19-1:       The commenter's preference for option 2 of the San Pablo Avenue crossing is noted. No further response is required.

**Amber Curl**

**From:** Ming Lee [mlee@mingleearch.com]  
**Sent:** Friday, August 21, 2009 3:21 PM  
**To:** Amber Curl  
**Subject:** U-Village comment

Dear Amber

Based on the Southeast corner axo rendering of Block B, the facades of the Senior housing beyond the retail units likely will be visible from San Pablo Ave and beyond. If those facades are built out similar to what's shown, we will see some character-less stucco walls from the street rising above the lower retail units. It will be a shame if we have an end result similar to those mustard-colored townhomes near Solano and San Pablo.

1

Likely the following has been brought up, but here goes: maybe the roofs of the retail units can be accessible garden terraces for seniors, and after adding some 7' high pergola-like structures along the parapets facing San Pablo you can also block/screen out the bland senior-housing walls?

2

Or why not distribute the senior housing over the retail units? By adding another story here the Block's elevation will now be similar to the existing two story commercial facades along San Pablo and effectively get the volume down a bit on all other sides of the block. Also, now there won't be an additional story above blocking out sunlight coming into courtyards above the podium.

3

Ming Lee

**MING LEE**  
ARCHITECTS

1109 DARTMOUTH STREET  
ALBANY CA 94706  
415 350 0800  
866 458 1731 FAX

WWW.MINGLEEARC.COM

**COMMENTS B20**

**Ming Lee**

**August 21, 2009**

Response B20-1: The comment appears to refer to Figure III-5 of the Draft EIR (p. 42). Potential aesthetics impacts are addressed in the CEQA Initial Study/Environmental Checklist (Appendix A of the Draft EIR) on pages 3-11. Included there are three visual simulations, two of which show the before and after views of the proposed project's San Pablo Avenue frontage. Figure 2 (visual simulation of the proposed project from San Pablo Avenue looking northwest) illustrates the appearance of the senior housing component of the proposed project. Due to the substantial setback of the housing units above and behind the one-story retail component of the project, they would only be as visible as Figure 2 illustrates. The conclusion of the analysis of this view is as follows (Appendix A, p. 8): "Implementation of the project would not significantly degrade the visual character of the project site or the surrounding area."

It should be noted that the proposed project would be subject to the City's design review process.

The commenter's opinions regarding design details of the housing component of the proposed project are noted, but do not relate to the adequacy of the information or analysis within the Draft EIR. No further response is required.

Response B20-2: Please see Response to Comment B20-1.

Response B20-3: An alternative such as that suggested in this comment would not ameliorate any of the significant impacts of the proposed project that are set forth in the Draft EIR. It suggests a variation in the design of the project and would be best addressed during the City's design review process.

CITY OF ALBANY

OCT 05 2009

COMMUNITY DEVELOPMENT  
DEPARTMENT

October 5, 2009

Re: UC Village/Whole Foods/Senior Housing Mixed-Use Development Environmental Impact Report

I write this letter to you in response to your findings for both the proposed commercial venture on the University of California public lands and the partial statement of findings for environmental 'unavoidable' impacts that this project, as it is described, will certainly generate. Please note that elements of the project are missing, such as specific businesses and practices, so a full description of these single, combined, and cumulative impacts is not available to the public for review. As a citizen, I am not able to fully and completely respond to information which is missing, such as legal obligations of the land holder, and the actual businesses which would occupy the land. I understand that this is the whole point of this review process: to respond to environmental impacts perceived as projected. This is not fully possible, because this is not an all-inclusive document which has been prepared.

1

For this reason, and others which follow, I find that this report is inadequately prepared. This statement is supported by the piece-mealing of proposed development into sections, such as the project listed above, and the piece-mealing of land holdings by the current title holder, which continues to ignore cumulative future impacts for development and more 'unavoidable' environmental impacts both within UC's total holdings within the UC Village/Gill Tract area COMBINED within a larger urban context for even more development with 'unavoidable' environmental impacts. In the age of climate change crisis and current developing standards to prevent this crisis, the negligence of piece-mealing land for development is outrageously irresponsible and is a gross violation of our human rights and of the rights of the environment. To protect us from any further harm and damage as we plan our communities for the future must be our highest moral and practical goal. This review process is integral to this prevention of environmental damage. The project you are proposing supports more 'unavoidable' environmental damage with apparent economic intent. I do believe that this is illegal.

2

By reference to the human rights of this community and to the rights of future generations to enjoy a safe and healthy environment, this project fails by its own admission of 'unavoidable' environmental impacts. These rights are clearly outlined in our constitution. They are not fictitious nor should be constructed as such. We have the moral and legal obligation to sustain human rights in each and every situation. These are principles on which the United States was founded.

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It follows in addition that the Regents of the University of California were obliged with a mission when the University was created. The primary mission of the University is teaching, research, and public service. The lands and funds that the University of California were given and by its own purchase are tax-exempt status for this reason. The lands also were purchased and donated by and to the University for the basic reasons of protecting the public trust of belief in these fundamental mission statements.

Furthermore, the University is holding the lands in a public trust as the basis for this mission. The University of California is violating its mission by proposing to use public lands for its own economic gain which do not support this fundamental mission. The details of purchase or lease of the said proposed development have been obscured and remain unavailable to the public in spite of multiple requests to furnish this information. I do believe that the University is attempting to use public lands for its own gain, and not in the best interest of the public good, research, teaching, nor service.

In 1928, the University of California purchased the 109 acres Gill Tract, wherein the proposed project currently lies. There are stipulations about the use of said lands both in the understanding and promissory agreement of the sale from the Gill Family to the University and the College of Agriculture. There are also stipulations about maintaining agricultural research facilities on these lands as the basis for the land-grant mission. What the University has done since 1928 is a systematic and methodical piece-mealing of this public trust land and has increasingly manipulated its mission statement accordingly to validate these actions. This proposed project does not furnish any of these materials in this background documentation nor any discussion of such. The University may choose to continue to dismiss its relevance and legal obligations to the citizens of California, as it did in the 2003 EIR of the area. However, the relevance to this development and past and future plans and projects on this land cannot be ignored. It is in direct violation of laws which protect the public trust of these lands and which protect our human rights, environmental rights, and the rights of future inhabitants of this area. If the University has become a private corporation, then changes to its tax-exempt status and mission statement should be made so that there is clarity about the intent and motivation for developing this land.

In the context and crisis of climate change, this ignorance of responsibility is irreprehensible.

The Environmental Impact Review process fails by its own process to protect. By using this process as an instrument to neglect responsibility to protect human rights and the rights of the environment and future generations, a process is supported which clearly suggests that 'unavoidable' environmental impacts are righteous and allowable. I disagree. I believe it is unlawful. It is using a process to dismiss rights and structuring a discussion of rights in this review process to a determined end: specifically, that we should bear the health and safety and environmental costs for the University's specific economic gain.

Further, you are asking the public to review portions of this project, such as the Senior Housing and Mixed-Use Retail, with no clear details of the actual businesses in those spaces. Citizens of this community have the right to know this information so that we can make informed decisions about real projects, and not formulaic projections, made

fictionous, by unknown, as of yet, businesses. There is no discussion about 'production miles' which is an inherent quantifiable number of greenhouse emissions used to create each and every item of product. In order to make this a credible document for environmental review, this must be included for each business being considered in this application. As of late, Whole Foods' statement remains private and unavailable for public review. The other businesses suggested in this application are ambiguous to the point of not being able to quantify any or all of the 'production miles' for their products and services.

5

As a citizen of the State of California, I object to this project by virtue of its ignorance and violation of my rights for a safe and healthy environment and by virtue of the violation of the original intent of the land-grant mission statement of the University of California. I do require that there be a full discussion of the University's legal land-grant obligations to the citizens of California, which is inherently missing from this review process. I also ask that this Environmental Review process be expanded to reflect the changing standards to halt climate change both at city, state, federal, and international levels. As it is now, none of this discussion is included in reason that the applicant's rights should supercede these requirements. Climate change is a crisis, and the laws protecting applicants should be reviewed to reflect this. The development rights of the applicant should not be upheld over the rights of this community to protect itself from future 'unavoidable' environmental impacts without a full disclosure and discussion about how this could be made possible with a process which purports to protect us.

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Although I did not base this letter in a 'question' format, I respectfully request a full response to the statements I have made in this letter, which clearly call for a response. If I can provide clarification to any of these statements, or provide you with the University's historical documents outlining their mission, land-grant, or specific obligations to its agricultural mission of the purchase and use of the 109 acres Gill Tract, please let me know.

8

Truly yours,  
  
Kim Linden  
1109 Stannage Avenue  
Albany, California 94706

Funds for the acquisition of this property were derived from the following sources:

|                              |                 |                    |
|------------------------------|-----------------|--------------------|
| State Appropriation 311/1923 | \$51,080.35     |                    |
| State Appropriation 121/1923 | <u>2,080.00</u> |                    |
|                              |                 | \$53,160.35        |
| Other Sources                |                 | <u>37,578.42</u>   |
| TOTAL                        |                 | <u>\$90,738.77</u> |

The cost of structures and fences is not included in the above since these can be salvaged and moved.

Two schemes of subdivision have been suggested, one yielding 93 lots generally 50 ft. x 135 ft., the other yielding 109 lots generally 45 ft. x 135 ft. Under either scheme the estimated cost of subdivision and development including surveys, supervision, engineering, combined concrete curb and gutter 2 feet wide, concrete sidewalks 6 feet wide, grading and construction of asphaltic concrete pavement between gutters, culvert across Acton Street on School House Creek, construction of sewers and general grading of site is \$30,200, or an average cost of about \$6.17 per front foot of lot. To develop Cedar Street to its full width would involve an additional cost of approximately \$3,000 for the purchase of land from the Cragmont Land Company and the Realty Syndicate Company.

The market value of the lots in this subdivision at the market price of other property in the vicinity is about \$127,000 and the deduction of sales commissions would yield a net sale value of approximately \$115,000. Consequently, the Regents of the University of California should net from the sale of the property between \$80,000 and \$85,000. This is about the equivalent of the original cost exclusive of development, and is somewhat less than the book value. Nevertheless the values derived from the use of the property since its acquisition may be regarded as sufficient to amortize this relatively small loss.

Attention is called to the fact that State funds were appropriated to the University of California under Chapter 311, Statutes of 1923, "for the purchase of lands near the grounds of the University of California at Berkeley, and for the erection of greenhouses either on said lands so to be purchased or on other lands of the University of California at Berkeley, for use in connection with the Department of Agriculture of the University of California, and to be expended by the Regents of the University of California". In view of these conditions, it is the opinion of the Attorney for the Regents that funds which might be derived from sale of the Schmidt Tract should be definitely allocated to purposes of the College of Agriculture, at least in the amount of \$51,080.35, which is the sum used from the appropriation under Chapter 311 toward the purchase of the Schmidt property. If this be done and since Agriculture would receive more than an equivalent acreage of the Gilf Tract in exchange for the Schmidt Tract, it is the Attorney's opinion that the terms of Chapter 311 will not be violated by a sale of the Schmidt Tract and that no legislative act will be required to legalize such sales.

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## COMMENTS B21

**Kim Linden**

**October 5, 2009**

- Response B21-1: The Draft EIR describes the proposed project in Chapter III, Project Description, pages 31-46. In addition to the text description, this chapter includes five figures and several photographs. Based on the EIR authors' over three decades of experience with CEQA and EIRs, these materials represent a slightly greater than average level of detail. None of the components of a future development on the site that are raised by the commenter (e.g., "specific businesses and practices" of the smaller retail outlets, "legal obligations of the land holder") are necessary for an adequate project description or an understanding of the proposed project's potential adverse impacts under CEQA.
- Response B21-2: Please see Responses to Comments B7-2, B7-7 and B7-9 regarding the proposed project's legal, spatial and chronological relationship to planning and development on the University Village site.
- Response B21-3: The comment does not relate to the adequacy of the Draft EIR. No response is necessary.
- Response B21-4: The specific smaller retail outlets and the operators of the senior housing component are not known at this very early stage of the development. Such an arrangement, in which one key anchor tenant (e.g., Whole Foods Market) is settled and the remainder not yet known, is typical at that stage in the process. Lack of knowledge about the specific businesses that would occupy the rest of the project's space in no way inhibits our ability to conduct the environmental impact analysis. The analyses in the Draft EIR for which some assumptions regarding components of the project must be made (e.g., type of retail outlets) include transportation and the related topics of air quality and noise. See Table IV.A-11, Project Trip Generation Estimates (Draft EIR, p. 89) for a detailed presentation of these choices in the case of this Draft EIR. It should be noted that where reasonable assumptions could be made that would either underestimate or overestimate potential adverse effects, the convention used throughout this EIR has been to choose the latter course (i.e., to be conservative and ensure that potential adverse impacts are not overlooked).
- Response B21-5: The comment refers to the lack of discussion of greenhouse gas emissions related to "production miles" for each and every project. The comment addresses an issue similar to a life-cycle analysis, which would be the total emissions of a product from the time it was created until disposal. The greenhouse gas analysis followed standard methodologies available at the

time the Draft EIR was drafted to identify project-related emissions. An analysis of production miles is beyond the scope of the Draft EIR and not recommended by the Air Resources Board or the Bay Area Air Quality Management District.

Response B21-6: The comment does not relate to the adequacy of the Draft EIR. No response is necessary.

Response B21-7 The GHG and GCC analysis provided in the Draft EIR and in these responses to comments does represent the current standards that apply to the proposed project. The BAAQMD adopted revised *CEQA Guidelines* (including thresholds of significance for various pollutants) in June 2010. However, as noted there, “It is the Air District’s policy that the adopted thresholds apply to projects for which a Notice of Preparation is published, or environmental analysis begins, on or after the applicable effective date. The adopted CEQA thresholds – *except for the risk and hazards thresholds for new receptors* – are effective June 2, 2010. The risk and hazards thresholds for new receptors are effective January 1, 2011.” The NOP for the proposed project was published on March 31, 2008 and, therefore, the District’s earlier guidelines (1999) have been applied in the Draft EIR for this project.

Response B21-8: Each of the comments that raises questions or offer comments related to the adequacy of the Draft EIR is enumerated in the comment letter and addressed in the responses that precede this one. Comments that focus solely on the merits of the proposed project will be noted by City decision makers as they review these materials, but do not require further discussion under CEQA.

**Amber Curl**

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**From:** Valerie Risk [valrisk@yahoo.com]  
**Sent:** Wednesday, September 16, 2009 7:49 PM  
**To:** Amber Curl  
**Subject:** comment re: University Village EIP

Hi,

What a misleading proposal.

It appears from the IEP that UC Berkeley is hoping to pass this commercial development proposal without talking about the elephant in the room (the Gill Tract). UCB needs Albany's approval for this commercial part of the plan. It would not need Albany's approval to build student housing on agricultural land, since student housing would be within the scope of the University's jurisdiction.

This is our only chance to have input on the Gill Tract. We need to see the whole plan for Stage 3 development before we allow this to pass.

Thank you,

Valerie

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**COMMENTS B22**  
**Valerie Risk**  
**September 16, 2009**

Response B22-1: Please see Responses to Comments B7-2, B7-7 and B7-9 regarding the proposed project's relationship to planning and development on the University Village site.

**Amber Curl**

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**From:** The Roberts Family [wongroberts@sbcglobal.net]  
**Sent:** Wednesday, July 29, 2009 9:58 PM  
**To:** Amber Curl  
**Subject:** University Village Retail Mixed Use Project

Ms. Curl-

It has come to our attention that the Draft EIR for the above referenced project may have an error in need of correction. The stated existing condition for WB Dartmouth Street to NB SPA peak traffic volumes are identical to existing condition plus project volumes. Likewise with SB SPA to eastbound Dartmouth Street. As concerned residents of Dartmouth Street we request an explanation of this representation.

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Thank you for you assistance,

Michael Roberts  
510-596-4333

**COMMENTS B23**

**Roberts Family**

**July 29, 2009**

Response B23-1: As stated in the comment, the traffic analysis prepared for the Draft EIR did not assign any project automobile trips to Dartmouth Street. Please see Response to Comments A5-2 and A5-4 for more detail.

**Amber Curl**

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**From:** Catherine Sutton [catherine@sonic.net]  
**Sent:** Sunday, October 04, 2009 4:52 PM  
**To:** Amber Curl  
**Subject:** Draft EIR on building a Wholefoods Market in Albany's University Village

Dear Amber,

We would like to comment on the above proposal.

With the mitigation of carbon emissions that are causing climate change becoming an increasingly urgent priority, progress is not served by building a large grocery chain in University Village (or anywhere else).

Albany has proposed a Climate Action Plan (CAP) that attempts to reduce carbon emissions rather than increase them. This project flies in the face of the goals of the CAP. It is high time for us all to get out of the rut of "business as usual" and find ways to make Albany a place of local self sufficiency rather than relying on large chains from outside.

The building and operation of a Wholefoods Market at University Village will only increase carbon emissions and reduce Albany's longterm resilience in the following ways:

1. Through the construction process itself and the materials used. It is time to start focusing on buildings with a small carbon footprint that use passive solar design and local building materials such as cob.
2. By competing with local natural grocery markets such as Monterey Market and Natural Foods Grocery (stores that actually do a better job of selling local, sustainably grown produce) and taking profit OUT of the local economy
3. By covering unpaved land and open space - that could otherwise be used to grow food or trees, absorb rainwater that we are told will become increasingly rare, house wildlife, and emit life-giving oxygen - with inert, impermeable concrete.
4. By the sale of food that is grown conventionally (a large proportion of Wholefoods offerings), using petroleum products in every phase of the industrial farming process, from ploughing to pest control, to food processing and delivery by truck from all over the United States. The predicted rising price of gas will have an immediate impact on the feasibility of such an enterprise in any case, making it a short term enterprise at best.
5. By the sale of food labeled "organic" grown in basically the same industrial manner as above, in no way replenishing the soil it is grown on and impoverishing future generations (not to speak of confusing the public who are trying to do the right thing).
6. Through emissions and sacrificed air quality in a development with a large ratio of small children (University Village), caused by traffic from a wide area to a large store (as well as the inevitable satellite stores that will be built around it). To meet our climate action plan, we have to be thinking about reducing traffic in and through Albany, not increasing it.

1

Thank you for seriously considering these flaws to the plan.

We hope to see commonsense win against the corporate mentality that sees only business as usual through exploiting every market it can find, regardless of consequences to the environment. The fact that Wholefoods Market would like people to regard it as a champion of the environment only makes this proposal the more distasteful and egregious.

*Letter*  
**B24**  
*cont.*

Catherine Sutton and Leonard Edmondson  
943 Madison Street  
Albany

**COMMENTS B24**  
**Catherine Sutton**  
**October 4, 2009**

Response B24-1: Please see Responses to Comments B3-5, B7-15 and B7-37. It should be noted that much of the text of this comment does not relate to the adequacy of the Draft EIR and that no further response is necessary.

**Amber Curl**

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**From:** jacatalina [jacatalina@earthlink.net]  
**Sent:** Sunday, October 04, 2009 11:51 PM  
**To:** Amber Curl  
**Subject:** EIR Comments October 4, 2009

October 4, 2009  
Dear Amber Curl and Members of the Albany City Council,

This is in response to the University Village Draft EIR Commenting Period.

We do not believe that the EIR addresses the needs of our community and request that the City Council gives further explanation about the land use surrounding the properties of the Gill Tract. This means you need to hold off of any action until we are satisfied with all the EIR results.

We, the undersigned, believe you need to save the pristine agriculture land of the Albany Gill Tract for farm lands, sustainable food systems, community gardens, fighting global warming, farmer's markets, school garden programs and a local cooperative market selling produce grown on the Gill Tract.

1

Twelve tons of carbon dioxide is removed from Albany air annually because of the organic Gill Tract soil. The soils capture the carbon from the CO2 and stimulates plant growth.

We Albany citizens do not want a mini mall with Whole Foods and box retail stores to cement over this 100 year old cultivated land. We Albany citizens do not want 8000 more cars per day streaming down into Albany streets to reach Whole Foods.

2

People in other cities are tearing up parking lots to make more community gardens and we have this pristine urban land here now that can fulfill this important function. Citizens want Community Gardens.

We want the Gill Track 16 acres to continue as URBAN FARMLAND and we want you to dismiss the EIR completely until further analysis can be provided to satisfy all the citizens of Albany.

Sincerely,  
Citizens of Albany, California

|                  |  |                          |
|------------------|--|--------------------------|
| Mark Terranouq   | <a href="mailto:mark@gidgetkitchen.org">mark@gidgetkitchen.org</a>     | 510-228-4646             |
| Sigmund Ting     | <a href="mailto:sigmundting@gmail.com">sigmundting@gmail.com</a>       | 562-682-6193             |
| Mary McKenna     | <a href="mailto:marhelenna@earthlink.net">marhelenna@earthlink.net</a> | Albany                   |
| Olgre Prone      | 1234 Talbot  |                          |
| 510-558-1454     |  |                          |
| Stan Turren      | 829 Jackson St.  |                          |
| 510-384-1421     |  |                          |
| Anne Guess       | 904 Carmel   | 510-525-5217             |
| Monica Garcia    | 509 Curtis   |                          |
| 510-559-3468     |  |                          |
| Jackie Hermes    | 1147 Portland Ave  | 510-559-8713             |
| Carol Carlisle   | 830 Jackson  |                          |
| 510-528-9310     |  |                          |
| Michael Fletcher | Albany   | <frogsurf@earthlink.net> |
| Julia Zellentin  | Albany   | <papagena001@yahoo.com>  |

**COMMENTER B25**

**Mark Terranoug**

**October 4, 2009**

Response B25-1: Please see Responses to Comments B7-2, B7-7 and B7-9 regarding the proposed project's relationship to planning and development on the University Village site and the agricultural lands on the Gill Tract (which are not part of the proposed project).

Response B25-2: The commenter's opposition to the project is noted but does not raise questions or offer comments on the adequacy of the information or analysis within the Draft EIR. No further response is required.

Comments on University Village at San Pablo Avenue Project  
Draft Environmental Impact Report  
From Ellen Toomey, Albany resident  
Submitted October 5, 2009

The Draft EIR for the proposed development at University Village makes no reference to the value of the adjacent Gill Tract land — its historic value, its current value, and its even more significant future value — soon to be more broadly understood, as climate change accelerates.

This piece of land is the last tract of land class one soil ( best arable soil possible) in the entire Bay Area. This, in addition to its unique Mediterranean climate, means it is viable for year round production of dozens of vegetable and field crops with minimal applications of organic inputs and water use.

The Gill Tract is a unique and precious resource. Preservation and enhancement of this land is incumbent on all of us who know its value. Any planning in our area which impacts the Gill Tract needs to acknowledge and support its economical, educational, and environmental value.

Its location in the midst of an urban setting makes it the ideal location for a major center of urban agriculture research, training and outreach which will benefit the entire Bay Area, and make the stated sustainability goals of the University's a sterling reality. One of the key activities of the Gill Tract would be to create local production systems that will flourish in the midst of the climate change scenarios (mainly droughts) predicted for California and thus would fit within Albany's climate action plan. Given today's needs to create local food systems, to reduce our ecological footprint, to reduce the food miles and farm without chemicals and cut our dependency on petroleum, this is our tremendous opportunity.

We do not wish to lose this opportunity and have our legacy for future generations be a void of agricultural literacy and tangible land for growing food.

**COMMENTS B26**

**Ellen Toomey**  
**October 5, 2009**

Response B26-1: Please see Responses to Comments B7-2, B7-7, B7-9 and B25-1 regarding the proposed project's relationship to planning and development on the University Village site.

**Amber Curl**

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**From:** Jonathan Walden [jonathan\_walden@hotmail.com]  
**Sent:** Thursday, August 20, 2009 3:42 PM  
**To:** Amber Curl  
**Subject:** UC Village EIR Comments

20 Aug, 2009

Amber Curl, Associate Planner  
City of Albany  
Community Development Dept.  
979 San Pablo Avenue, 2nd Floor  
Albany, CA 94706

To Whom it may concern:

These are my comments about the University Village Commercial Development EIR.

1) Pedestrian Safety

The mitigations for the impact to pedestrian safety that are proposed are not adequate. The project should physically prevent traffic to the project from passing on Jackson street past Ocean View school.

The draft EIR understates the danger to pedestrians and cyclists that would be caused by the additional traffic load from the project. It does not list the number of fatal car on pedestrian accidents that have occurred in the vicinity of the project. A girl who lived in Albany Village was killed crossing San Pablo. An elderly pedestrian was recently killed on Marin at Talbot. Additionally, it does not indicate the number of non-fatal accidents that occur with school children going to and from school. Such accidents are now quite common. The likely hours of a Whole Foods grocery store are 8am to 8pm in some stores and 8am to 10pm in other stores. The opening time of the store would be earlier enough to endanger children leaving the Albany Village to go to other schools in Albany. The planners should have made an attempt to determine how many accidents occur with these children.

The proposed population of the housing for the elderly would include slow walking people who would be in grave danger crossing San Pablo avenue.

2) Cyclist safety

The mitigations for cyclist safety should include a traffic light where the 9th street bike route crosses Cedar Street. The project will make it more difficult for cyclists to cross San Pablo avenue in Albany, and so they will be more likely to use the North South bike routes west of San Pablo to connect with Delaware Street, and other established East West bike routes in Berkeley.

The mitigations should include improvements in East West bicycle routes in Albany. In particular, the traffic lights at Solano and San Pablo should be equipped with magnetic detectors for cyclists. Currently that intersections lacks functional detectors. The intersection of San Pablo and Marin also lacks detectors for cyclists.

An East West connection for cyclists from the Bart path bikeway to the Bay Trail bikeway should also

8/24/2009

1

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be included in the project mitigations.

3) Liquor sales

The whole foods would have a negative impact on the neighborhood by increasing the number of stores selling alcohol. In the near vicinity, there are already Max's Liquors, Bev Mo, and Pyramid brewery. Alcoholism, and the availability of alcohol and cigarettes to minors are already significant problems in Albany. The mitigations should include prohibitions on sales of liquor and cigarettes.

3

4) The plan is not in keeping with the Albany General Plan. It is too tall. It adds congestion to San Pablo avenue which is already jammed in the afternoons, especially when anything bad happens on I-80. The additional traffic will harm the 72 bus line on San Pablo, which is a vital transit link for thousands of people each day. The Whole Foods would compete with existing businesses on Solano such as Zarri's, the Happy Grocery, Safeway and Andronico's. It will encourage excess driving as customers come from far away to shop there.

4

5) Whole Foods is not a good neighbor

Whole foods pays low wages, and is non-union. It's CEO, John Mackey, has attacked the rights of worker to receive health insurance, and has compared unions to the disease herpes. It is open 7 days a week, in some cases until 10pm. It does not provide any food offerings that are not already available nearby. It could hurt other local businesses that are part of our civic identity such as the Tokyo Fish Market, which is only a few blocks away, and Safeway, Andronicos, Costco and Lucky, which are union stores. Low wage workers that might be employed at the project stores themselves would require low income housing. The project does not provide any low income housing. The local demand for affordable housing would be increased. There is already insufficient low income housing in the area. The workers would be competing for low income housing with student families. Mitigations should include paying a living wage, and committing to allowing union organizing of workers.

5

6) The plan would have negative impacts on the visible aesthetics of San Pablo avenue. It would create a strip mall where there is now an open field. That reduction in aesthetic value, and the insufficient parking in the proposal would increase the likelihood of the Gill Tract farm becoming a parking lot. The project should mitigate that reduction in aesthetic value by setting back the buildings from San Pablo by 100 feet, and by placing the Gill Tract into an agricultural land trust. The 100 foot setback should be a natural, unpaved area.

6

7) Senior Housing. The senior housing should not be considered as low income housing since the university has shown disregard for the needs of low income students in the village.

7

8) Lack of Affordable Housing

UC Berkeley destroyed the previously existing low income housing that was section B. During the early 1990's, the rent there was approximately \$450 per month for a 1 bedroom apartment, and around \$500 for a two bedroom apartment. Those rents covered the maintenance costs, and the debt service. According to <http://www.housing.berkeley.edu/livingatcal/universityvillage.html>, 2009-10 Rents for East Village Apartments are 2 bed, 1 bath \$1625-1705; 2 bed, 2 bath \$1705-1850; 3 bed, 1 bath \$1850; 3 bed, 2 bath \$1930; West Village Apartments 1 bed, 1 bath \$1254; 2 bed, 1 bath \$1497; 3 bed, 1.5 bath \$1705. These rents are higher than students can afford. They are also higher than market rates. The University was warned many times that students cannot afford such high rent, and they went ahead with the demolition of Section B anyway. The University chose to ignore a report which they had commissioned about the state of the UC Village Section B housing that said it would be serviceable for several more decades. Albany Village workers who suggested preserving the Section B housing were pressured to keep their opinions quiet. I personally sat in meetings with Harry Le Grande where he suggested that students would be compensated for the higher rent through use of Section 8 vouchers and

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increased financial aid. He also said that students would have to pay village rent because rent outside the village would be even higher. He has turned out to be wrong on both points, and students have paid the price. Today the village has been opened to non-families and to faculty such as post-docs in order to fill it. <http://ucbfamilyhousing.blogspot.com/> has a good documentary movie explaining the history of rent at the Albany village, and some of the unfortunate results of University mis-management of this valuable housing resource.

8  
cont.

9) Employee and Customer Parking

In order to reduce the need for people to drive, the mitigations should include indoor bicycle parking for employees, and secure bicycle parking for customers.

9

10) Alternative Uses of the land

The University should offer the land to developers who would provide low income housing for students, since the University no longer provides that. The University would also make better use of the land if it reserved the land for buildings that are part of the university's mission, such as administrative, research, or educational facilities.

10

11) Competition

The timing for the project is not good, as there are many grocery stores that have opened recently, or will open soon. El Cerrito plaza added Trader Joes a few years ago, the Lucky there expanded, and the Berkeley Bowl West opened recently. A new Trader Joes will open soon at the corner of University and MLK in Berkeley, which is on the 52 line to the UC Village. It is not clear that we need a new grocery store, nor is it clear that a new grocery store can be profitable in the new location. It may suffer the same fate as the Andronicos that had to close in Emeryville, leaving another vacant Albany storefront.

11

12) The proposed project will not save affordable housing in the Village. It cannot produce enough income to return the village to affordability. Given the current glut of commercial space, it is likely to lose money. Will the student residents of the Albany Village be asked to pay for that loss, too?

12

13) Construction Pollution

Mitigations should include priority hiring of local businesses, and local union workers to reduce pollution related to driving.

13

Sincerely,

Jonathan Walden  
958 Cornell  
Albany, CA 94706

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Get back to school stuff for them and cashback for you. [Try BingT now.](#)

**COMMENTER B27**

**Jonathan Walden**

**August 20, 2009**

Response B27-1: The Draft EIR undertakes a detailed analysis of the number of net new vehicular trips that would be generated by the proposed project and how they would arrive at and exit from the site (See Chapter IV.A, Transportation, Circulation and Parking, pp. 49-128). It specifically evaluates the efficiency and safety of pedestrian and bicycle access and circulation on pages 114-122. Based on the analysis presented in the Draft EIR, the proposed project would not have a significant impact on pedestrians or bicycles. Please see Response to Comment A5-4 regarding potential improvements on Jackson Street and concerns over cut-through traffic and pedestrian safety in the vicinity of the project site.

The existing signal at the Monroe Street/San Pablo Avenue intersection and improvements at the Dartmouth Street/San Pablo Avenue intersection proposed by Mitigation Measure TRANS-12 Option 2 would provide protected crossings across San Pablo Avenue for pedestrians, including residents of the project's senior housing development.

Response B27-2: The comment suggests several improvements to the bicycle circulation network to mitigate project's impacts on bicycle safety. Based on the analysis conducted for the project and presented in the Draft EIR, the proposed project would not cause significant impacts on bicycle safety at these locations. Thus, there is no nexus between the suggested improvements and the proposed project.

Response B27-3: "[A]lcoholism and the availability of alcohol and cigarettes to minors" is not a physical environmental impact as defined by CEQA. First, it is arguable whether or not social concerns like these would be exacerbated by a greater number of retail sources in Albany. Second, *legal* consumption of alcohol by adults has been beyond regulation since the repeal of prohibition in 1933. Third, the sale of tobacco and alcohol products to minors is currently regulated by a series of State and local laws and policies. Therefore because no environmental impact in these regards would result from the proposed project, no additional mitigation measures would be necessary.

Response B27-4: The comment's assertion that the proposed project "is not in keeping with the Albany General Plan..." is noted. However, the Initial Study that was prepared as part of the Draft EIR (see Appendix A) addresses this question at two key points, under Section IX, Land Use and Planning (p. 33), and under Section I, Aesthetics (p. 8). The following excerpts are provided to empha-

size the conclusions of the Initial Study with regard to height of the proposed project.

The Albany General Plan designates the project site as Residential/Commercial (RC) with a Creek Conservation Zone. The RC designation allows for medium residential densities at a maximum of 34 units per acre and a maximum FAR of 0.95 for retail and office commercial development. **The current project proposes 100 senior housing units and 75 assisted living units. This would fall within the residential densities allowed within this General Plan designation.** [emphasis added] (p. 33)

As shown in the visual simulations, implementation of the project would change the existing visual character of the project site. However, existing views to and from the project site are, in many instances, obscured by existing landscaping and fencing. **Additionally, this area of San Pablo Avenue is identified as an area for development, and several City of Albany planning and policy documents call for larger scale development on this site. Implementation of the project would not significantly degrade the visual character of the project site or the surrounding area.** [emphasis added] (p. 8)

The conclusion of the Initial Study at each of these two points is that potential adverse impacts related to the buildings' heights would be less than significant.

The comment is correct that the proposed project would add to congestion on San Pablo Avenue. The proposed project's effects on specific intersections and roadway segments are provided in the Draft EIR, Section IV.A, Transportation, Circulation and Parking (pp. 88-128).

The effects of the additional traffic associated with the proposed project on travel times along San Pablo Avenue in both directions, at select times of day are shown in Table IV.A-23 (p. 123). Depending on the direction of travel and time of day, the additional time required to travel between Buchanan Street and Solano Avenue would increase by somewhere between a few seconds and nearly a minute. This would not constitute excessive delays to bus travel.

While the new Whole Foods Market may compete with other local grocery stores such as those mentioned, it is not expected that the competition would be so strenuous as to result in adverse physical impacts of the type that are referred to as "urban decay". Also, there is no reason to anticipate that location of the Whole Foods Market on San Pablo Avenue at Monroe Street would lead to greater vehicle miles travelled on the part of its customers; obviously that would depend on where its customers are located. Some

customers would find this location to be closer than other options, leading to reduced vehicle miles travelled and/or the opportunity to walk or bike to the store.

Response B27-5: The assertions in this comment regarding wages, union versus non-union labor contracts, types of merchandise offered, and civic identify are not environmental issues under CEQA.

The potential for the type and number of jobs that would be offered to lead to a significant increase in demand for “low income housing” would be small given the relatively small increase in long-term employment and currently very high levels of unemployment in the retail sector of the economy. The site’s location on San Pablo and availability of public transit would further encourage existing residents of Albany, El Cerrito and Berkeley (as opposed to immigrants moving to the area) to seek available project jobs.

Response B27-6: The issue of aesthetics is addressed in the Initial Study/Environmental Checklist (Appendix A of the Draft EIR) on pages 3-11. Included there are computer-generated visual simulations of the proposed project (both before and after) from three different viewpoints (two on San Pablo Avenue and one on Monroe Street to the west of the project site). The responses to the checklist questions regarding aesthetics detail why the proposed project would not lead to significant and unavoidable adverse impacts. On the sub-topic of light and glare, a two-pronged mitigation measure would be required (p. 8).

The comment is correct that the proposed project would convert the vacant lot of the project site to a developed site, consistent with both City of Albany and University of California policy and planning documents (see Initial Study, p. 33).

Please see Responses to Comments B7-7 and B7-9.

Response B27-7: The City is not aware of any reference in the Draft EIR to “low-income housing” when the Senior Housing component is discussed. Regardless, though, this comment does not raise a concern or ask a question regarding the adequacy of the information or analysis related to environmental impacts, no further response is required.

Response B27-8: A number of assertions are provided in this comment. However, none relate to the adequacy of the information or analysis within the Draft EIR. No further response is required.

Response B27-9: Proposed improvements to the site related to bicyclists are described and evaluated at two different points: (1) in Chapter III, Project Description, 3. Proposed Bicycle, Pedestrian and Roadway Improvements (pp. 44-45); and (2) Section IV.A, Transportation, Circulation and Parking, Bicycle Access and Circulation (pp. 117-122). Figure IV.A-15 (p. 115) shows five different

locations where bicycle parking racks would be installed. It is not known whether these facilities would be covered; however, these facilities would not need to be covered in order to mitigate any adverse impacts.

- Response B27-10: The comments relating to specific alternative uses of the land are noted. However, the City of Albany believes that the three alternatives developed and analyzed in Chapter V, Alternatives, of the Draft EIR (pp. 227-233) are adequate to inform the public and decision-makers of the relative impacts of the alternatives and the proposed project. While the ideas expressed in the comment have not be analyzed in detail, they would not be consistent with the City's and University's objectives for the project site and would also fail to achieve nearly all of the specific objectives of the proposed project (expressed in the Draft EIR in Chapter III, Project Description, p. 38).
- Response B27-11: As noted in Response to Comment B27-4, while the new Whole Foods Market may compete with other local grocery stores, it is not expected that the competition would result in adverse physical impacts of the type that are referred to as "urban decay" in the context of environmental review under CEQA. Generally, developers and retail outlets like Whole Foods Market are allowed to base location decisions on their own market research.
- Response B27-12: The comment includes several questions and/or opinions regarding affordable housing in University Village and project affordability. Currently, no occupied housing units are located on the project site. This comment does not address the adequacy of the information or analysis within the Draft EIR. No further response is required.
- Response B27-13: The comment does not relate to the adequacy of the information or analysis within the Draft EIR. No further response is required.

**Amber Curl**

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**From:** Shuwei Wang [shuweiwang84@gmail.com]  
**Sent:** Wednesday, August 26, 2009 5:20 PM  
**To:** Amber Curl  
**Subject:** comments for draft environmental impacat report

Dear Madam/Sir,

I lived in 1062 Kains Ave.

Here, I express my opposition the proposal about constructure commecial-based bulding on two grass field located to the monroe street/San Pablo Ave intersection.

We do not need anymore grocery store around here, because we can conveniently access to the other stores around this area, for instance, the stores on Solano Ave. and Gilman and San Pablo cross etc. What we do really need is nice environment and less pollution around us.

Albany city known as a famous nice, peace, safe, and environment friendly city, that is based on efforts made from the former several city governments. This city attract a lot of people come to dwell here even though it asks very high house rental.

If we changed all the green to concrete, do yo beblieve our city will quickly lost it's charm. Then who is the greatest loser? Do you think the tax from the new bult grocery stores can make up all the lose from the peoples losing confidence?

We have obligation to protect our environment where we live, and we only own one Albany city. Please consider my suggestion. Deny the proposal for all the Albany residents' welfare.

Thank you so much.

Fang Liu

**COMMENTS B28**

**Shuwei Wang**  
**August 28, 2009**

Response B28-1:           The comment offers a number of general thoughts in favor of protecting the environment and in opposition to the proposed project. However, the comment does not relate to the adequacy of the information or analysis within the Draft EIR. No further response is required.

July 28, 2009

Planning and Zoning Commission  
City of Albany

RE: UC Village Mixed Use Development Project Environmental Impact Report

Dear Commissioners:

We, the undersigned Albany citizens, are displeased with the inadequacy of the University Village Project Draft Environmental Impact Report (DEIR). Addressing this piece of development in isolation is counter-productive to collective, evolving efforts both City- and State-wide to establish future climate change prevention mandates. Our right to make decisions is based on our basic rights, and rights as community members, to determine the quality and sustainability of the place we live in and the right to make governing decisions about land uses which affect the health and well-being of ourselves and of our community. It follows that prevention of future and further climate change and reduction of current damage must be accomplished by using the most stringent and protective standards. The plan and its Draft EIR document do not consider current, pending, and future changes to Albany's General Plan 2010-2030; Albany's Climate Action Plan (CAP); Albany's Voices to Vision: Waterfront Planning Process & General Plan Information Acquisition ; and the State of California's pending California Environmental Quality Act (CEQA) greenhouse gas regulatory amendments. A comprehensive understanding and review of all said processes should be completed before any new development application is received or any Environmental Impact Report (EIR) is reviewed or acted upon.

1

We respectfully request the following actions from the Commission:

1. Suspend consideration of the UC Village Draft EIR until Albany's Vision documents (Climate Action Plan (CAP), Voices to Vision, Albany's new General Plan 2010-2030) are finalized and can be used as guidelines for approving this project.
2. Require expansion of this Draft EIR in order to examine the larger implications of this project (e.g. impacts on remaining Phase III development of the U.C. Village)

2

The majority of the citizens signing this letter appeared before you at the April 22, 2009 Planning and Zoning Commission meeting for Scoping of this Environmental Impact Report (EIR) and commented that the scope should include the entire Phase III of the UC Village Master Plan. The current project is a significant change to the land use of this property, and will doubtlessly result in future changes to other

pieces of the UC Village Master Plan. Without acknowledging this, or determining at this time what the remaining land uses could be, the Draft EIR fails to consider the cumulative impacts of this property owner's future projects on adjacent properties. The Draft EIR specifically states: **Decisions by the University of California as to future use of the Gill Tract would not be affected by the implementation of the proposed project.** Without a plan and analysis conducted for the area including the 14.6 acre Gill Tract, this statement is unfounded.

2  
cont.

The Draft EIR also fails to adequately address other cumulative impacts. It includes a voluntary section on Global Climate Change. However, the language in this section repeatedly dismisses the impacts of any given project, thereby missing the point of climate change as a cumulative impact. The section is also incomplete in its disregard for the local jurisdiction's greenhouse gas reduction target. It discusses AB 32 and state legislation, but does not mention Council Resolution 07-9 passed March 19, 2007 by unanimous vote that sets a reduction target of 25% below Albany's 2004 baseline by 2020. Albany's reduction target requires more rigorous climate action than does AB 32. That is, consistency with AB 32 reduction goals does not necessarily mean consistency with our local target. In addition, the Draft EIR asserts that the project as proposed is consistent with AB 32, but does not identify a threshold of significance:

3

As described in the Impact Global Climate Change (GCC)-1 section (p.167):  
With implementation of the elements and strategies listed in Mitigation Measure GCC-1 and application of all regulatory requirements, the project's contribution to cumulative GHG emissions would be reduced to a **less-than-significant** level. In addition, the project **would not conflict with or impede implementation of** reduction goals identified in AB 32, the Governor's Executive Order S-3-05, and other strategies to help reduce GHGs to the level proposed by the Governor.

There is a discussion about the role of setting thresholds of significance and what is required by the State, but not about thresholds in the context of this Environmental Impact Report (EIR). State guidelines allow for qualitative discussion, but we request a fuller discussion of significance levels. Upon what data is the above claim based, that mitigations would result in less-than-significant impact? What is the threshold or basis for comparison?

4

Albany's Climate Action Plan (CAP) is currently under development and review through City of Albany's Sustainability Committee and will go through public review, its own CEQA process, and adoption by early 2010. In the Climate Action Plan's (CAP) current administrative draft form, the UC Village Project would likely be consistent with the CAP, due to its proximity to transit service, its mix of commercial and residential uses, and meeting basic energy efficiency building guidelines. However, the review process for the CAP is finding that its current measures are NOT adequate to reach the 2020 reduction target. This implies that stronger, more protective measures will likely be required for any new

5

development. We must wait for this new information before reviewing or making any final comments or decisions about the UC Village project EIR. We cannot afford to miss one opportunity to set an example and a correct trajectory for greenhouse gas emissions reduction in Albany.

5  
cont.

Finally, the regulatory landscape of planning and environmental review is changing this very year. By January 1, 2010 the State of California will officially adopt amendments to the California Environmental Quality Act (CEQA) guidelines to address greenhouse gas emissions and regulations. We understand that legally, this project may not be bound to compliance with upcoming regulations. However, we believe it is the responsibility of our local government to our community not to be satisfied by the legal minimum, and to request, to the full measure of its authority, and by our rights as decision-makers in this community, that the cumulative impacts of this project be discussed and mitigated in a manner that fully addresses the severity of climate change on the future. The time has past for simply fulfilling currently inadequate procedural requirements.

6

We, as community members, ask you to carefully consider our decisions listed herein. We would like to receive a written response without delay, and independent of this Draft EIR process from the Planning and Zoning Commission, the City of Albany Staff, and the Albany City Council. We ask you to use whatever legal tools and power you possess as Commissioners to join with us to ensure we are collectively making the most informed decisions for the maximum future benefit of our community.

This will be our legacy.

Respectfully,

- Martin Webb & Lizelle Cline 913 Key Route Blvd Albany, CA 94706
- Delia Carroll 801 Jackson Street Albany, CA 94706
- Signe Mattson 1053 Pomona Avenue Albany, CA 94706
- Miya Kitahara 1073 Stannage Avenue Albany, CA 94706
- Jackie Hermes-Fletcher 1147 Portland Avenue Albany, CA 94706
- Dr. Lisa Bernard-Pearl 848-A Solano Avenue Albany, CA 94706
- Ellen Toomey 1111 Talbot Avenue Albany, CA 94706
- Mara Duncan 848-B Solano Avenue Albany, CA 94706
- Rolf Johnson 706 Johnson Street Albany, CA 94706
- Kim Linden 1109 Stannage Avenue Albany, CA 94706

**COMMENTS B29**

**Martin Webb & Lizelle Cline**

**July 28, 2009**

Response B29-1: This comment introduces several more specific comments that are responded to in detail in the responses which follow. No further response is necessary.

Response B29-2: The Draft EIR was prepared in the Spring of 2009 and circulated for public review and comment in early July of 2009. The first aspect of the comment references a number of policy and planning documents that were in process during the summer of 2009. The authors of the Draft EIR do not believe that awaiting the completion of any of those efforts would have substantially altered the conclusions with regard to potential adverse physical impacts of the proposed project. It should be emphasized that specific development projects (like the University Village at San Pablo Avenue project) must undergo environmental analysis under CEQA according to timelines and regulatory protocols that do not permit delays for the completion of all policy and planning documents underway at any given time.

As noted in Response to Comment B7-1, the proposed project under review by the City and subject to this environmental impact analysis is the University Village at San Pablo Avenue Project. Its boundaries are shown in the Draft EIR on Figure III-3 (p. 39). As illustrated by that site plan, the proposed project would not intrude beyond Village Creek (its approximate northern boundary) in the direction of the Gill Tract fields. The City of Albany is unaware of any planned revisions to the land uses of the Gill Tract, beyond what is set forth in the University Village & Albany/West Berkeley Properties Master Plan Amendments (2004). To suggest – in the absence of any proposals to the contrary – that the proposed project would lead inevitably to changes in the future use(s) of the Gill Tract would be speculation of the sort that CEQA discourages. If the University of California were to propose revisions to the Master Plan, then it would consider at that time whether subsequent or supplemental environmental review of such changes was called for.

Response B29-3: Please see Response to Comments B3-1, B3-5, B7-4 and B12-30. The Draft EIR analysis addresses global climate change and greenhouse gas issues using methods and thresholds that were appropriate at the time.

Response B29-4: Please see Response to Comment B12-30. The qualitative threshold ensures that the project identifies project features, either through design, compliance with existing regulations, or mitigation measures that would reduce GHG emissions related to construction, motor vehicles, energy consumption, and water usage from business-as-usual conditions. In addition to the project's

location to transit, infill development and mixed use benefits, Mitigation Measure GCC-1 identifies additional features, such as compliance with Green Building Standards and pedestrian sidewalks, to further reduce GHG emissions. Undertaking a quantitative analysis would not lead to any change in the ultimate conclusion (Impact GCC-1) that the proposed project may conflict with applicable plans, policies and regulations of other agencies to the degree that GHG reduction goals may not be met. Such a conclusion thus requires a mitigation measure and therefore the extensive, multi-part Mitigation Measure GCC-1 would be needed. Implementation of that measure would ensure that project impacts related to GHG emissions would be less than significant.

Response B29-5: As noted in the comment, the project would likely be consistent with the draft Climate Action Plan “due to its proximity to transit service, its mix of commercial and residential uses, and meeting basics energy efficiency guidelines.” The project is consistent with the goals of the Climate Action Plan, which was adopted in 2010. See also Response to Comment B29-2 regarding delaying the project.

Response B29-6: The comment is correct is stating that the regulatory landscape is “changing this very year.” *CEQA Guidelines* Amendments were developed and adopted in 2009; the Amendments became effective in March 2010. Since the Draft EIR was drafted, the BAAQMD adopted CEQA Air Quality Guidelines scheduled in June 2010. The global climate change analysis in the Draft EIR was developed using the methodology and approach consistent with the guidelines available at that time. An analysis comparing projects to guidelines that were not available is not required; the mitigation measures included in the Draft EIR are consistent with recommended measures to reduce GHG emissions related to the project.

**Amber Curl**

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**From:** lisa wenzel [ldwenzel@sbcglobal.net]  
**Sent:** Monday, October 05, 2009 3:08 PM  
**To:** Amber Curl  
**Subject:** UC Village Mixed Use Development Project Draft Environmental Impact Report

Dear Amber,

Please pass the below letter to the appropriate parties -- having just heard about this project and the Oct. 5 deadline this weekend, we fear our knowledge is not as great as it should be, but we do want to comment for the public record, and we appreciate you passing our comments along. Thank you.

Oct. 5, 2009

To Who it May Concern:

Having just learned of the University Village Mixed Use Development Project Draft Environmental Impact Report (DEIR), we feel it is imperative that we voice our concerns as soon as possible. The current draft plan doesn't include any details that suggest this plan, if carried out, would meet the city of Albany's greenhouse gas reduction target (an amount that is less than the reduction goals of AB 32).

| 1

We are also very concerned about the environmental impact this project will have and whether it meets the goals and guidelines of the city of Albany.

| 2

Simply put, we feel strongly that the plan should be expanded to include more details, sufficient publicity measures should be taken so the citizens of Albany are aware of this project, and the deadline for comments should be extended to allow more Albany residents an opportunity to provide input.

| 3

Sincerely,

Lisa D. Wenzel &  
William W. Smith  
1144 Evelyn Ave.  
Albany, CA 94706

**COMMENTS B30**

**Lisa Wenzel**

**October 5, 2009**

Response B30-1: Please see Responses to Comments B3-1, B3-5 and B3-7.

Response B30-2: The Draft EIR evaluates the proposed project against numerous City of Albany goals, policies and guidelines throughout the document. Some are included as significance criteria that are explicitly set forth in each of the detailed topical sections of Chapter IV.

Others stemming from the City's General Plan and Zoning Ordinance and the University's Master Plan for the larger University Village area, are addressed in the Initial Study (included as Appendix A of the Draft EIR) in section IX. Land Use and Planning, sub-section (b), where the question is "*Would the project... conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect?*" The conclusion there is that no significant inconsistencies would result.

Response B30-3: It is not clear what "plan" the comment is referring to. If this reference is to the Draft EIR, then the City of Albany would respond that it believes the Draft EIR, in combination with this Response to Comments document provides the appropriate amount of "details" about the proposed project and its potential adverse environmental impacts to facilitate informed decision making by City of Albany appointed and elected leaders. As noted elsewhere in these responses, the request that the public review period be extended to allow more time for the public to review the Draft EIR and provide comments was granted by the City.

**Amber Curl**

**From:** RitaWils@aol.com  
**Sent:** Friday, July 24, 2009 4:09 PM  
**To:** Amber Curl  
**Cc:** svhous@berkeley.edu  
**Subject:** senior housing on Gill Tract

I am VERY interested in the forthcoming (we hope) senior housing on San Pablo Ave. I cannot attend the public hearing on Tuesday, bummer, but I would very much appreciate your telling me what the requirements would be to get on a waiting list for it. Ever since I first heard about it, I've been trying to hook up with someone who could tell me this.

In the late 60s, early 70s, my family and I lived in University Village when I was a grad student, and it was a fantastic few years for us all. I have vowed never to move out of my house in the Thousand Oaks section of Berkeley, but when I heard about this project, I realized it's the only other residence I'd choose.

Many, many thanks, Ms. Curl!!!!!! Rita Wilson

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**COMMENTS B31**

**Rita Wilson**

**July 24, 2009**

Response B31-1: This comment appears to be a favorable comment about the project merits, but does not raise any questions or offer comments related to the Draft EIR. No further response is necessary.