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**Via Hand Delivery**

Planning and Environmental Services Department  
City of Goleta  
130 Cremona Drive, Suite B  
Goleta, CA 93117

Attention: Anne Wells



**Re: Comments on Draft Environmental Impact Report for City of Goleta's Draft General Plan/Coastal Land Use Plan**

Dear Ms. Wells:

This office represents Oly Chadmar General Partnership, the owner of the Residences at Sandpiper real property. The property is a 14.46-gross acre parcel located north of Hollister Avenue, west of Las Armas Road and approximately one-quarter mile south of U.S. Highway 101 and is commonly known as APN 79-210-049 and General Plan Site #37. This letter sets forth our client's comments on the Draft EIR ("DEIR") prepared for the Goleta Draft General Plan/Coastal Land Use Plan.

**EXECUTIVE SUMMARY, PP. ES-1-22**

**Cumulative Impacts, P. ES-3**

Transportation and circulation should be added to the list of cumulative impacts set forth on page ES-3-4.

**B.9-1**

**Growth-Inducing Impacts, P. ES-4**

This section states that the "GP/CLUP would allow for the development of 3,370 new residential units." This number is inconsistent with the number of residential units identified in the Housing Element Technical Appendix.

**B.9-2**

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**Table ES-1, PP. ES-6-21**

**Summary of Environmental Impacts, Mitigation Measures, and Residual Impacts, PP. ES-6-21**

Aesthetics		
3.1-1	The GP/CLUP Policy and Mitigation Section is incomplete. The DEIR fails to reference all appropriate policies (mitigation measures) found in the General Plan.	<b>B.9-3</b>
3.1-2	The General Plan/EIR documents need to develop General Plan Policies/Mitigation Measures in an attempt to address the significant impacts associated with the Citywide Visual Character. The DEIR is inadequate for its failure to propose policies and mitigation measures for a Significant/Class I Impact.	<b>B.9-4</b>
3.1-3	The GP/CLUP Policy and Mitigation Section is incomplete. The DEIR fails to reference all appropriate policies (mitigation measures) found in the General Plan.	<b>B.9-5</b>
3.1-4	The GP/CLUP Policy and Mitigation Section is incomplete. The DEIR fails to reference all policies found in the General Plan that result in the Class IV finding.	<b>B.9-6</b>
3.1-5	The GP/CLUP Policy and Mitigation Section is incomplete. The DEIR fails to reference all policies (mitigation measures) found in the General Plan that result in the Class IV finding.	<b>B.9-7</b>
Agriculture		
3.2-1	The GP/CLUP Policy and Mitigation Section is incomplete. The DEIR fails to reference all appropriate policies (mitigation measures) found in the General Plan.	<b>B.9-8</b>
3.2-2	The GP/CLUP Policy and Mitigation Section is incomplete. The DEIR fails to reference all appropriate policies (mitigation measures) found in the General Plan.	<b>B.9-9</b>
Air Quality		
3.3-2	The General Plan/EIR documents need to develop General Plan Policies/Mitigation Measures in an attempt to address the significant impacts associated with the Increase in Vehicle Miles Traveled. The DEIR is inadequate for its failure to propose policies and mitigation for a Significant/Class I Impact.	<b>B.9-10</b>

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3.3-3	The General Plan/EIR Documents needs to develop General Plan Policies/Mitigation Measures in an attempt to address the impacts associated with the Construction Emission. The DEIR is inadequate for its failure to propose any form of mitigation.	<b>B.9-11</b>
3.3-4	The GP/CLUP Policy and Mitigation Section is incomplete. The DEIR fails to reference all policies (mitigation measures) found in the General Plan that result in the Class III finding.	<b>B.9-12</b>
3.3-5	The General Plan/EIR documents needs to develop General Plan Policies/Mitigation Measures in an attempt to address the significant impacts associated with ROG and NOx. The DEIR is inadequate for its failure to propose policies and mitigation for a Significant/Class I Impact.	<b>B.9-13</b>
3.3-6	The General Plan/EIR Documents needs to develop General Plan Policies/Mitigation Measures in an attempt to address the significant impacts associated with PM 10. The DEIR is inadequate for its failure to propose policies and mitigation.	<b>B.9-14</b>
<b>Biology</b>		
3.4-9	The DEIR needs to clarify which impacts are being referenced.	<b>B.9-15</b>
3.4-10	The DEIR needs to clarify which impacts are being referenced.	<b>B.9-16</b>
3.4-11	The GP/CLUP Policy and Mitigation Section is incomplete. The DEIR fails to reference all policies (mitigation measures) found in the General Plan that result in the Class III finding.	<b>B.9-17</b>
3.4-12	The GP/CLUP Policy and Mitigation Section is incomplete. The DEIR fails to reference all policies (mitigation measures) found in the General Plan that result in the Class IV finding.	<b>B.9-18</b>
3.4-13	The GP/CLUP Policy and Mitigation Section is incomplete. The DEIR fails to reference all policies (mitigation measures) found in the General Plan that result in the Class III finding.	<b>B.9-19</b>
3.4-14	The GP/CLUP Policy and Mitigation Section is incomplete. The DEIR fails to reference all policies (mitigation measures) found in the General Plan that result in the Class III finding.	<b>B.9-20</b>
<b>Cultural Resources</b>		
3.5-1	The General Plan/EIR documents need to develop General Plan Policies/Mitigation Measures in an attempt to address the impacts associated with the Cultural, Historical and Paleontological Resources. The DEIR is inadequate for its failure to propose any form of mitigation. It is an error to assert that a "significant impact (Class II) could have a "less than significant" residual impact without the requirement for some type of mitigation.	<b>B.9-21</b>

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Geology, Soils, and Mineral Resources		
3.6.3.2	Section 3.6.3.2's discussion is incomplete and inadequate. That Section states that the "City does not have a conservation policy related to the protection of mineral resources," however, § 3.6.3.2 is intended to also discuss certain policies to minimize risk to humans and structures from geology or soils related hazards. There are policies in the GP/CLUP's Conservation Element that are intended to address this issue, but are not included in this Section.	<b>B.9-22</b>
3.6.3.3	Section 3.6.3.3 analyzes the geologic impacts and hazards associated only with the development of vacant sites. However, the "proposed project" consists of more than the development of vacant sites – it also consists of the rezone of numerous sites to a different use. All hazard areas must be evaluated for every area subject to land use designation change by the GP/CLUP.	<b>B.9-23</b>
3.6.3.4	Section 3.6.3.4 states in pertinent part that: "As discussed, above impacts related to geologic processes resulting from implementation of the GP/CLUP involve only the potential effects associated with: a change in land use designation of existing developed parcels . . . ." However, an analysis of these impacts has not occurred. The Geology Section fails to discuss any impacts related to geologic processes regarding a change in land use designation of existing developed parcels.	<b>B.9-24</b>
3.6-10	Section 3.6-10 alleges that the "GP/CLUP does not include any substantial changes in the density or character of existing developed areas within the City of Goleta." This is inaccurate because the City proposes significant changes in existing land uses.	<b>B.9-25</b>
3.6-1	The GP/CLUP Policy and Mitigation Section is incomplete and inaccurate. The DEIR fails to reference all appropriate policies (mitigation measures) found in the General Plan.	<b>B.9-26</b>
3.6-2	The GP/CLUP Policy and Mitigation Section is incomplete and inaccurate. The DEIR fails to reference all appropriate policies (mitigation measures) found in the General Plan.	<b>B.9-27</b>
3.6-3	The GP/CLUP Policy and Mitigation Section is incomplete and inaccurate. The DEIR fails to reference all appropriate policies (mitigation measures) found in the General Plan.	<b>B.9-28</b>
3.6-4	The GP/CLUP Policy and Mitigation Section is incomplete and inaccurate. The DEIR fails to reference all appropriate policies (mitigation measures) found in the General Plan.	<b>B.9-29</b>

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Hazards and Hazardous Materials		
3.7-1	The General Plan/EIR documents need to identify or develop General Plan Policies/Mitigation Measures in an attempt to address the significant impacts associated with Risk of Upset at the Venoco Facilities. The DEIR is inadequate for its failure to propose policies and mitigation for a Significant/Class I Impact.	<b>B.9-30</b>
3.7-2	The General Plan/EIR Documents needs to identify or develop General Plan Policies/Mitigation Measures in an attempt to address the significant impacts associated with Transport. It is inadequate to not propose policies and mitigation for a Significant/Class I Impact.	<b>B.9-31</b>
3.7-4	The General Plan/EIR documents need to identify or develop General Plan Policies/Mitigation Measures in an attempt to address the significant impacts associated with Transport. The DEIR is inadequate for its failure to propose policies and mitigation.	<b>B.9-32</b>
3.7-5	The GP/CLUP Policy and Mitigation Section is incomplete. The DEIR fails to reference all appropriate policies (mitigation measures) found in the General Plan.	<b>B.9-33</b>
3.7-6	The GP/CLUP Policy and Mitigation Section is incomplete. The DEIR fails to reference all appropriate policies (mitigation measures) found in the General Plan.	<b>B.9-34</b>
3.7-7	The GP/CLUP Policy and Mitigation Section is incomplete. The DEIR fails to reference all appropriate policies (mitigation measures) found in the General Plan.	<b>B.9-35</b>
3.7-8	There is no documented evidence that the application of Policy SE 10.6 “would reduce potentially significant exposure of the public to hazardous waste associated with listed/contaminated sites to less-than-significant levels” as claimed in this Section. The conclusions of § 3.7-8 need to be substantiated with science-backed facts and analysis.	<b>B.9-36</b>

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3.7-9	Contrary to statements made in § 3.7-9 of the DEIR, contaminated soils are not only limited to sites with past oil development, but also occur as a result of numerous businesses such as hospitals, dry cleaners, manufacturing and industrial operations in construction. Therefore, § 3.7-9 must be amended to identify the location of contaminated sites (especially those identified for a land use change pursuant to the GP/CLUP), source of contaminants, level of contamination and to evaluate impacts associated with the redevelopment of any affected sites. Further, there is no documented evidence that the application of Policy SE 10 would reduce the possibility of potentially significant exposure of the public to exposure to contaminated soils to less-than-significant levels. This conclusion needs to be substantiated with science-backed facts and analysis.		<b>B.9-37</b>
3.7-10	The GP/CLUP Policy and Mitigation Section is incomplete. The DEIR fails to reference all policies (mitigation measures) found in the General Plan that result in the Class III finding.		<b>B.9-38</b>
3.7-11	The GP/CLUP Policy and Mitigation Section is incomplete. The DEIR fails to reference all appropriate policies (mitigation measures) found in the General Plan.		<b>B.9-39</b>
3.7-12	The GP/CLUP Policy and Mitigation Section is incomplete. The DEIR fails to reference all policies (mitigation measures) found in the General Plan that result in the Class III finding. No Residual Impact is identified.		<b>B.9-40</b>
3.7-13	The GP/CLUP Policy and Mitigation Section is incomplete. The DEIR fails to reference all policies (mitigation measures) found in the General Plan that result in the Class III finding.		<b>B.9-41</b>
Population and Housing			
3.8-1	The General Plan/EIR documents needs to identify or develop General Plan Policies/Mitigation Measures in an attempt to address the impacts associated with Increased Population. The DEIR is inadequate for its failure to propose policies and mitigations.		<b>B.9-42</b>
3.8-2	The GP/CLUP Policy and Mitigation Section is incomplete. The DEIR fails to reference all policies (mitigation measures) found in the General Plan that result in the Class II finding.		<b>B.9-43</b>
3.8-5	The GP/CLUP Policy and Mitigation Section is incomplete. The DEIR fails to reference all policies (mitigation measures) found in the General Plan that result in the Class III finding.		<b>B.9-44</b>

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Land Use and Recreation		
3.10-1	The GP/CLUP Policy and Mitigation Section is incomplete. The DEIR fails to reference all policies (mitigation measures) found in the General Plan that result in the Class II finding.	<b>B.9-45</b>
Public Services and Utilities		
3.12-2	The GP/CLUP Policy and Mitigation Section is incomplete. The DEIR fails to reference all policies (mitigation measures) found in the General Plan that result in the Class II finding.	<b>B.9-46</b>
3.12-7	The General Plan/EIR Documents needs to identify or develop General Plan Policies/Mitigation Measures in an attempt to address the impacts associated with Increased Population. The DEIR is inadequate for its failure to propose policies and mitigations.	<b>B.9-47</b>
Transportation and Circulation		
3.13-1	The General Plan/EIR documents needs to identify or develop General Plan Policies/Mitigation Measures in an attempt to address the significant impacts associated with exceedance at LOS standards. The DEIR is inadequate for its failure to propose policies and mitigation for a Significant/Class I Impact	<b>B.9-48</b>
3.13-2	The GP/CLUP Policy and Mitigation Section is incomplete. The DEIR fails to reference all policies (mitigation measures) found in the General Plan.	<b>B.9-49</b>
3.13.-3	The GP/CLUP Policy and Mitigation Section is incomplete. The DEIR fails to reference all policies (mitigation measures) found in the General Plan that result in the Class III finding.	<b>B.9-50</b>
Future Service Areas		
Aesthetic and Visual Resources		
4.1-1	The GP/CLUP Policy and Mitigation Section is incomplete. The DEIR fails to reference all policies (mitigation measures) found in the General Plan that result in the Class III finding.	<b>B.9-51</b>

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4.1-2	The GP/CLUP Policy and Mitigation Section is incomplete. The DEIR fails to reference all policies (mitigation measures) found in the General Plan that result in the Class III finding.	<b>B.9-52</b>
Agriculture and Farmlands		
4.2-1	The GP/CLUP Policy and Mitigation Section is incomplete. The DEIR fails to reference any policies (mitigation measures) found in the General Plan that result in the Class VI finding.	<b>B.9-53</b>
Hazards and Hazardous Materials		
4.7-1	The GP/CLUP Policy and Mitigation Section is incomplete. The DEIR fails to reference all policies (mitigation measures) found in the General Plan that result in the Class II finding.	<b>B.9-54</b>
4.7-2	The GP/CLUP Policy and Mitigation Section is incomplete. The DEIR fails to reference all policies (mitigation measures) found in the General Plan that result in the Class II finding.	<b>B.9-55</b>
4.7-5	The GP/CLUP Policy and Mitigation Section is incomplete. The DEIR fails to reference all policies (mitigation measures) found in the General Plan regarding Airport hazards.	<b>B.9-56</b>
4.7-6	The GP/CLUP Policy and Mitigation Section is incomplete. The DEIR fails to reference all policies (mitigation measures) found in the General Plan regarding Oil and Gas pipelines.	<b>B.9-57</b>
Population and Housing		
4.8-1	The GP/CLUP Policy and Mitigation Section is incomplete. The DEIR fails to reference all policies (mitigation measures) found in the General Plan that result in the Class III finding.	<b>B.9-58</b>
4.8-2	The GP/CLUP Policy and Mitigation Section is incomplete. The DEIR fails to reference all policies (mitigation measures) found in the General Plan that result in the Class III finding.	<b>B.9-59</b>
Land Use and Recreation		
4.10-1	See comment regarding Impact 3.10-3	<b>B.9-60</b>

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Public Services and Utilities		
4.12-1	The General Plan/EIR documents need to identify or develop General Plan Policies/Mitigation Measures in an attempt to address the significant impacts associated with exceedance of capacity at landfills. The DEIR is inadequate for its failure to propose policies and mitigation for a Significant/Class I Impact	<b>B.9-61</b>
Transportation and Circulation		
4.13-1	The General Plan/EIR documents need to identify or develop General Plan Policies/Mitigation Measures in an attempt to address the significant impacts associated with exceedance at LOS standards. The DEIR is inadequate for its failure to propose policies and mitigation for a Significant/Class I Impact	<b>B.9-62</b>
4.13-2	This impact is the same as 4.13-2, yet the Class of Impact is identified as Class II and the residual impact is Less Than Significant. There is no evidence to support this impact conclusion.	<b>B.9-63</b>
4.13-3	This impact is the same as 4.13-2, yet the Class of Impact is identified as Class III and the residual impact is Less Than Significant. There is no evidence to support this impact conclusion.	<b>B.9-64</b>
4.13-4	This impact is the same as 4.13-2, yet the Class of Impact is identified as Class IV and the residual impact is Beneficial. There is no evidence to support this impact conclusion.	<b>B.9-65</b>

**PROJECT DESCRIPTION, § 2.0, PP. 2-1-10**

**Land Use and Recreation Element, § 2.4.1, PP. 2-3**

Table 2-1 identifies a maximum housing buildout of 3,730 units. The maximum housing buildout is contained in the Housing Element, not the Land Use and Recreation Element as referenced in this Section. Moreover, the 3,730 unit number identified in Table 2-1 is inconsistent with the Housing Element and the Housing Element Technical Appendix.

The GP/CLUP's Land Use Plan Map (Figure 2-1) proposed the conversion of the South Kellogg area from General Industrial to Medium Density Residential. This proposed change in land use designation was part of the project description analyzed by the DEIR. After the release of the DEIR and on July 11, 2006 the City Council/Planning Agency voted to leave this area designated

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for General Industrial. Thus, the project described in the DEIR is now inconsistent with the GP/CLUP. An accurate, stable, and finite project description is the *sine qua non* of an informative and legally sufficient EIR. The project must be described accurately to allow reviewers and decision makers to balance the project's benefits against its environmental impacts, to consider mitigation measures, and to assess the advantages of the no-project and other alternatives. An EIR is inadequate and insufficient when, as here, its project description is unstable and shifting. Therefore, the project description must be modified to reflect the changes to the project description made by the City Council on July 11, 2006, and the EIR must be re-circulated for adequate public review.

B.9-67

**AESTHETIC AND VISUAL RESOURCES, § 3.1, PP. 3.1-1-20**

**Visual and Historic Resources Element, § 3.1.3.2, PP. 3.1-7-8**

The Visual and Historic Resources Element section of the DEIR is inadequate in that a Table entitled GP/CLUP "Policies Relevant to Preservation and Mitigation of Impacts to Aesthetic Resources" is missing and must be provided. Further, the referenced list of "Visual and Historic and Resource Element Policies" is incomplete because it does not reference all the appropriate policies that would ensure that future development is consistent with the referenced principles and goals. (Policies VH 5 and VH 6.)

B.9-68

The DEIR alleges that GP/CLUP Policies VH 1, VH 2, VH 3 and VH 4 are intended as mitigation measures, to ensure that future development is consistent with the principles and goals of the Visual and Historic Resources Element and will reduce significant impacts on aesthetic and visual resources. DEIR, pp. 3.1-7-19. Accordingly, we restate hereinbelow our client's comments on the Visual and Historic Resources Element of the GP/CLUP, which comments demonstrate that the subject policies are overly broad, devoid of any supporting scientific basis, or otherwise illegal and therefore are not proper mitigation measures:

B.9-69

**Mitigation Measure -- Policy VH 1.2 Scenic Resources Map.**

Figure 6-1 identifies "scenic views to be protected" across the entire Residences at Sandpiper property. Policy VH 1.2, coupled with Policies VH 1.4 and LU 1.7, effectively prohibit any economically viable development or use of the Residences at Sandpiper property. It is our legal opinion that the proposed policies, as applied to our client's property, are arbitrary, capricious, unreasonable, oppressive and wholly lacking in evidentiary support. These policies, if adopted, would constitute an unwarranted interference with a planned and approved use for which a substantial investment in development costs has been made. It is our further legal opinion that these policies, if adopted, would constitute a regulatory "taking" of our client's property without just compensation.

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**Mitigation Measure -- Policy VH 1.4 Protection of Mountain and Foothill Views.**

Figure 6-1 identifies “scenic views to be protected” across the entire Residences at Sandpiper property. Policy VH 1.2, coupled with Policies VH 1.2 and LU 1.7, effectively prohibit any economically viable development or use of the Residences at Sandpiper property. It is our legal opinion that the proposed policies, as applied to our client’s property, are arbitrary, capricious, unreasonable, oppressive and wholly lacking in evidentiary support. These policies, if adopted, would constitute an unwarranted interference with a planned and approved use for which a substantial investment in development costs has been made. It is our further legal opinion that these policies, if adopted, would constitute a regulatory “taking” of our client’s property without just compensation.

B.9-71

**3.1.3.3 Project Impacts on Aesthetic and Visual Resources, § 3.1.3.3, PP. 3.1-8-19**

**General Comment:** The Table entitled “Summary of Impacts to Aesthetics by Type, Source and Class” is missing. This Table needs to be developed and included in the Final EIR in order to make it adequate.

B.9-72

Long-term Impacts. P. 3.1-8-13

*Impact 3.1-1 Impacts of GP/CLUP on Visual Resources within the City Including Views from Hollister Avenue and City Gateways, PP. 3.1-8-9*

This analysis is inadequate and incomplete as it fails to include the implementation of Policy VH-3 which is identified in the General Plan with the objective: “To preserve and enhance Goleta’s visual character.”

The appropriate discussion regarding this policy needs to be included in both “**Impact 3.1-1a: Impacts to Views from Hollister Avenue**” (page 3.1-8) and “**Impact 3.1-1b: Impacts to Views from Gateways**” (page 3.1-9). The analysis must be performed to an adequate level of detail to determine the level of mitigation that could occur with its implementation. If the analysis provides appropriate mitigation, it should be included under “Policies that would Reduce Impact 3.1-1 but Not to a Level of Insignificance.” As stated, said policies are “intended to ensure the preservation and enhancement of the visual character and public views . . . .” Failure to include the analysis of Policy VH-3 renders the DEIR inadequate.

B.9-73

Furthermore, an adequate analysis of Policy VH-3 must be included in the “**GP/CLUP Policies that Apply to Impact 3.1-1a**” and “**GP/CLUP Policies that Apply to Impact 3.1-1b**” on pages 3.1-9 and 3.1-10 of the DEIR

B.9-74

*Impact 3.1-2, P. 3.1-10* – Heading is missing

B.9-75

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The DEIR needs to be corrected to identify the appropriate heading for Impact 3.1-2. Impact 3.1-2's analysis is incomplete and inadequate because it fails to include the implementation of Policies VH-2, VH-5 and VH-6 which are identified with the objectives:

B.9-75

"To preserve and enhance the visual character and public views within and from Goleta's corridors and locations from which scenic vistas can be enjoyed."

"To identify, protect and encourage preservation of significant architectural, historic, and prehistoric sites, structures and properties that comprise Goleta's Heritage" and,

"To identify, preserve, protect and enhance significant historic landscaping, gardens and open spaces, including agricultural areas and heritage trees, which contribute to the setting or context of Goleta"

B.9-76

The appropriate discussion regarding these policies needs to be included in "**Impact 3.1-2a: Impacts to the Visual Character of City Subareas**" (page 3.1-10), "**Impact 3.1-2b: Impacts to the Visual Character of Natural Open Space and Agriculture Areas**" (page 3.1-12), "**Impact 3.1-2c: Impacts to the Visual Character of Views of the Santa Ynez Mountains and Foothills**" (page 3.1-12) and "**Impact 3.1-2d: Impacts to Views from Cathedral Oaks Road, Glen Annie Road, Los Carneros Road North of US-101 and Fairview Avenue**" (3.1-12). The analysis must be performed to an adequate level of detail to determine the level of mitigation that could occur with its implementation. If the analysis provides appropriate mitigation, such policies should be included under "Policies that would Reduce Impact 3.1-2 but not to a Level of Insignificance."

The "**GP/CLUP Policies that Apply to Impact 3.1-2a,**" "**GP/CLUP Policies that Apply to Impact 3.1-2b,**" "**GP/CLUP Policies that Apply to Impact 3.1-2c,**" "**GP/CLUP Policies that Apply to Impact 3.1-2d**" have not been included in the DEIR. The Final EIR needs to include all of the appropriate GP/CLUP policies that apply to each of the above-stated impacts.

B.9-77

#### **Class II Impacts, P. 3.1-13-17**

*Impact 3.1-3 Impacts of GP/CLUP on Visual resources within the City Including Scenic Corridors and Key Public Viewpoints, P. 3.1-13*

The analysis provided under this Impact is incomplete and inadequate because it fails to include the implementation of Policy VH-3 which is identified with the objective: "To preserve and enhance Goleta's visual character."

B.9-78

The appropriate discussion regarding this policy needs to be included in "**Impact 3.1-3a: Impacts to Views from US 101**" (page 3.1-13), "**Impact 3.1-3b: Impacts to Views from SR-**

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217” (page 3.1-14), “**Impact 3.1-2c: Impacts from Public Viewing Areas within the City**” (page 3.1-14) and “**Impact 3.1-3d: Impacts to Views from Areas within the Coastal Zone**” (3.1-15). The analysis must be performed to an adequate level of detail to determine the level of mitigation that could occur with its implementation. If the analysis provides appropriate mitigation, it should be included under Policies that would Reduce Impact 3.1-3 but not to a Level of Insignificance.

B.9-78

Further, an adequate analysis of Policy VH-3 must be included in the “**GP/CLUP Policies that Apply to Impact 3.1-3a,**” (page 3.1-15) “**GP/CLUP Policies that Apply to Impact 3.1-3b,**” (page 3.1-16) “**GP/CLUP Policies that Apply to Impact 3.1-3c,**” (pages 3.1-16-17) “**GP/CLUP Policies that Apply to Impact 3.1-3d,**” (page 3.1-17) “**GP/CLUP Policies that Apply to Impact 3.1-3e**” (page 3.1-17).

B.9-79

Impact 3.1-3a erroneously identifies a potentially significant visual impact from US 101 as a result of development of the Residences at Sandpiper site. Yet, as documented on Figure 3.4-1 of the DEIR’s Biological Resources Section, a eucalyptus windrow runs the entire length of the northern property line thereby blocking any views that could occur from US 101. This error needs to be corrected in the Final EIR.

B.9-80

#### **Class IV Impacts, P. 3.1-17-18**

##### Long-Term Impacts

##### *Impact 3.1-4 Improvements to Visual Quality of City Gateways*

The DEIR’s analysis under this section is incomplete and inadequate because it fails to include the implementation of Policy VH-1, VH-3, VH-4, VH-5 and VH-6 which are identified with the following objectives:

“To identify, preserve and enhance Goleta’s scenic resources and protect views of vistas of these resources from public and private areas.”

B.9-81

“To preserve and enhance Goleta’s Visual Character.”

“To preserve and enhance Goleta’s character through high quality design.”

“To preserve and enhance the visual character and public views within and from Goleta’s scenic corridors and locations from which scenic vistas can be enjoyed.”

“To identify, protect and encourage preservation of significant architectural, historic, and prehistoric sites, structures and properties that comprise Goleta’s Heritage” and,

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“To identify, preserve, protect and enhance significant historic landscaping, gardens and open spaces, including agricultural areas and heritage trees, which contribute to the setting or context of Goleta.”

**B.9-81**

*Impact 3.1-5 Creating Well Defined Public Spaces, P. 3.1-18*

The DEIR’s analysis under this Section is also incomplete and inadequate because it fails to include the implementation of Policy VH-1, VH-3, VH-4, LU-1, LU-2, LU-3, LU-5 and LU-6 which are identified with the following objectives:

VH 1: “To identify, preserve and enhance Goleta’s scenic resources and protect views of vistas of these resources from public and private areas.”

VH 2: “To preserve and enhance the visual character and public views within and from Goleta’s scenic corridors and locations from which scenic vistas can be enjoyed.”

VH 3: “To preserve and enhance Goleta’s Visual Character.”

**B.9-82**

VH 4: “To preserve and enhance Goleta’s character through high quality design.”

LU 1: “To maintain a land use pattern that provides continuity with the past and present use and development of the city and locates the various uses in a manner that is consistent with the fundamental goals and principles of the plan.”

LU 2: “To provide appropriate land areas for the residential needs of existing and future city residents consistent with the existing character of the city’s neighborhoods.”

LU 3: “To provide lands in locations that are suitable, functional, attractive, and convenient for an appropriate mix and scale of residential- and business-serving commercial uses, including business and professional offices, retail trade, business services, and residential mixed uses.”

LU 5: “To provide land areas for governmental administration and operations, schools, fire stations, and other public and institutional uses within the city.”

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LU 6: "To provide land areas for public parks, recreation, and open space land uses and private recreational lands within the city and recognize the importance of their contribution to the overall quality of life in Goleta."

B.9-82

Impact Assessment Methodology

The DEIR's Visual Resources Section fails to include an impact assessment methodology similar to Section 3.6.3.4 of the DEIR's Geology Section. An impact assessment methodology section needs to be included in the Final EIR in order to render it complete and adequate.

B.9-83

**AGRICULTURE AND FARMLAND, § 3.2, PP. 3.2-1-16**

**Class I Impacts**

Long-Term Impacts

*Impact 3.2-1 Conversion of Agricultural Land and Loss or Impairment of Agricultural Productivity, P. 3.2-13*

B.9-84

The DEIR is inadequate in that it fails to differentiate between land zoned for agriculture, land used for agriculture and land identified as being suitable for agriculture. This distinction and clarification must be included in the Final EIR .

Policies that Would Reduce Impact 3.2-1. But Not to a Level of Insignificance. P. 3.2-14

While this Section of the DEIR discusses applicable General Plan goals, it fails to discuss at all Policy CE 11. Moreover, this Section of the DEIR is incomplete and inadequate because it fails to reference and evaluate all appropriate policies (mitigation measures) found in the General Plan.

B.9-85

*Impact 3.2-2 Incompatible Land Uses and Structures, P. 3.2-14*

The DEIR is inadequate in that it fails to define "agriculturally productive areas."

B.9-86

Policies that Would Reduce Impact 3.2-2. But Not to a Level of Insignificance. P. 3.2-14

This section of the DEIR is incomplete and inadequate in that it fails to reference and evaluate all appropriate policies (mitigation measures) found in the General Plan.

B.9-87

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Impact Assessment Methodology

The DEIR's Agriculture Section fails to include an impact assessment methodology similar to Section 3.6.3.4 of the DEIR's Geology Section. An impact assessment methodology section needs to be included in the Final EIR in order to render it complete and adequate.

B.9-88

BIOLOGICAL RESOURCES, § 3.4, PP. 3.4-1-33

**General Comment:** The GP/CLUP's designation of areas as ESHA is overly broad and devoid of any scientific evidence in support thereof. Coastal Act § 30107.5 defines ESHAs as follows:

"Environmentally sensitive area means any area in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and developments."

B.9-89

The City's General Plan identifies all naturally occurring habitats as "Environmentally Sensitive Habitats" without the consideration of any scientific facts or analysis to determine habitat sensitivity, significance or functionality. Identifying any naturally occurring habitat as "environmentally sensitive" and requiring its preservation and protection is tantamount to a city-wide building moratorium and is arbitrary, capricious, unreasonable and oppressive.

The DEIR's Biological Resources Section fails to include an impact assessment methodology similar to Section 3.6.3.4 of the DEIR's Geology Section. An impact assessment methodology section needs to be included in the Final EIR in order to render it complete and adequate.

B.9-90

Habitats, § 3.4.1.2

**Figure 3.4-1**

It is very difficult to compare Figure 3.4-1 to the Habitat Maps included in the GP/CLUP. At the June 13, 2006 City Council/Planning Agency hearing on the GP/CLUP, Kenneth Curtis, Director of the City's Planning & Environmental Services Department, reported that the variance between the subject Maps was based upon additional analysis conducted by the DEIR consultant. However, no such documented evidence of such analysis has been provided to the public. The variance between Figure 3.4-1 and the Habitat Maps included in the GP/CLUP constitutes a potential inadequacy in the General Plan which needs to be adequately explained or harmonized in the Final EIR.

B.9-91



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**Figure 3.4-2**

The habitat areas identified on Figure 3.4-2 are at variance with the Habitat Map (Figure 4.2) included in the GP/CLUP. These maps need to be revised so that the habitat nomenclature in the GP/CLUP and the EIR are in harmony. Moreover, Figure 3.4-2 is intended to demonstrate areas that constitute ESHA. However, Table 3.4-1, footnote 1, states that "Scrub habitats depicted on Figures 3.4-1 and 3.4-2 include all ESHA scrub types and approximately 46.3 acres of coyote bush scrub/Coyote bush scrub is not an ESHA unless occupied by a special status species." Figure 3.4-2 is misleading because it contains non-ESHA and must therefore be substantially revised so as to remove all non-ESHA areas therefrom following the thorough ESHA analysis required by Policy CE 1.1.

**B.9-92**

**Special-Status Habitats, § 3.4.1.4, PP. 3.4-9-11**

Section 3.4.1.4 identifies special-status habitats and species located in the City which are alleged to be ESHA. As discussed above, a thorough analysis of each area considered to be ESHA must be prepared and presented in the final EIR as required by Policy CE 1.1. Failure to do so will render the EIR inadequate under CEQA and inconsistent with the GP/CLUP.

**B.9-93**

**Project Impacts on Biological Resources, § 3.4.4.4, PP. 3.4-23-33.**

The DEIR alleges that the following GP/CLUP Policies are mitigation measures which reduce significant adverse impacts on Biological Resources: CE 1, 2, 3, 4, 5, 6, 7, 8, 9, 10; OS 1, 2, 3, 4, 5, 6, 7 and LU 1, 6, 9. DEIR, pp. 3.4-23-33. Accordingly, we restate hereinbelow our client's comments on the Conservative Element (CE), Open Space Element (OS) and Land Use Element (LU), which comments demonstrate that the subject policies are overly broad, devoid of any supporting scientific basis, or otherwise illegal and therefore are not proper mitigation measures:

**B.9-94**

**Mitigation Measure -- CE 1.1 Definition of Environmentally Sensitive Habitat Areas.**

Policy CE 1.1 identifies three criteria that must be satisfied for a habitat to be defined as Environmentally Sensitive Habitat Areas (ESHAs). However, subsequent Policy CE 1.2, Figure 4-1, Figure 4-2 and Table 4-2 designate portions of the Residences at Sandpiper property as ESHA without applying the criteria set forth in Policy CE 1.1. These designations of the subject areas of the Residences at Sandpiper property as ESHA are overly broad and devoid of any scientific evidence in support thereof. These designations, if adopted, would constitute an unwarranted interference with a planned and approved use for which a substantial investment in development costs has been made. It is our further legal opinion that these designations, if adopted, would constitute a regulatory "taking" of our client's property without just compensation.

**B.9-95**

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**Mitigation Measure -- CE 1.2 Designation of Environmentally Sensitive Habitat Areas.**

The General Plan, through this policy and Figure 4-1, have identified ESHA on the Residences at Sandpiper property in two areas; Vegetated Aquatic Habitats and Native Grasslands. According to Figure 4-1, the Vegetated Aquatic Habitats appear to include the Drainage Channel and Wetlands.

Drainage Channel: In the recent site specific EIR for the Residences at Sandpiper project (SCH 1993121097, pages 4.3-2) only "a narrow channel" was designated on County maps as environmentally sensitive. The EIR further elaborated that due to upstream and off property alterations, the channel does not convey flows originating upstream of Highway 101 which reduces its biological value within the project site. Furthermore, the EIR determined that the channel bed is vegetated with dry upland species (page 4.3-4). The EIR determined that the construction of the Residences at Sandpiper would actually improve the biological value of the drainage channel (page 4.3-17). Impacts to the drainage channel were determined to be feasibly mitigated. Therefore, it is inappropriate to designate a dry channel vegetated with upland weedy species as "Vegetated Aquatic Habitat" and ESHA.

B.9-96

Wetlands: Figure 4-1 has identified areas that are larger in size, scale, and number than those identified in previous site specific EIRs. While the above-cited EIR identified areas that met state designation for wetlands, these areas lacked the criteria to meet the federal wetlands standards. In fact, due to their lack of hydrological connection to the drainage channel, lack of habitat value and artificial creation (tire ruts, road cut, etc.) these areas were not deemed to be ESHA.<sup>1</sup> The EIR even considered the removal of one of the areas to be feasibly mitigated. Furthermore, as stated by Council Member Margaret Connell during the July 10, 2006 hearing, which received Council concurrence, it is not the intent of the Council to identify areas created by tire ruts as "wetlands". This area does not meet the ESHA criteria set forth in Policy CE 1.1 and it is therefore inappropriate to designate it as "Vegetated Aquatic Habitat" and ESHA.

B.9-97

Native Grasslands: Figure 4-1 identifies Native Grasslands on site that are larger in size and scale than identified in previous site specific EIRs. The grassland identified, *Nassella pulchra*, was considered patchy, small, and feasibly mitigated. While it is a native grass, it was not identified as rare, especially valuable, threatened or endangered, nor was it designated as ESHA. This area does not meet the criteria outlined in Policy CE 1.1 and it is therefore inappropriate to designate this area as ESHA.

B.9-98

<sup>1</sup> A wetland is not ipso facto an ESHA. See *Bolsa Chica Land Trust v. Superior Court* (1999) 71 Cal.App. 4th 493, at p. 515.

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**Mitigation Measure -- Figure 4-2:**

This Figure incorporates the inappropriate designations applied by Policies CE 1.1, CE 1.2, and Figure 4-1. It also provides evidence that the City considers all habitats as ESHA, regardless of the criteria outlined in Policy CE 1.1, as there is no differentiation between the habitats identified in Figure 4-1 from the ESHA sites identified in Figure 4-2.

**B.9-99**

**Mitigation Measure -- Table 4-2:**

With the exception of the drainage channel that serves as a portion of Devereux Creek, but does not convey upstream water as determined in the site specific EIR, no other areas summarized on Table 4-2 occur on the Residences at Sandpiper property. Therefore, Table 4-2 supports our client's assertion that there are no ESHAs on the subject property with the exception of the narrow drainage channel discussed above. As explained above, the EIR determined that due to upstream and off property alterations, the narrow drainage channel does not convey flows originating upstream of Highway 101 which reduces its biological value within the project site. Further, the EIR determined that the channel bed is vegetated with dry upland species.

**B.9-100**

Policy CE 1.2's, Figure 4-1 and Figure 4-2's designation of these areas as ESHA is overly broad, and devoid of any scientific evidence in support thereof. It is our legal opinion that this policy and Figure 4-1, as applied to the Residences at Sandpiper property, is arbitrary, capricious, unreasonable, egregious, discriminatory and oppressive. This policy and Figure 4-1, if adopted, would constitute an unwarranted interference with a planned and approved use for which a substantial investment in development costs has been made. It is our further legal opinion that this policy and said figure, if adopted, would constitute a regulatory "taking" of our client's property without just compensation.

**Mitigation Measure -- CE 1.5 Corrections to Map of ESHAs.**

As discussed above, substantial evidence already exists in existing EIRs demonstrating that the above-referenced areas of the Residences at Sandpiper property do not constitute ESHA. Therefore, the City has a duty to correct the erroneous designations of these areas of the subject property as ESHA as shown on Figure 4-1 and Figure 4-2. If these Figures are adopted in the present form, they would constitute an unwarranted interference with a planned and approved use for which a substantial investment in development costs has been made. It is our further legal opinion that these Figures, if adopted in their present form, would constitute a regulatory "taking" of our client's property without just compensation.

**B.9-101**

**Mitigation Measure -- CE 1.6 Protection of ESHAs.**

This policy is internally inconsistent with CE 1.7, CE 3.4, CE 3.6, CE 5.2 and CE 5.3. Internal inconsistency in a general plan is a fatal legal flaw in the plan.

**B.9-102**

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**Mitigation Measure -- CE 1.7 Mitigation of Impacts to ESHAs.**

This policy is internally inconsistent with CE 1.6. Internal inconsistency in a general plan is a fatal legal flaw in the plan.

**B.9-103**

**Mitigation Measure -- CE 1.9 Standards Applicable to Development Projects.**

Subpolicy "i" on CE 1.9 is overly restrictive as it does not provide any flexibility in the implementation of the goals of Policy CE 1.9 due to weather condition, site conditions or construction techniques (as required by Policy CE 10.6 and Policy CE 10.7). By including such a restriction in the General Plan, rather than in an individual permit, the City precludes site specific project mitigation that might fully mitigate any potential construction impacts that could occur between November 1 and March 31.

**B.9-104**

**Mitigation Measure -- CE 1.10 Management of ESHAs.**

By inappropriately designating a large portion of the eastern half of the Residences at Sandpiper property as ESHA, this policy inappropriately further restricts the use of the subject land. This designation is overly broad and devoid of any scientific basis in support thereof. It is our legal opinion that this designation, as applied to our client's property, is arbitrary, capricious, unreasonable, egregious, discriminatory and oppressive. Such designation, if adopted, would constitute an unwarranted interference with a planned and approved use for which a substantial investment in development costs has been made. It is our further legal opinion that such designation, if adopted, would constitute a regulatory "taking" of our client's property without just compensation.

**B.9-105**

**Mitigation Measure -- CE 2.1 Designation of Protected Creeks.**

This policy refers to streams identified on Figure 4-1. As specified in site specific EIRs regarding the Residences at Sandpiper property, the segment of Devereux Creek that is categorized as a "narrow drainage channel" was, in fact, artificially aligned and does not convey water from north of Highway 101. Nor does the associated "riparian corridor" contain the typical scrub-shrub vegetation found along creeks in coastal Santa Barbara County (Residences at Sandpiper EIR, page 4.3-4). Therefore it is inappropriate to designate the "associated riparian corridor" of the drainage channel on the Residences at Sandpiper property as ESHA.

By inappropriately designating this area of the Residences at Sandpiper property as ESHA, this policy unreasonably restricts the use of the subject land. This designation is overly broad and devoid of any scientific basis in support thereof. It is our legal opinion that this designation, as applied to our client's property, is arbitrary, capricious, unreasonable, egregious, discriminatory and oppressive. Such designation, if adopted, would constitute an unwarranted interference with a planned and approved use for which a substantial investment in development costs has been

**B.9-106**

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made. It is our further legal opinion that such designation, if adopted, would constitute a regulatory "taking" of our client's property without just compensation.

B.9-106

**Mitigation Measure -- CE 2.2 Streamside Protection Areas.**

The previous Goleta Community Plan and its associated EIR determined an appropriate setback from the drainage channel at 25 feet from top of bank (SCH 1993121097, page 4.3-1). This policy is proposing at least a four-fold increase to this setback without any scientific basis to support the need for such action. As stated in the above-referenced EIR, the drainage corridor associated with the Residences at Sandpiper property does not contain riparian habitat or ecosystems. Policy CE 2.2 is overly broad and devoid of any scientific evidence in support thereof. It is our legal opinion that this policy, as applied to the Residences at Sandpiper property, is arbitrary, capricious, unreasonable, egregious, discriminatory and oppressive. This policy, if adopted, would constitute an unwarranted interference with a planned and approved use for which a substantial investment in development costs has been made. It is our further legal opinion that this policy, if adopted, would constitute a regulatory "taking" of our client's property without just compensation.

B.9-107

**Mitigation Measure -- CE 3.2 Designation of Wetland ESHAs.**

A wetland is not ipso facto an ESHA. See *Bolsa Chica Land Trust v. Superior Court* (1999) 71 Cal.App. 4th 493, at P. 515.

B.9-108

**Mitigation Measure -- CE 3.4 Protection of Wetlands.**

This policy identifies certain circumstances under which the filling, diking or dredging of wetlands is permissible. This policy is internally inconsistent with Policies CE 1.6.a and CE 1.6.f. Internal inconsistency in a general plan is a fatal legal flaw in the plan.

B.9-109

**Mitigation Measure -- CE 3.6 Mitigation of Wetland Fill.**

This policy is internally inconsistent with Policies CE 1.6.a and CE 1.6.f. Internal inconsistency in a general plan is a fatal legal flaw in the plan.

B.9-110

**Mitigation Measure -- CE 5.1 Designation of ESHAs.**

The blanket designation of native grassland, coastal sage scrub and chaparral as ESHA does not meet the ESHA determination criteria outlined in CE 1.1. Such designation is overly broad and devoid of any scientific evidence in support thereof. It is our legal opinion that such designation, as applied to the Residences at Sandpiper property, is arbitrary, capricious, unreasonable, egregious, discriminatory and oppressive. This designation, if adopted, would constitute an unwarranted interference with a planned and approved use for which a substantial investment in

B.9-111

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development costs has been made. It is our further legal opinion that this designation, if adopted, would constitute a regulatory "taking" of our client's property without just compensation. | B.9-111

Further, this policy is internally inconsistent with Policy CE 1.1. Internal inconsistency in a general plan is a fatal legal flaw in the plan. | B.9-112

**Mitigation Measure -- CE 5.2 Protection of Native Grasslands.**

Policy 5.1.a designates native grasslands as ESHA. Such designation renders Policy 5.1.c internally inconsistent with Policies CE 1.6.a and CE 1.6.f. Internal inconsistency in a general plan is a fatal legal flaw in the plan. | B.9-113

**Mitigation Measure -- CE 5.3 Protection of Coastal Sage Scrub and Chaparral.**

Policy CE 5.1.b designates coastal sage scrub and chaparral as ESHA. Such designation renders Policy CE 5.3.b internally inconsistent with Policies CE 1.6.a and CE 1.6.f. Internal inconsistency in a general plan is a fatal legal flaw in the plan. | B.9-114

**Mitigation Measure -- CE 8.1 ESHA Designation.**

Policy 8.1.e references nesting and roosting areas for "red-tailed hawks" as habitat to be designated as ESHA. The red-tailed hawk does not appear on any federal or state listing and is not included in the Residences at Sandpiper EIR's list of endangered species or species of special concern. Thus, the reference to the red-tailed hawk should be stricken from Policy CE 8.1.e. | B.9-115

**Mitigation Measure -- CE 8.4 Buffer Areas for Special-Status Species.**

Policy CE 8.4's requirement for a 100 foot buffer from an existing or historical nest site for a protected species is overly broad and devoid of any scientific evidence in support thereof. It is our legal opinion that this policy, as applied to the Residences at Sandpiper property, is arbitrary, capricious, unreasonable, egregious, discriminatory and oppressive. This policy, if adopted, would constitute an unwarranted interference with a planned and approved use for which a substantial investment in development costs has been made. It is our further legal opinion that this policy, if adopted, would constitute a regulatory "taking" of our client's property without just compensation. | B.9-116

The DEIR's Cultural Resources Section fails to include an impact assessment methodology similar to Section 3.6.3.4 of the DEIR's Geology Section. An impact assessment methodology section needs to be included in the Final EIR in order to render it complete and adequate. | B.9-117

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**Mitigation Measure -- OS 7.2 Adoption of Open Space Plan Map.**

Figure 3-5 incorrectly identifies a large portion of the eastern side of the Residences at Sandpiper property as Environmental Sensitive Habitat areas. These areas are greater in size and number than as indicated in a recent site specific Environmental Impact Report. There is no scientific basis to support Figure 3-5's designation of this portion of the property as ESHA and said designation is arbitrary, capricious, unreasonable and oppressive. Figure 3-5, if adopted, would constitute an unwarranted interference with a planned and approved use for which a substantial investment in development costs has been made. It is our further legal opinion that Figure 3-5, if adopted, would constitute a regulatory "taking" of our client's property without just compensation.

B.9-118

**Mitigation Measure -- OS 7.8 Provision of Open Space in New Development.**

This policy inappropriately requires open space areas in addition to public park and open space land required to be dedicated pursuant to the Quimby Act or other state or local statutes. We seriously question the legality of this policy.

B.9-119

**Mitigation Measure -- LU 1.6 New Development and Protection of Environmental Resources.**

As stated in Policy LU 1.6, development must adhere to high environmental standards and the preservation and protection of environmental resources as outlined in the Conservation Element. As discussed in our comments regarding the Conservation Element, the General Plan has identified all naturally occurring habitats as "Environmentally Sensitive Habitats" without the consideration of any scientific facts or analysis to determine habitat sensitivity, significance or functionality. Identifying any naturally occurring habitat as "Environmentally Sensitive" and requiring its preservation and protection is tantamount to a City-wide building moratorium and is arbitrary, capricious, unreasonable, and oppressive. This policy, if adopted, would constitute an unwarranted interference with a planned and approved use for which a substantial investment in development costs has been made. It is our further legal opinion that this policy, if adopted, would constitute a regulatory "taking" of our client's property without just compensation.

B.9-120

In addition, the Coastal Act § 30107.5 defines ESHAs as follows:

"Environmentally sensitive area" means any area in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and developments."

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The City's proposed definition is not consistent with the Coastal Act.

Furthermore, this policy requires the adherence to a Zoning Code that has yet to be provided to the public. Thus, it is impossible to evaluate or comment on the implementation of this policy.

B.9-120

**Mitigation Measure -- LU 1.7 New Development and Neighborhood Compatibility.**

As stated in this policy, new development shall not substantially impair or block important viewsheds of scenic vistas as set forth in the Visual and Historic Resources Element. As iterated in our comments regarding the Visual and Historic Resources Element, Figure 6-1 has identified "Scenic Views to be Protected" across the entire Residences at Sandpiper property. As a result of the application of this policy, coupled with the policies of the Visual and Historic Resources Element, development could not occur on this site. It is our legal opinion that the proposed policy, as applied to our client's property is arbitrary, capricious, unreasonable, oppressive and wholly lacking in evidentiary support. This policy, if adopted, would constitute an unwarranted interference with a planned and approved use for which a substantial investment in development costs has been made. It is our further legal opinion that this policy, if adopted, would constitute a regulatory "taking" of our client's property without just compensation.

B.9-121

**Mitigation Measure -- LU 2.2 Residential Use Densities (GP/CP).**

As stated in this policy, density of development allowed on any site shall reflect the site constraints listed above. As stated in the above discussion of Policies 1.6 and 1.7, the City's overly broad application of ESHAs and scenic resources constraints imposed on the Residences at Sandpiper property would eliminate any development potential on the property.

B.9-122

In addition, the City has chosen to identify exposure of exterior noise that exceed CNEL of 60 dBA as a constraint to development, a level that is more restrictive than the 65 dBA currently in place and inconsistent with the provisions outlined in Table 9-2. Additional comments regarding the adequacy of the Noise Element are provided below.

It is our legal opinion that the proposed policy is arbitrary, capricious, unreasonable, oppressive, and wholly lacking in evidentiary support. This policy, if adopted, would constitute an unwarranted interference with a planned and approved use for which a substantial investment in development costs has been made. It is our further legal opinion that this policy, if adopted, would constitute a regulatory "taking" of our client's property without just compensation.

B.9-123

**Mitigation Measure -- Table 2-1 Allowable Uses and Standards for Residential Use Categories.**

Standards for Building Intensities are provisions that are more appropriately found in the Zoning Ordinance. While it is understood that The State's Housing and Community Development

B.9-124

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requires that a General Plan provide an indication of building intensity, Mr. Kenneth Curtis, the City's Director of Planning & Environmental Services, advised City Council during the May 10, 2006 hearing that only one standard is typically necessary to satisfy this requirement. By incorporating all of the standards in the General Plan, the City has limited its ability to provide flexibility in implementing incentives for affordable housing or encouraging innovative design practices from the development community.

B.9-124

**Project Impacts on Biological Resources, § 3.4.3.3, pp. 3.4-23-31**

This Section of the DEIR states that the "Analysis considers whether the type of activity (e.g., construction of trails) has the potential to affect biological resources and, based on the maps and descriptions in the GP/CLUP, would occur in areas with sensitive biological resources." DEIR, pp. 3.4-23-24.

As discussed in our client's previous comments letters and as restated above, the GP/CLUP maps are inaccurate because they: (i) identify habitat areas that are greater in size and distribution than presented in site specific environmental analyses; and (ii) assume that all habitats are ESHA, without having performed a "thorough biological evaluation" as required by Policy CE 1.1.

B.9-125

This inaccurate assumption is repeated in the DEIR: "All ESHAs identified in the GP/CLUP are treated as special-status habitats . . ." DEIR, p. 3.4-24. In view of the fact that the DEIR has not prepared a quantitative nor qualitative analysis to determine if the habitats identified in the GP/CLUP do, in fact, meet the criteria of ESHA as outlined in Policy CE 1.1 and Coastal Act § 30107.5, the impact analysis contained in the DEIR is inherently flawed and inadequate. As stated above, and as required by Policy CE 1.1, a "thorough biological evaluation" must be prepared and presented in the Final EIR to support the findings of ESHA identified on Table 3.4-1 and Figure 3.4-3 and elsewhere in the DEIR.

**Figure 3.4-3**

Section 3.4.3.3 of the DEIR states that the DEIR's impact analysis was based on "the maps and descriptions in the GP/CLUP . . ." However, Figure 3.4-3, entitled "Environmentally Sensitive Habitat Areas," is inconsistent with GP/CLUP Figure 4.2 which bears the same title. It is obvious from a comparison of these maps that the EIR has expanded the alleged ESHA areas identified in the GP/CLUP without the "thorough biological analysis" required by Policy CE 1.1. The GP/CLUP characterizes all habitats as ESHA, regardless whether they meet the criteria outlined in Policy CE 1.1 and/or Coastal Act § 30107.5. The City's determinations regarding ESHA are being made without any scientific evidence in support thereof. Furthermore, as testified to at the City Council hearing of June 10, 2006, further revision to this Figure is intended to occur with regards to the Residences at Sandpiper and other properties. Similar to the project description, Figure 3.4-3 must be solidified prior to commencing with the necessary environmental analysis.

B.9-126

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## **Class II Impacts on Biological Resources, PP. 3.4-25-31**

### Short-Term Impacts

#### Policies that Would Reduce Impact 3.4-1, PP. 3.4-25-26

The DEIR lists the GP/CLUP policies that it claims will reduce the potentially significant impacts of temporary habitat loss and modification by requiring impact avoidance where feasible, setting design criteria and management guidelines, and requiring mitigation for impacts to special status habitats. However, the DEIR's discussion on how these policies reduce the impacts is inadequate.

**B.9-127**

### Long-Term Impacts

#### Impact 3.4-2 Loss of Special Status Habitats, PP. 3-4-26-27

The DEIR fails to provide any impact analysis. Rather, the DEIR merely states that "the actual ESHA impacts of each development would be calculated as part of the planning process and CEQA documentation for individual projects." This is contrary to the Purpose of this Program EIR as identified in Section 1.1 (page 1-1) which states in pertinent part: "This draft Environmental Impact Report (EIR) was prepared to evaluate the potential environmental impacts associated with approvals related to the City of Goleta (City) Draft General Plan/Coastal Land Use Plan . . . , and to address appropriate and feasible mitigation measures . . . ." Therefore, the Final EIR must include the actual ESHA impacts that would be associated with approvals related to the City of Goleta (City) Draft General Plan/Coastal Land Use Plan.

**B.9-128**

#### Policies that Would Reduce Impact 3.4-2

The DEIR lists the GP/CLUP policies that would apply to Impact 3.4-2, but the discussion as to how these policies reduce the impacts is woefully inadequate. We question how the determination that these policies would reduce the impacts to a "Less than Significant Level" can be made when, as discussed above, the impacts have not been determined at this time but have been deferred to a future date. This renders the DEIR incomplete and inadequate.

**B.9-129**

#### Impact 3.4-3 Long-term Degradation of Special Status Habitat, P. 3-4-27

We question how the long-term degradation of Special Status Habitats can be determined when, as discussed above under Impact 3.4-2, the actual ESHA impacts will not be determined until a future date.

**B.9-130**

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Policies that Would Reduce Impact 3.4-3

The DEIR lists the GP/CLUP policies that would apply to Impact 3.4-3, but the discussion on how the policies reduce the impacts is inadequate. We question how the determination that the project would be mitigated to less than significant levels can be made when, as discussed above under Impact 3.4-2, the actual impacts will not be determined until a future date.

**B.9-131**

*Impact 3.4-4 Fragmentation of Special Status Habitats, P. 3-4-28*

Similarly, we question how an assessment of the Fragmentation of Special Status Habitats can be determined when, as discussed above under Impact 3.4-2, the actual ESHA impacts would not be determined until a future date.

**B.9-132**

Policies that Would Reduce Impact 3.4-4

As this impact references Impact 3.4-2, we incorporate by reference as though fully set forth herein our comment on Impact 3.4-2. Once again, we question how the determination that the project would be mitigated to a less-than-significant level by the can be made when, as discussed above under Impact 3.4-2, the actual impacts would not be determined until a future date.

**B.9-133**

*Impact 3.4-5 Harm to Listed Species, P. 3.4-28-29*

We question how an assessment of the Harm to Listed Species can be determined when, as stated above under Impact 3.4.2, the actual ESHA impacts will not be determined until a future date.

**B.9-134**

Policies that Would Reduce Impact 3.4-5

As this impact references Impacts 3.4-1 and 3.4-2, we incorporate by reference as though fully set forth herein our comments on Impacts 3.4-1 and 3.4-2. Once again, we question how the determination that the project would be mitigated to a less-than-significant level can be made when, as discussed above under Impact 3.4-2, the actual impacts will not be determined until a future date.

**B.9-135**

*Impact 3.4-6 Loss, Reduction or Isolation of Local Populations of Native Species, P. 3.4-9*

We question how an assessment of the Loss, Reduction or Isolation of Local Populations of Native Species can be determined when, as discussed above under Impact 3.4-2, the actual ESHA impacts will not be determined until a future date.

**B.9-136**

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Policies that Would Reduce Impact 3.4-6

As this impact references Impacts 3.4-1, 3.4-2 and 3.4-5, we incorporate by reference as though fully set forth herein our comments on Impacts 3.4-1 and 3.4-2 and 3.4-5. Once again, we question how the determination that the project would be mitigated to a less-than-significant level can be made when, as discussed above under Impact 3.4-2, the actual impacts would not be determined until a future date.

**B.9-137**

*Impact 3.4-7 Reduction in Amount of Quality of Habitat for Special Status Species, P. 3.4-29*

We question how an assessment of the Reduction in Amount of Quality of Habitat for Special Status Species can be determined when, as discussed above under Impact 3.4-2, the actual ESHA impacts will not be determined until a future date.

**B.9-138**

Policies that Would Reduce Impact 3.4-7

As this impact references Impacts 3.4-1, 3.4-2 and 3.4-5, we incorporate by reference as though fully set forth herein our comments on Impacts 3.4-1 and 3.4-2 and 3.4-5. Once again, we question how the determination that the project would be mitigated to a less-than-significant level can be made when, as discussed above under Impact 3.4-2, the actual impacts would not be determined until a future date.

**B.9-139**

*Impact 3.4-8 Break or Impairment of Function of Existing Wildlife Linkages, P. 3.4-31*

Policies that Would Reduce Impact 3.4-7

As this impact references Impacts 3.4-2, 3.4-3 and 3.4-4, we incorporate by reference as though fully set forth herein our comments on Impacts 3.4-2, 3.4-3 and 3.4-4.

**B.9-140**

*Impact 3.4-9 Loss or Degradation of conserved Habitat, P. 3.4-31*

Policies that Would Reduce Impact 3.4-9

As this impact references Impacts 3.4-1 through 3.4-8, we incorporate by reference as though fully set forth herein our comments on Impacts 3.4-1 through 3.4-8.

**B.9-141**

*Impact 3.4-10 Inconsistency with approved Conservation Program or Local Conservation Program, P. 3.4-31*

**B.9-142**

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Policies that Would Reduce Impact 3.4-10

As this impact references Impacts 3.4-1 through 3.4-9, we incorporate by reference as though fully set forth herein our comments on Impacts 3.4-1 and 3.4-9.

B.9-142

*Impact 3.4-13 Protection of ESHA and Maintenance/Management of Regional and Neighborhood Open Space Areas, P. 3.4-31*

The DEIR fails to identify or discuss any GP/CLUP policy that substantiates the finding of a Class IV impact.

B.9-143

Impact Assessment Methodology

The DEIR's Biological Resources Section fails to include an impact assessment methodology similar to Section 3.6.3.4 of the DEIR's Geology Section. An impact assessment methodology section needs to be included in the Final EIR in order to render it complete and adequate.

B.9-144

**CULTURAL RESOURCES, § 3.5, PP. 3.5-1-16**

**Class II Impacts**

Short-Term Impacts

*Impact 3.5-1 Damage to Sites of Cultural, Historical or Paleontological Significance, P. 3.5-12*

The General Plan/EIR documents the need to develop General Plan Policies/Mitigation Measures so as to address the impacts associated with Cultural, Paleontological Resources. It is inadequate to not propose any form of mitigation. It is an error to assert that a significant impact (Class II) could have a less than significant residual impact without the identification of any type of mitigation.

B.9-145

Long-Term Impacts

*Impact 3.5-2 Loss or Destruction of an Important Historical Building, Archaeological Site, or Paleontological Site, P. 3.5-13*

This paragraph concludes with the sentence that "If mitigation measures cannot be developed to lessen the impacts to significant resources to a level of nonsignificance, the adverse effect would be long term and potentially Class I" (significant and unavoidable where mitigation measures cannot reduce the impacts to a less than significant level). The purpose of a Program EIR is to develop mitigation measures, not to defer their development to a later date. This statement is also internally inconsistent with the Executive Summary (pages ES-9) which indicates that

B.9-146

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Impact 3.5-2 as Class I (significant impact that is feasibly mitigated) with a residual impact of "Less than Significant" (Class III).

B.9-146

Policies That Would Reduce Impact 3.5-2, But Not to a Level of Insignificance

The DEIR lists the GP/CLUP policies that would apply to Impact 3.5-2, but the discussion on how these policies would reduce the impacts is inadequate to support the impact conclusion. Moreover, we question how the determination that these policies would reduce the impacts to a "Less than Significant Level" can be made when, as discussed above, the impacts have not been determined at this time, but rather deferred to a future date. This renders the DEIR incomplete and inadequate.

B.9-147

*Impact 3.5-3 Loss or Destruction of Significant Cultural Resource, P. 3.5-13*

Policies That Would Reduce Impact 3.5-3, But Not to a Level of Insignificance

The DEIR lists the GP/CLUP policies that would apply to Impact 3.5-3, but the discussion as to how these policies reduce the impacts is inadequate to support the impact conclusion.

B.9-148

Impact Assessment Methodology

The DEIR's Cultural Resources Section fails to include an impact assessment methodology similar to Section 3.6.3.4 of the DEIR's Geology Section. An impact assessment methodology section needs to be included in the Final EIR in order to render it complete and adequate.

B.9-149

**GEOLOGY, § 3.6, PP. 3.6-1-14**

**Discussion of Relevant Draft GP/CLUP Policies, § 3.6.3.2, P. 3.6-7**

**Conservation Element**

Section 3.6.3.2's discussion is incomplete and inadequate. This Section states that the: "City does not have a conservation policy related to the protection of mineral resources," however, Section 3.6.3.2 is intended to also discuss certain policies to minimize risk to humans and structures from geology or soils related hazards. There are policies in the GP/CLUP's Conservation Element that are intended to address this issue, but are not included in this Section. This discussion must be revised in the Final EIR to include the proper analysis in order to make the EIR adequate.

B.9-150

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**Potential Geologic Impacts and Hazards, § 3.6.3.3, P. 3.6-8-9**

The “proposed project,” consists of more than the development of vacant sites – it also consists of the rezone of numerous sites to a different use. By drafting a General Plan that will change land use designations, the proposed use must be analyzed in the Final EIR as this is part of the “project.” Further, all hazards areas must be evaluated for every area subject to land use designation change by the General Plan (which is the “project”).

B.9-151

**Impact Analysis Methodology, § 3.6.3.4, P. 3.6-10**

Section 3.6.3.4 states in pertinent part that: “As discussed above, impacts related to geologic processes resulting from implementation of the GP/CLUP involve only the potential effects associated with: a change in land use designation of existing developed parcels . . . .”

B.9-152

An analysis of these impacts has not occurred. The Geology Section of the DEIR fails to discuss any impacts related to geologic processes regarding a change in land use designation of existing developed parcels. Thus, the Geology Section must be revised in the Final EIR so as to include the above before it can be considered to meet the standards of a full disclosure document that is complete and adequate.

**Policy Adoption, P. 3.6-10**

There are additional policies that would address the potential for geological hazards to affect or be created by new development or redevelopment. The DEIR’s list of policies is incomplete and must be amended to include all appropriate policies in order for the Final EIR to be complete and adequate.

B.9-153

**Proposed Land Use Designations of Existing Developed Areas, P. 3.6-10**

Section 3.6-10 alleges that the “GP/CLUP does not include any substantial changes in the density or character of existing developed areas within the City of Goleta.” This is not an accurate statement as the City proposes significant changes in existing land uses. This will, in fact, represent a substantial change in both density and character of existing developed areas within the City.

B.9-154

**Table 3.6-1, P. 3.6-11**

This Table needs to be amended to include a Potentially Significant (Long-Term) Impact Summary for a change in land use designation of existing developed parcels.

B.9-155

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### **Project Impacts**

#### **Class II Impacts, P. 3.6-11**

##### Policies That Would Reduce Impact 3.6-1

The GP/CLUP Policy and Mitigation Section is incomplete and inadequate. The DEIR fails to reference all appropriate policies (mitigation measures) found in the General Plan. **B.9-156**

##### Policies That Would Reduce Impact 3.6-2

The GP/CLUP Policy and Mitigation Section is incomplete and inadequate. The DEIR fails to reference all appropriate policies (mitigation measures) found in the General Plan. **B.9-157**

##### Policies That Would Reduce Impact 3.6-3

The GP/CLUP Policy and Mitigation Section is incomplete and inadequate. The DEIR fails to reference all appropriate policies (mitigation measures) found in the General Plan. **B.9-158**

##### Policies That Would Reduce Impact 3.6-4

The GP/CLUP Policy and Mitigation Section is incomplete and inadequate. The DEIR fails to reference all appropriate policies (mitigation measures) found in the General Plan. **B.9-159**

#### **Mitigation and Residual Impacts, P. 3.6-13**

The GP/CLUP Mitigation and Residual Impact Section is incomplete and inadequate. The DEIR fails to reference all appropriate policies (mitigation measures) found in the General Plan. **B.9-160**

#### **HAZARDS AND HAZARDOUS MATERIALS, § 3.7, P. 3.7-1-24**

The introduction to Section 3.7 claims that this Section describes: "the impacts associated with hazardous and hazardous materials that would result from the proposed project . . ." This is an incorrect statement as the DEIR fails to identify the impacts associated with the "proposed project," specifically the impacts associated with the General Plan's changes in land use designations. **B.9-161**

##### Impact Assessment Methodology

The DEIR's Hazards Section fails to include an impact assessment methodology similar to Section 3.6.3.4 of the DEIR's Geology Section. An impact assessment methodology section needs to be included in the Final EIR in order to render it complete and adequate. **B.9-162**

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### **Class I Impacts**

#### Long-Term Impacts

##### *Impact 3.7-1 Risk of Upset at Venoco Facility, P. 3.7-15*

The General Plan/EIR documents needs to identify or develop General Plan Policies/Mitigation Measures in an attempt to address the significant impacts associated with Risk of Upset at the Venoco Facilities. The DEIR is inadequate because of its failure to propose policies and mitigation for this Significant/Class I Impact.

**B.9-163**

##### *Impact 3.7-2 Transport, P. 3.7-16*

The General Plan/EIR documents needs to identify or develop General Plan Policies/Mitigation Measures in an attempt to address the significant impacts associated with Transport. The DEIR is inadequate because of its failure to propose policies and mitigation for this Significant/Class I Impact.

**B.9-164**

### **Class II Impacts**

#### Long-Term Impacts

##### *Impact 3.7-4 Risk of Upset at Ellwood Marine Terminal, P. 3.7-17*

The General Plan/DEIR documents need to identify or develop General Plan Policies/Mitigation Measures in an attempt to address the significant impacts associated with Transport. The DEIR is inadequate because of its failure to propose such policies and mitigation measures.

**B.9-165**

##### *Impact 3.7-5 Airport, PP. 3.7-17-18*

The GP/CLUP Policy and Mitigation Section is incomplete and inadequate. The DEIR fails to reference all appropriate policies (mitigation measures) found in the General Plan.

**B.9-166**

##### *Impact 3.7-6 Wildland Fires, P. 3.7-19*

The GP/CLUP Policy and Mitigation Section is incomplete and inadequate. The DEIR fails to reference all appropriate policies (mitigation measures) found in the General Plan.

**B.9-167**

##### *Impact 3.7-7 Surface Water, P. 3.7-19*

The GP/CLUP Policy and Mitigation Section is incomplete and inadequate. The DEIR fails to reference all appropriate policies (mitigation measures) found in the General Plan.

**B.9-168**

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Policy That Would Reduce Impact 3.7-8, P. 3.7-20

There is no documented evidence that the application of Policy SE 10.6 “would reduce potentially significant exposure of the public to hazardous waste associated with listed/contaminated sites to less-than-significant levels” as claimed in this Section. In fact, GP/CLUP Policy 10.5 expressly provides that the “City shall not allow any new residential development near hazardous facilities if these residences would be exposed to unacceptable and unmitigable risk.” The conclusions of this Section need to be substantiated with science-backed facts and analysis.

B.9-169

3.7-9 Contaminated Soils, PP. 3.7-20-21

Contrary to statements made in this Section of the DEIR, contaminated soils are not only limited to sites with past oil development. As stated on Page 3.7-3, contaminated soils may occur as a result of numerous businesses such as hospitals, dry cleaners, manufacturing and industrial operation in construction. Therefore, this Section must be amended to identify the location of contaminated sites (especially those identified for a land use change pursuant to the General Plan), source of contaminants, level of contamination and to evaluate impacts associated with the redevelopment of any affected sites.

B.9-170

Policy That Would Reduce Impact 3.7-9, P. 3.7-21

There is no documented evidence that the application of Policy SE 10 would reduce the possibility of potentially significant exposure of the public to contaminated soils to less-than-significant levels. This conclusion needs to be substantiated with science-backed facts and analysis. In fact, Policy SE 10.5 of the GP/CLUP expressly provides that the “City shall not allow any new residential development near hazardous facilities if these residences would be exposed to unacceptable and unmitigable risk.”

B.9-171

**Class III Impacts**

Long-Term Impacts

*Impact 3.7-10 Exposure of Populated Areas to Oil and Gas Pipelines, P. 3.7-21*

The GP/CLUP Policy and Mitigation Section is incomplete and inadequate. The DEIR fails to reference all policies (mitigation measures) found in the General Plan that result in the Class III finding.

B.9-172

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*Impact 3.7-11 Ellwood Facility, P. 3.7-22*

The GP/CLUP Policy and Mitigation Section is incomplete and inadequate. The DEIR fails to reference all appropriate policies (mitigation measures) found in the General Plan.

B.9-173

*Impact 3.7-12 EMFs, P. 3.7-12*

The GP/CLUP Policy and Mitigation Section is incomplete and inadequate. The DEIR fails to reference all policies (mitigation measures) found in the General Plan that result in the Class III finding. Further, No Residual Impact is identified.

B.9-174

*Impact 3.7-13 Upset and Accident Controls, P. 3.7-22*

The GP/CLUP Policy and Mitigation Section is incomplete and inadequate. The DEIR fails to reference all policies (mitigation measures) found in the General Plan that result in the Class III finding.

B.9-175

**POPULATION AND HOUSING, § 3.8, PP. 3.8-1-20**

**Chart 3.8-2 Distribution of Employment in the Goleta Valley, p. 3.8-4**

The legend to Chart 3.8-2 identifies only three employment increments, but it is obvious that Chart 3.8-2 includes a variety of such increments. Therefore, the legend needs to be revised to include all of the increments identified in Chart 3.8-2.

B.9-176

**Relevant Discussion of GP/CLUP Policies, § 3.8.3.2, p. 3.8-13**

**Housing Element**

Not all of the applicable GP/CLUP policies are identified.

B.9-177

**Land Use Element**

Not all of the applicable GP/CLUP policies are identified.

B.9-178

**Impact Assessment Methodology**

The DEIR's Population and Housing Section fails to include an impact assessment methodology similar to Section 3.6.3.4 of the DEIR's Geology Section. An impact assessment methodology section needs to be included in the Final EIR in order to render it complete and adequate.

B.9-179

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**Project Impacts, § 3.8.3.3, pp. 3.8-14-19**

Section 3.8.3.3 discusses the full Plan buildout that would include “construction of new units on vacant sites as well as redevelopment of existing sites to include new residential units in mixed-use projects, such as construction of some units on sites occupied by shopping centers.” The DEIR, however, fails to provide an analysis that supports the feasibility of the redevelopment of shopping centers as a housing option. As discussed in our client’s comment letter of June 26, 2006 on the GP/CLUP, it is simply unrealistic to expect that a residential development would occur on the sites shown on Figure 10 A-3 of the Housing Element -- “Designated Non-Residential Zoning Amendment to Allow Residential Use.”

**B.9-180**

**Class II Impacts**

Short-Term Impacts

Impact 3.8-1 The Result of the Increased Population Would Be the Need for Additional Housing and Jobs, Which Would Result in the Physical Alteration of Vacant and Previously Developed Land within the City

Impact 3.8-1’s discussion directs the reader to “Please see those respective sections of this EIR for a discussion of environmental impacts associated with construction of housing and commercial development within the City.” However, notably absent from the DEIR is a section entitled “Policies that Would Reduce Impact 3.8-1.” There is no identification of proposed mitigation measures, policies intended to act as mitigation measures, or references to other sections of the DEIR that may identify mitigation measures. Additionally, Impact 3.8-1 is identified in the Executive Summary as “Class II” with a residual impact (following the application of mitigation measures) as “Class III.” However, again no mitigation measures are identified in the DEIR. Thus, the analysis associated with this impact is incomplete and inadequate.

**B.9-181**

Policies That Would Reduce Impact 3.8-2

This Section is incomplete because not all of the applicable GP/CLUP policies are identified.

**B.9-182**

Existing Policies That Would Reduce Impact 3.8-3

This Section is incomplete as not all of the applicable GP/CLUP policies are identified.

**B.9-183**

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Policies That Would Reduce Impact 3.8-4

This Section is incomplete as not all of the applicable GP/CLUP policies are identified.

B.9-184

**LAND USE AND RECREATION, § 3.10, pp. 3.10-1-24**

Impact Assessment Methodology

The DEIR's Land Use and Recreation Section fails to include an impact assessment methodology similar to Section 3.6.3.4 of the DEIR's Geology Section. An impact assessment methodology section needs to be included in the Final EIR in order to render it complete and adequate.

B.9-185

**Discussion of Relevant GP/CLUP Policies, § 3.10.3.2, PP. 3.10-12-15**

The Land Use and Recreation Section cites certain policies from the Open Space Element, Housing Element, Safety Element, Visual and Historic Resources Element, Transportation Element, and the Public Facilities Element which purportedly "are relevant to land use and planning and recreation." However, Section 3.10.3.2 fails to identify and discuss all of the appropriate policies from the aforesaid elements.

B.9-186

**Project Impacts, § 3.10.3.3, PP. 3.10-15-23**

**Class I Impacts, P. 3.10-15**

This Section states that the "policies identified in the elements of the City's GP/CLUP are designed and intended to ensure consistency between City regulations, standards, and ordinances and all State and Federal policies and regulations for the avoidance and/or mitigation of potential adverse environmental effects resulting from implementation of the GP/CLUP." Notwithstanding the foregoing, the Land Use and Recreation Element fails to achieve such consistency because of the following:

B.9-187

- Internal inconsistencies with the Land Use Element, Housing Element, Transportation Element, Safety Element, and Conservation Element. The City has been notified of such inconsistencies on numerous occasions by many members of the public throughout the proceedings pursuant to the GP/CLUP and DEIR.
- The Housing Element has not been determined to be consistent with the regulatory requirements of the state of California.
- The DEIR considered the conversion of the South Kellogg area from General Industrial to Medium Density Residential. As of July 11, 2006, the City Council changed the EIR

B.9-188

B.9-189

B.9-190

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project description whereby it is no longer considering this area as residential. The Final EIR needs to reflect this change.

B.9-190

**Class II Impacts, PP. 3-10-15-16**

Short-Term

Impact 3.10-1. Conflict with Applicable Land Use Policies and/or Regulations Due To Buildout (Construction) of GP/CLUP Land Uses, Transportation Improvements, and Public Facilities

B.9-191

Construction-related, activities associated with buildout of the adopted GP/CLUP land uses will not be able to occur based on the numerous internal inconsistencies that exist in the GP/CLUP. This constitutes a Class I Significant Impact which requires a major revision to the GP/CLUP to remedy such internal inconsistencies. Upon completion of such revisions, the DEIR needs to be substantially revised and re-circulated.

Impact 3.10-4, P. 3-10-18 Physical Division of an Established Community Due to Buildout of GP/CLUP Land Uses

Section 3.10-4 states that buildout "of the GP/CLUP has the potential to physically divide established communities due to the introduction of incompatible or otherwise obstructive land uses." This analysis is incomplete and inadequate because there is no disclosure of the potential impacts. Moreover, there is no showing that the impacts associated with changes in density or design would be reduced to a less-than-significant level as claimed.

B.9-192

**NOISE, § 3.11, PP. 3.11-1-22**

**Regulatory Framework, § 3.11.2, pp. 3.11-11-22**

**Federal and State, § 3.11.2.1, pp. 3.11-11-14**

The standards identified by the City of Goleta are more restrictive than those proposed by Federal and State agencies such as HUD, FAA and OPR. For example, GP/CLUP Policy NE 1.2 discourages residential development on properties which have a noise exposure which exceeds 60 dBA CNEL. This represents a 5 dBA decrease in the allowable standard currently in place for the City of Goleta, which corresponds to a 70% reduction of the acoustical energy, which is a very significant reduction. The application of 60 dBA CNEL is inconsistent with Title 24 of the California Code of Regulations and standards used by other jurisdictions, such as the County of Santa Barbara. Policy NE 1.2 is overly broad and devoid of any scientific basis in support thereof. The FEIR must include an analysis that substantiates the need for a 60 dBA standard as required by Policy NE 1.2.

B.9-193

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**Thresholds of Significance, § 3.11.3.1, p. 3.11-14**

The GP/CLUP proposes standards that are more restrictive than those identified in the City of Goleta's Environmental Threshold and Guidelines Manual. The FEIR must include an analysis that substantiates the need for a 60 dBA standard as required by revised Policy NE 1.2. As discussed above, this represents a 5 dBA decrease in the allowable standard currently in place for the City of Goleta, which corresponds to a 70% reduction of the acoustical energy, which is a very significant reduction. The application of 60 dBA CNEL is inconsistent with Title 24 of the California Code of Regulations and standards used by other jurisdictions, such as the County of Santa Barbara.

B.9-194

Impact Assessment Methodology

The DEIR's Noise Section fails to include an impact assessment methodology similar to Section 3.6.3.4 of the DEIR's Geology Section. An impact assessment methodology section needs to be included in the Final EIR in order to render it complete and adequate.

B.9-195

**Project Impacts, § 3.11.3.3., pp. 3.11-16-20**

**Class I Impacts, pp. 3.11-16-20**

Long-Term

Impact 3.11-2. Exposure of Existing of Planned Noise Sensitive Receptors Uses to Increased Noise

Section 3.11-2 states that there "are a number of roadways where traffic noise on adjacent parcels is predicted to increase under the GP/CLUP to a level that exceeds 65 dBA CNEL." This analysis is inconsistent with the standards identified in revised Policy NE 1.2. In view of revised Policy NE 1.2, the noise analysis must be repeated and its results provided to the public. Further, the Final EIR must include an analysis that substantiates the necessity for a 60 dBA standard as required by revised Policy NE 1.2.

B.9-196

Impact 3.11-3. Exposure of Proposed Noise Sensitive Land Uses to Traffic Noise

Section 3.11-3 states that "a number of areas planned for development of noise sensitive land uses could be exposed to traffic noise exceeding 65 dBA CNEL." A subsequent section of the DEIR states that the utilization of a 65 dBA standard could adversely affect all residential areas depicted in the GP/CLUP. In view of the fact that the City Council on June 28, 2006 modified Policy NE 1.2 to identify a 60 dBA limit for new residential uses, it is reasonable to assume that the application of this more stringent policy will have greater impacts. The Final EIR needs to include an analysis which substantiates the necessity for the proposed 60 dBA standard,

B.9-197

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evaluates its application and determines the non-viability of development of the affected properties.

B.9-197

Policies That Would Reduce Impact 3.11-3, but Not to a Level of Insignificance.

The introductory sentence to this Section states that the implementation of certain listed “will require mitigation where feasible, and may, in some cases, prohibit development in order to limit the exposure of noise sensitive uses to traffic noise that exceeds the City’s noise compatibility standards for noise sensitive uses.” The prohibition of housing as a mitigation measure is inconsistent with the policies contained in the GP/CLUP’s Land Use and Housing Elements. The Final EIR must include an analysis which substantiates the need for the proposed 60 dBA standard, evaluates its application and determines the non-viability of development of the affected properties as a result of said standard.

B.9-198

3.11-4 Exposure of Proposed Noise Sensitive Land Uses to Railway Noise

Section 3.11-4 states that “Figure 10A-3 indicates that under the GP/CLUP, a number of areas planned for residential development could be exposed to railroad noise exceeding 65 dBA CNEL.” A subsequent section of the DEIR states that the utilization of a 65 dBA standard could adversely affect all residential areas depicted in the GP/CLUP. In view of the fact that the City Council on June 28, 2006 modified Policy NE 1.2 to identify a 60 dBA limit for new residential uses, it is reasonable to assume that the application of this more stringent policy will have greater impacts. The Final EIR needs to include an analysis which substantiates the necessity for the proposed 60 dBA standard, evaluates its application and determines the non-viability of development of the affected properties.

B.9-199

Policies That Would Reduce Impact 3.11-4, but Not to a Level of Insignificance

The introductory sentence to this Section states that the implementation of certain listed “GP/CLUP policies will require mitigation where feasible, and may, in some cases, prohibit development in order to limit the exposure of noise sensitive uses to traffic noise that exceeds the City’s noise compatibility standards for noise sensitive uses.” The prohibition of housing as a mitigation measure is inconsistent with the policies contained in the GP/CLUP’s Land Use and Housing Elements. The Final EIR must include an analysis which substantiates the need for the proposed 60 dBA standard, evaluates its application and determines the non-viability of development of the affected properties as a result of said standard.

B.9-200

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**PUBLIC SERVICES AND UTILITIES, § 3.12, pp. 3.12-1-18**

**Existing Conditions, § 3.12.1, P. 3.12-1**

Section 3.12-2 states that the “locations of various public facilities described in this section are shown in Figure 3.12-1”. However, the GP/CLUP’s Public Facilities Element, Figure 8-1, identifies only one geographic area for the future fire station in Western Goleta. The proposed area for such station includes the southeast portion of the Residences at Sandpiper property, a site under long term lease by Bacara for its employee parking lot, and the entrance to the Comstock Homes project. Similarly, Figure 3.12-1 identifies the same area for the “Future Fire Station”. Thus, the City fails to provide a reasonable range of alternative sites for locating a fire station in Western Goleta by identifying only one specific location.

B.9-201

**Impact Assessment Methodology**

The DEIR’s Public Services and Utilities Section fails to include an impact assessment methodology similar to Section 3.6.3.4 of the DEIR’s Geology Section. An impact assessment methodology section needs to be included in the Final EIR in order to render it complete and adequate.

B.9-202

**Discussion of Relevant GP/CLUP Policies, § 3.12.3.2, PP. 3.12-9-15**

**Land Use Element, P. 3.12-10**

This Section lists various policies from the GP/CLUP’s Land Use Element which purportedly are the “guiding principles and goals” to provide “the foundation for the Land Use Plan as they pertain to Public Services.” However, not all of the applicable Land Use Element policies are identified.

B.9-203

**Safety Element, P. 3.12-10**

This Section lists various policies from the GP/CLUP’s Safety Element which purportedly are the “guiding principles and goals” to provide “the foundation for the Land Use Plan as they pertain to Public Services.” However, not all of the applicable Safety Element policies are identified.

B.9-204

**Impact 3.12-2 Increased Demand for Fire Protection**

Section 3.12-2 states that the City “has identified multiple policies and objectives in the GP/CLUP intended to address fire protection service and to accommodate projected growth. Among these is the addition of a new fire station (Station 10) to be located in Western Goleta.” Further, this Section states that the City “will provide a site consisting of approximately two

B.9-205

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acres of land for the new fire station.” Figure 3.12-1 identifies Bacara’s employee parking lot, the entrance to the Comstock Homes Project, and the southeast corner of the Residences at Sandpiper property as the “Future Fire Station”. As discussed above, the City has failed to provide a reasonable range of alternative sites for locating the fire station in Western Goleta by identifying only one specific area. Further, the DEIR provides no analysis or discussion whether the City could reasonably acquire, control or otherwise have access to the proposed “Future Fire Station” sites and whether said sites are committed to other long-term uses by the owners or lessees thereof. In addition, County Fire Captain Martin Johnson has testified before the City Council that a fire station north of US 101 would best meet the needs of the underserved portion of Western Goleta.

B.9-205

**TRANSPORTION AND CIRCULATION, § 3.13, PP. 3.13-1-36**

**Relevant Discussion of GP/CLUP Policies, § 3.13.3.2, pp. 3.13-11-13**

**Land Use Element**

Not all of the applicable GP/CLUP policies are identified.

**Open Space Element**

Not all of the applicable GP/CLUP policies are identified.

B.9-206

**Conservation Element**

Not all of the applicable GP/CLUP policies are identified.

**Public Facilities**

While Public Facilities policies are identified in the GP/CLUP, no applicable Public Facilities policies are identified in the DEIR.

**Proposed Project With Recommended Improvements (Mitigation), p. 3.13-22**

The introductory sentence to this Section states that the “proposed mitigated project assumes construction of recommended infrastructure improvements and includes regional traffic growth, by 2030.” However, as identified in referenced Table 3.13-11, the mitigation measures that are expected to have the greatest mitigation capability<sup>2</sup> are not funded, nor targeted for funding. Therefore, this Section needs to be revised to either eliminate infeasible mitigation or provide substantiation regarding the feasibility for unfunded projects on mitigating the impacts identified.

B.9-207

<sup>2</sup> Ellwood Station Overcrossing, Phelps/Mesa Road Extension and La Patera Overcrossing

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**Table 3.13-13 Intersection LOS – Proposed Project With Recommended Transportation Improvements, P. 3.13-25**

Table 3.13-13 refers to identification numbers shown on Figure 3.13-6 entitled “Proposed Transportation Improvement Plan.” However, either Figure 3.13-6 is incorrect or Table 3.13-13 is incomplete because there are designations on Figure 3.13-6 which are not included in Table 3.13-13. If the transportation improvement identification numbers are not included, then an additional table, similar to Table 3.13-13, needs to be prepared for this purpose and included in the Final EIR in order to render it complete and adequate.

B.9-208

**ALTERNATIVES, § 5.0, pp. 5-1-22**

**1. The “No Project” Alternative Fails to Comply with CEQA Requirements**

By mistakenly claiming that the “no project” alternative is illegal, the DEIR incorrectly analyzes the alternative by not defining it as buildout under current plans and regulations, as required by CEQA. The DEIR thus denies the public any opportunity to compare the impacts of the proposed General Plan to the existing Santa Barbara County General Plan (which includes the Goleta Community Plan). To resolve these deficiencies, and to protect its citizens from irresponsible development, the City should temporarily adopt the County’s General Plan and amend the DEIR’s analysis accordingly.

B.9-209

**A. CEQA Defines the “No Project” Alternative as Buildout under Current Plans and Regulations**

CEQA requires a description of a range of reasonable alternatives to the proposed project, including the “no project alternative.” CEQA Guidelines § 15126.6. The purpose of the “no project” alternative is to “allow decisionmakers to compare the impacts of approving the proposed project with the impacts of not approving the proposed project.” *Id. at* §15126.6(e)(1). An adequate “no project alternative” discussion in the environmental document needs to do two things: a) discuss the existing conditions at the time the NOP is published; and b) discuss what would reasonably be expected to occur in the foreseeable future if the project were not approved, based upon current plans and consistent with available infrastructure and community services. *Id. at* § 15126.6(e)(1) & (2).

B.9-210

In cases where the EIR is for a general plan amendment, the “no project” is buildout under the current county plans and regulations. See Environmental Planning & Info. Council v. County of El Dorado (1982) 131 CA3d 350 (concluding that the “no project” alternative for a general plan amendment is defined as buildout under the current general plan, not as existing conditions (i.e., existing conditions are instead the baseline against which the no project and all other alternatives must be analyzed)). The regulations also state that “[w]hen the project is the

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revision of an existing land use or regulatory plan, policy or ongoing operation, the "no project" alternative will be the continuation of the existing plan, policy or operation into the future." Guidelines §15126.6(e)(3)(A).

We understand that the City's likely response is that because it is adopting a *new* general plan, not amending an existing one, that the usual CEQA requirements that pertain to the "no project" alternative are inapplicable in this case. The City appears to be using the fact that it did not adopt the Santa Barbara County General Plan upon incorporation as a license to dismiss the "no project" alternative as "illegal under State law," or, if not illegal, then one that would lead to "no control over development and degradation of the environment" due to lack of guiding policies from an adopted General Plan. In so doing, the City has created a "no project" alternative that is either patently infeasible (i.e., illegal) or practically infeasible (allowing only 356 housing units over the next 24 years, which cannot be considered a serious General Plan option). The DEIR also provides no legal justification for its novel approach to the "no project" alternative. For the reasons provided below, the City's approach is inconsistent with CEQA, inconsistent with typical incorporation procedure, and easily resolved.

B.9-210

B. The City's Conclusion that the "No Project" Alternative is "Illegal" is Neither Justified in the Record nor Supported by the Law

First, the City's unexplained decision to not adopt Santa Barbara County's General Plan when it incorporated is the central problem. We are unaware of any newly incorporated city that has made the same decision. For example, the recently incorporated cities of Rancho Cordova (2003), Elk Grove (2000), Rancho Santa Margarita (2000), and Oakley (1999), all adopted the underlying County General Plans and zoning ordinances when they incorporated. They did so for a very good reason: to ensure they had the regulatory tools to responsibly control development until they adopted their own General Plan and zoning ordinances. This raises the question of why the City would knowingly expose its citizens to, as it admits in the DEIR, "uncontrolled development" by choosing not to temporarily adopt the County's General Plan. The City then compounds this irresponsible decision by using it as an excuse to gut the full and fair analysis of the "no project" alternative, thereby denying its citizens and others the opportunity to properly evaluate the relative impacts of the City's proposed plan. But issues of good government aside, the City's decision to not adopt the County General Plan does prevent the City from complying with CEQA's alternatives analysis requirements.

B.9-211

To be clear, we find no merit in the City's unsupported conclusion in Section 5.3.1 that the "no project" alternative is "illegal under State law." The City seems to base this conclusion on the assumption that no future development could be allowed legally under the "no project" alternative because, as a newly incorporated city without a General Plan, the City *must* adopt a new General Plan, otherwise it cannot continue to legally approve future development under its interim zoning regulations alone. And since State law requires all cities to have a General Plan, the penalty of not having one would be, in essence, a moratorium on growth. Thus, the argument

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continues, the “no project” alternative cannot allow future development beyond projects already approved but not constructed — hence the 356 total units allowed. (Or maybe the City thinks the alternative is illegal because the 356 housing units would not be enough to meet the City’s State-mandated housing requirement.) But again, without any explanation in the DEIR, the public is left to speculate about these fundamental questions. We can find no legal support for the City’s position, much less any legal authority even addressing this particular matter. It seems the City has positioned itself in a place no other City has ventured to go and has done so for no apparent good reason.

The City’s approach also mistakenly assumes that denial of its proposed General Plan would mean the City could take no additional action to extend the current interim status of its zoning ordinance or to adopt, as discussed above, the current General Plan of Santa Barbara County in order to remedy the alleged problem. We are unaware of any legal or practical hurdles preventing the City from seeking this remedy. With little expenditure of time or money, the City could adopt the County’s General Plan and gain whatever time it needs to complete a compliant DEIR. To proceed in the DEIR as if these options do not exist is erroneous and arguably in bad faith.

B.9-211

Furthermore, if the “no project” is truly illegal, then according to CEQA, the alternative is not “feasible” due to legal impossibility and should not be analyzed at all. See *Save San Francisco Bay Ass’n v. San Francisco Bay Conserv. & Dev. Comm’n.* (1992) 10 CA4th 908 (holding that an EIR need not examine alternatives that are contrary to law). §15126.6(e)(1). However, if it is not illegal, then the lack of clarity regarding the scale of the potential growth is no small matter because this number drives the entire impact analysis of the “no project” alternative. For the reasons stated above, we strongly believe that the “no project” alternative is legal (or can easily be made legal by adoption of the County General Plan) and that CEQA requires analysis of a clearly defined “no project” buildout under current zoning and General Plan.

In absence of a justification for its actions, the City’s so-called “illegality” problem seems to be mostly of its own making. The City has chosen to be in a regulatory “no man’s land” when it does not have to be. However, a review of case law uncovered no case that provided special treatment for newly incorporated cities regarding the treatment of “no project” alternatives. The CEQA Guidelines also make no special provisions regarding this matter. The practical result is that the DEIR never compares the most basic environmental relationship of all: that of the current County General Plan to the City’s proposed General Plan. See §15126.6(e)(3)(A) (stating that the projected impacts of the proposed amended plan are normally compared to the impacts that would occur under buildout of the existing plan). Whether avoiding this comparison was the City’s intent or not, the DEIR denies the public any opportunity to know if the proposed plan is better than the existing plan. This is a fundamental deficiency in the DEIR and it cannot be squared with CEQA’s purpose of allowing “meaningful evaluation” of the alternatives by the public. See §15126.6(d).

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In summary, the law states that when an amendment to an existing general plan is proposed, as should be the case here, the “no project” alternative will be the buildout under the existing plan, not existing physical conditions or anything else. The “no project” buildout must then be compared to the actual existing conditions (i.e., baseline). Finally, after this baseline comparison is complete, the EIR must then compare the impacts of buildout under the “no project” alternative to the impacts of buildout under the proposed plan, as well as to the buildout of all the other alternatives, in order to determine which one is environmentally superior.

**B.9-211**

#### C. The DEIR’s Analysis of the “No Project” Alternative is Internally Inconsistent

Despite the fact that the DEIR claims the “no project” is illegal, it analyzes the alternative as if it were a legally valid alternative. Thus, for the purpose of providing comments, the following comments set aside any broader legal questions and assume that the alternative is legal. These comments focus instead on the adequacy of the “no project” alternative as presented on its own terms.

In this context, is clear from our review that the DEIR’s “no project” definition is, on its face, internally inconsistent such that it violates CEQA requirements.

**B.9-212**

Interestingly, the DEIR seems to initially define the “no project” correctly as buildout under the current regulations. For example, Section 5.3.1 of the DEIR begins by defining the “no project” as “existing conditions plus the projects that had received planning approvals but were not completed prior to preparation of the Draft GP/CLUP.” The DEIR also defines the “no project” as including implementation of “existing zoning and other City regulations and ordinances continued into the future without a GP/CLUP.” Thus, at the outset, the DEIR acknowledges that future development as allowed by current zoning “continued into the future” is part of the “no project” alternative.

However, the only instance where this definition is applied (and only to a partial degree) is in Section 5.4.1, Aesthetic and Visual Resources. Here the DEIR finds a Class I impact to visual resources due to the 1,028 housing units that could be “accommodated” by the “no project” alternative. The 1,028 housing units is presented as a buildout number, but the estimate is derived from the Housing Element (HE 6.2) which provides that this is the number of “units in projects already developed or approved since the beginning of the RHNA [Regional Housing Needs Allocation] period.” The DEIR fails to explain why this RHNA number has any relevance to the “no project” alternative. The 1,028 units represents neither full buildout (because it neglects development of units to be built after 2009, when the current RHNA period ends), nor existing conditions (because it includes almost 700 units that were already built between 2001 and 2005). This leaves the reader totally confused as to what scale of development is actually being analyzed under the “no project” alternative in this Section.

**B.9-213**

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Adding to the confusion and internal inconsistency of the DEIR, the 1,028 housing unit number contradicts Table 5-1, Project and Alternative Land Use Scenarios, which describes the “no project” as including only 356 additional housing units and 268,000 sq. ft of commercial/industrial space. The Table states that this amount of development is the “net change in comparison to existing conditions.” The logical conclusion then is that there will be 356 new houses built in the future under the “no project” alternative. This conclusion, however, contradicts yet another “no project” description found in the Population and Housing Section which states that the 356 units is derived from residential projects “that have been completed between January 2001 and September 2005” or “have been approved but not yet completed as of October 2005.” This description raises more questions than it answers. Of what relevance is the January 2001 date? Why should projects completed before Goleta incorporated be included in the “no project” alternative? More fundamentally, this description gives the reader no idea how many of the 356 houses already exist (along with their impacts) and how many do not. Occupying a middle ground in this confusion, the Air Quality Section (§ 5.4.3.1) begins with the unqualified statement that “no new development would be permitted under this alternative [no project],” but ends by analyzing the impacts from “anticipated growth under the No Project alternative.” The Section never defines what level of “anticipated growth” is analyzed. Other DEIR sections characterize the “no project” alternative in variations of these themes.

B.9-214

More fundamentally, the DEIR is internally inconsistent when it concludes, as mentioned above, that the “no project” alternative is either “illegal” or would allow “uncontrolled growth.” These two options are mutually exclusive because the former would allow no future growth while the latter anticipates considerable future growth. The DEIR, consequently, must decide which of these very different “no project” scenarios it wants to analyze. The DEIR ignores this reality and leaves the ambiguity unresolved for its entire analysis.

B.9-215

The DEIR provides the reader with no clear and consistent identification of the amount of development analyzed under the “no project” alternative.

- D. The Solution is for the City to Adopt the Santa Barbara County General Plan. Alternatively, the City Could Provide the Required Buildout Analysis of the County’s General Plan by Including this Development Scenario as an Independent Alternative.

The simple solution for the City is to follow the lead of the City of Elk Grove (many other examples exist), which incorporated in 2000 from Sacramento County. The 2003 DEIR for Elk Grove’s draft General Plan states explicitly that CEQA requires the “no project” alternative to be the buildout under the current General Plan. And since Elk Grove adopted the Sacramento County General Plan immediately upon incorporation, it used the county’s then-current regulations and policies to estimate the buildout for the “no project” alternative. This same process — that of adopting the General Plan and ordinances of the underlying county until it can adopt its own — is the practice of all, or nearly all, newly incorporated cities. Whatever negative consequences the City fears would happen by temporarily adopting the current County General

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Plan cannot legitimately be worse for the citizens of Goleta than having no General Plan at all. This is especially true given that the County General Plan includes the Goleta Community Plan, which provides specific policies and standards to guide development in the City's general area. How could having no General Plan be more protective than an existing community plan?

Adopting the Santa Barbara County General Plan would also solve the second problem the DEIR identifies about the "no project" alternative — that it could lead to "no control over development and degradation of the environment" due to lack of guiding policies from an adopted General Plan. (This statement seems inconsistent with the DEIR conclusion that the "no project" has "by far" the least environmental impacts of all the alternatives.) Regardless, the adoption of the existing County General Plan would solve the problem of not having one. We are unaware of any legal or practical obstacles to this course of action.

B.9-216

Another possibility is for the DEIR to include, as an independent alternative, the buildout scenario under the current County General Plan. Doing so would only be necessary if the City continues to not temporarily adopt the current County General Plan, thus leaving the current DEIR definition of the "no project" alternative unchanged. Adding this alternative would at least ensure the public the opportunity to compare the impacts of the proposed action to the current County Plan, even if it not through the "no project" alternative analysis as it should be.

**2. DEIR Analysis of "Alternatives Considered but Rejected" is Incomplete and Fundamentally Flawed**

The DEIR provides inadequate justification for rejecting the four "Planning Alternatives." In addition, the alternatives seem to have been designed to be infeasible, violating CEQA requirements.

The DEIR provides four "Planning Alternatives" that were considered early in the CEQA review process but rejected as not feasible. Each alternative was designed to target the protection of a particular major interest, such as the environment, economy, or housing. The DEIR provides little more than conclusory statements that the alternatives do not meet basic project objectives. The DEIR instead refers readers to the City's website for more detail on each alternative. While CEQA allows agencies to provide additional information concerning rejected alternatives in the administrative record (see §15126.6(c)), we were unable to locate the referenced material on the City's website. Without that information, evaluating the DEIR's conclusions regarding the inability of any of these alternatives to meet most of the project objectives is difficult. If this information is, in fact, not available, it should be made available on a timely basis so that the public knows what standards were used to eliminate these alternatives from consideration.

B.9-217

Another concern is the fact that each alternative is rejected for the same reason; the maximization of the primary goal leads to unacceptably negative impacts to other important goals. This formulaic rejection of each alternative gives the appearance that these were fatally-

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flawed alternatives from the beginning, designed more to promote general discussion than to be workable alternatives. Was a good faith attempt made to reconcile these competing goals to create a feasible “compromise” alternative(s)? Are the proposed action or Alternatives 1 or 2 intended to represent such an attempt? If so, the DEIR makes no mention of it, and there is little other evidence in the DEIR to suggest that they do. These questions lead to the comments immediately below.

B.9-217

### 3. The DEIR Lacks a Reasonable Range of Alternatives

Alternatives 1 and 2 are so similar in purpose, design, and impact, that they are analytically indistinguishable. The result is that the DEIR provides the public with only two real choices: the proposed action or a lesser development scenario under Alternative 1 or 2 (keeping in mind that the “no project” alternative is either illegal or not feasible). Providing only one viable alternative to the proposed action does not qualify as a reasonable range of alternatives under CEQA.

CEQA requires that an EIR examine a “reasonable range of potentially feasible alternatives that will foster informed decision making and public participation.” See §15126.6(a). In addition, “[a] reasonable range of alternatives would typically include *different levels of density* (emphasis added).” State of California, Governor’s Office of Planning and Research, General Plan Guidelines 2003, 137. While the courts have acknowledged that there is no formula for defining what constitutes a reasonable range, alternatives that are almost identical do not meet the intent of this standard. In this case, the DEIR concludes that for a vast majority of the environmental impact categories the impacts from Alternative 2 would be the same, or substantially the same, as the impacts from Alternative 1 (see DEIR sections on Air Quality, Biological Resources, Cultural Resources, Geology, Soils and Mineral Resources, Hazards and Hazardous Materials, Land Use and Recreation, Noise Impacts, Public Services and Utilities, Transportation and Circulation, and Water Resources). In many sections, the entire analysis for Alternative 2 is nothing more than a sentence or two stating the impacts are the same, or basically the same, as Alternative 1. The DEIR itself admits in Section 5.3.3 that the land uses under Alternative 2 are “similar to” and only “somewhat different than” those of Alternative 1.

B.9-218

The close similarity is not surprising given that both alternatives are designed to promote the same narrow goal of “reduce[ing] traffic impacts to Storke Road and Hollister Avenue.” Each tries to accomplish this goal by proposing less development than the proposed action, but there is little difference in scale or location of development *between* the two alternatives (the buildout for Alternative 2 has only 760 fewer houses and 104,000 sq. ft. less of commercial/industrial space than Alternative 1 — all in a city with 11,615 existing houses and 12,119,000 sq. ft. of existing commercial/industrial space). What is surprising is that neither alternative is remotely successful at addressing the one issue they were designed to address: The DEIR concludes that “no significant [traffic] improvements in City intersections” are expected to result from implementation of either alternative. Why then were these alternatives chosen? What is the meaningful difference between the two alternatives? How can the public make an informed

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choice between the two alternatives if the alternatives are basically identical in purpose, design, and impact? Perhaps the small range of difference can be explained by the fact that the City appears to be mostly built out, leaving little land left to develop under either alternative. But even if true, CEQA demands more than simply providing two versions of essentially the same alternative.

B.9-219

For example, the DEIR should analyze an alternative that includes *more* development than the proposed project. While this alternative may not be an absolute CEQA requirement, the failure to include a greater density alternative results in the public having only two development choices: the proposed action and the smaller development scenario represented by Alternatives 1 and 2. We already know that the fourth alternative — the “no project” alternative — is not a viable option because the DEIR calls it illegal, or, alternatively, attributes so little development to it (e.g., 356 houses over the next 24 years) that it is not a feasible general plan option.

B.9-220

A solution to many of the above problems would be to amend the “no project” alternative to include a reasonable buildout under the current Santa Barbara County General Plan and regulations. Doing so would not only make this alternative comply with CEQA, but could serve (presumably) as a higher development scenario and thereby improve the range of alternatives in the DEIR.

B.9-221

**4. Neither Alternative 1 nor 2 Reduces Significant Environmental Impacts as Required by CEQA**

By the DEIR’s own terms, Alternatives 1 and 2 do not meaningfully reduce significant environmental impacts for nearly all environmental resources.

An EIR is required to analyze alternatives that would “avoid or substantially lessen” a project’s environmental impacts. §15126.6(a). The DEIR, however, provides little, if any, evidence that Alternative 1 or 2 avoids or substantially lessens any environmental impacts. As best can be determined, both alternatives create the same class of impacts as the proposed action (i.e., for every Class I (II, III, or IV) impact identified in the proposed action, Alternatives 1 and 2 have the same Class I (II, III, or IV) impact). The only difference is that the DEIR often includes qualifications that the impacts from Alternative 1 or 2 are still “less than” or “slightly less than” those of the proposed plan, even though both impacts are considered, for example, Class II impacts. These differences are rarely, if ever, quantified or elaborated on so the assumption must be that the differences are too small to accurately measure.

B.9-222

At minimum, the DEIR should provide a matrix clearly comparing the relative impacts of all four development options. While a matrix is not a CEQA requirement, it is recommended and it would be particularly helpful in this case because it would immediately reveal the near uniformity of impact from each development option (except for the “no project”). The Toro

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Canyon Community Plan and 1993 Goleta Community Plan each provide a clear matrix to show the relative impacts that each alternative would have on existing conditions.

B.9-223

Furthermore, as mentioned above, the DEIR also concludes that neither of the alternatives would produce significant improvements in traffic conditions for intersections in the Storke Road and Hollister Avenue corridors. This is true even though doing so was the defining purpose behind each alternative. Consequently, these alternatives fail to meet CEQA requirements for choosing alternatives that are likely to substantially lessen significant impacts. *See* §15126.6(a).

B.9-224

**5. The DEIR Does not Include a Map of Current Zoning for Properties in the City of Goleta**

By failing to include a map of current zoning, the DEIR violates the CEQA requirement that land use impacts be measured against existing conditions.

CEQA requires that the impacts of each alternative be compared to both existing conditions (often called the baseline), and to each other. *See Environmental Planning & Info. Council*, 131 CA3d 350 (finding EIR for general plan amendment inadequate because it primarily compared the impacts of buildout under the proposed amendment to impacts of buildout under the current general plan, rather than to existing conditions as required by CEQA). Thus, because the DEIR fails to include a map of current zoning, there is no way for a reader to determine the extent of land use change contemplated by the alternatives and proposed action.

B.9-225

Figures 5-1 & 5-2, Land Use Plans for Alternatives 1 & 2 respectively, are intended to show the land use changes proposed by Alternatives 1 and 2. These changes, however, are not overlaid on a current zoning map, but on the zoning map as proposed to be modified under the proposed project. This assertion cannot be verified for certain, at least not by relying on the DEIR, because the DEIR, oddly enough, contains no map of existing zoning. This is a major omission and one that should be rectified. The closest map is Figure 3.10-1, but this only shows "Existing Land Uses," not actual zoning.

**6. Alternatives Conclusion**

The DEIR's alternatives analysis suffers from a lack of internal consistency, specificity, and general compliance with basic CEQA requirements, such as correctly analyzing the "no project" alternative and providing a reasonable range of alternatives. We believe that CEQA requires the "no project" alternative to be buildout under an existing General Plan. The City

B.9-226

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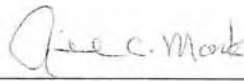
cannot avoid this requirement simply by not adopting an interim General Plan. Until these deficiencies are corrected and the public given adequate time to review the changes, the DEIR is incomplete and inadequate.

B.9-226

Respectfully submitted,

HOLLISTER & BRACE  
A Professional Corporation

By



Richard C. Monk

RCM/sp  
cc: Chuck Lande  
Greg Hillgren

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**Response to Comment No. B.9-1**

The commentator is correct in noting that transportation and circulation is missing from the list of cumulative impacts page ES-3-4. It has been added to the cumulative impacts list in the FEIR.

**Response to Comment B.9-2**

The commentator states concerns about what are perceived as inconsistencies between the housing growth projections contained in the Housing Element and the Land Use Element and concern that the DEIR does not address the inconsistency. The Housing Element and the Land Use Element use different methodologies to project possible housing growth because they have different purposes. The purpose of the analysis in the Housing Element was to demonstrate the ability to meet the City's housing needs through 2009; therefore, the numbers provided in the Housing Element illustrate the development potential based on a 2009 timeline. The Land Use Element, on the other hand, is attempting to provide a theoretical estimate of how much growth potentially could occur through approximately 2030 based upon the maximum allowed in the proposed land use plan.

Clarification regarding the different methodologies used to project possible growth will be included in the FEIR. This text clarification does not change the EIR conclusions or result in any significant impacts not identified in the DEIR.

**Response to Comments B.9-3 through B.9-65**

These 62 comments all pertain to the Executive Summary Table ES-1, which summarizes environmental impacts and mitigations. Most of these 62 comments state that the summary table does not reference all policy subsections that reduce or avoid environmental impacts. This level of detail is provided in the individual environmental impact discussion in Chapter 3.0 of the EIR and is not appropriate in the executive summary table.

**Response to Comment No. B.9-3**

The commentator alleges that the Aesthetics section of Table ES-1 is incomplete, and fails to reference all appropriate policies found in the GP/CLUP for Impact 3.1-1.

General Plan policies that would reduce Impact 3.1-1 are listed on page 3.1-9 of the DEIR. These policies would reduce impacts to scenic corridors and key viewpoints associated with the GP/CLUP, but not to a less-than-significant level. The Aesthetics portion of Table ES-1 references all appropriate policies listed in Section 3.1 of the DEIR. The commentator has not specifically identified other mitigation alleged to be missing from Table ES-1 so as to permit a more detailed response.

**Response to Comment No. B.9-4**

The commentator alleges that the DEIR fails to propose policies and mitigation measures for significant Class I Impact 3.1-2.

General Plan policies that would reduce Impact 3.1-2 are listed on page 3.1-13 of the DEIR. These policies would reduce impacts to visual character resulting from buildout of the GP/CLUP, but not to a less-than-significant level.

**Response to Comment No. B.9-5**

The commentator alleges that the Aesthetics section of Table ES-1 is incomplete, and fails to reference all appropriate policies found in the GP/CLUP for Impact 3.1-3.

General Plan policies that would reduce Impact 3.1-3 are listed on page 3.1-15 of the DEIR. These policies would reduce impacts to scenic corridors and key viewpoints associated with the GP/CLUP to a less-than-significant level.

The Aesthetics portion of Table ES-1 references all appropriate policies listed in Section 3.1 of the DEIR. The commentator has not specifically identified other mitigation alleged to be missing from Table ES-1 so as to permit a more detailed response.

**Response to Comment No. B.9-6**

The commentator alleges that the Aesthetics section of Table ES-1 is incomplete, and fails to reference all appropriate policies found in the GP/CLUP that result in a Class IV finding for Impact 3.1-4.

Policy VH 2: Local Scenic Corridors, has been added to Table ES-1 as an applicable mitigation measure for Impacts 3.1-4 and 3.1-5. The applicability of Policy VH 2 to these impacts is discussed on pages 3.1-17 and 3.1-18 of the DEIR.

**Response to Comment No. B.9-7**

The commentator alleges that the Aesthetics section of Table ES-1 is incomplete, and fails to reference all appropriate policies found in the GP/CLUP that support the Class IV finding for Impact 3.1-5.

Policy VH 2: Local Scenic Corridors, has been added to Table ES-1 as an applicable mitigation measure for Impacts 3.1-4 and 3.1-5. The applicability of Policy VH 2 to these impacts is discussed on pages 3.1-17 and 3.1-18 of the DEIR.

**Response to Comment No. B.9-8**

The commentator states the opinion that the Agriculture policy and mitigation section is incomplete. The EIR addresses all relevant policies related to agricultural resources. The policy subsections contained within each of the main policies (LU 1, LU 7, LU 12, and CE 11) are inclusive of each of the policy subsections, except where noted.

**Response to Comment No. B.9-9**

See response to comment B.9-8 above.

**Response to Comment No. B.9-10**

See response to comments A.2-4 and A.2-5.

**Response to Comment No. B.9-11**

See response to comment B.6-8.

**Response to Comment No. B.9-12**

See response to comment B.8-18.

**Response to Comment No. B.9-13**

See response to comment B.6-7.

**Response to Comment No. B.9-14**

See response to comment B.6-8.

**Response to Comment No. B.9-15**

The commentator has requested clarification regarding impact references. The wording of Impacts 3.4-9 and 3.4-10 has been revised to indicate that development activities could have potentially significant impacts on biological resources in areas of conserved habitat and might be inconsistent with an approved conservation program or local conservation policy. Impacts to conserved habitat would include the same type of impacts to habitats and species identified in Impacts 3.4-1 through 3.4-8 and would be mitigated in the same way. Inconsistency with an approved conservation program or local policy is a CEQA consideration that potentially triggers a finding of significance.

**Response to Comment No. B.9-16**

See response to comment B.9-15.

**Response to Comment No. B.9-17**

The commentator has requested that all GP/CLUP policies that mitigate Impact 3.4-11 be included in the EIR. This impact states that effects on non-special-status species and habitats from development activities would be less than significant. The Class III finding reflects the nature of the affected resources and the amount and location of activities under the GP/CLUP. The wording of the impact has been revised to indicate that the activities would not substantially alter the resources in question.

**Response to Comment No. B.9-18**

The commentator has requested that all GP/CLUP policies relating to Impact 3.4-12 be included in the EIR. The Class IV finding regarding Impact 3.4-12 reflects the location of management and maintenance activities in already developed locations.

**Response to Comment No. B.9-19**

The commentator has requested that all GP/CLUP policies that mitigate Impact 3.4-13 be included in the EIR. The wording of Impact 3.4-13 has been revised to add more detail about the potential beneficial effects of preservation and management in regional open space parks.

**Response to Comment No. B.9-20**

The commentator has requested that all GP/CLUP policies that mitigate Impact 3.4-14 be included in the EIR. EIR Section 3.4.3.4 has been revised to explain the conclusion that the

City's contribution to cumulative effects on biological resources is less than significant. The EIR analysis is based on the assumption that significant impacts from activities under the City's jurisdiction would be reduced to less-than-significant levels in accordance with the GP/CLUP policies and applicable federal and state regulations.

#### **Response to Comment No. B.9-21**

The commentator alleges that the EIR is inadequate because it does not include mitigation measures relating to cultural, historical, and paleontological resources. The analysis and level of detail presented to evaluate the potential environmental impacts to cultural resources identified in the EIR are consistent with the level of detail for a programmatic, General Plan policy document. The setting, impacts, and mitigation discussions presented in the EIR are all, by definition, program level. Until such time as the entire City, or project-specific areas of potential effect, are inventoried and evaluated, it is not possible to develop or present more specific detail on levels of impacts or specific mitigation measures. Policy OS 8 provides the necessary detail for this level of planning and does incorporate the types of mitigation available to feasibly address the types of resources in the study area.

Regarding mitigation for potential impacts to paleontological resources, Policy subsection OS 8.7, Protection of Paleontological Resources, has been added to the GP/CLUP. This subsection provides guidance related to the proper steps to take should paleontological resources be encountered during construction activities.

#### **Response to Comment No. B.9-22**

The commentator references DEIR Table ES-1 and states that the table fails to list all the relevant GP/CLUP policies and policy subsections that lessen the geology, soils, and mineral resource-related impacts. The commentator also uses the DEIR Table ES-1 to comment on specific impact assessment details that are more relevant to the EIR Section 3.6 comments. Moreover, the commentator repeats the concerns in more detail in subsequent comments in the comment letter. The commentator is reminded that the purpose of the programmatic-level EIR Executive Summary is not to recapitulate each policy and policy subsection that reduces, avoids, or lessens individual impacts. It's not the function of the Executive Summary table to replicate that level of detail. Again, the commentator is referred to the applicable FEIR section for more detail regarding use of policy to reduce impacts.

Although the commentator was directly referencing Table ES-1, a response is provided as if the comment was related to Section 3.6 of the DEIR. The commentator correctly observes that the GP/CLUP's Conservation Element contains policies relating to the issues of soil conservation, erosion, and safety. These include CE 1.9, CE 10.4, and 10.7. Text to this effect was added to the FEIR.

#### **Response to Comment No. B.9-23**

Refer to response to comment B.9-22 for response related to DEIR Table ES-1 revision request. In addition, the commentator requests that the EIR evaluate hazards for every area subject to land use designation change by the GP/CLUP. To analyze "every area subject to land use designation change by the GP/CLUP" is beyond the level of detail required by CEQA. According to CEQA Guidelines Section 15146:



The degree of specificity required in an EIR will correspond to the degree of specificity involved in the underlying activity which is described in the EIR.

(a) An EIR on a construction project will necessarily be more detailed in the specific effects of the project than will be an EIR on the adoption of a local general plan or comprehensive zoning ordinance because the effects of the construction can be predicted with greater accuracy.

(b) An EIR on a project such as the adoption or amendment of a comprehensive zoning ordinance or a local general plan should focus on the secondary effects that can be expected to follow from the adoption or amendment, but the EIR need not be as detailed as an EIR on the specific construction projects that might follow.

The level of detail of the analysis is comparable to the level of detail of the project description in the GP/CLUP. To clarify, the GP/CLUP identifies future land uses but does not directly approve such uses. As a result, the actual density and intensity of future uses, and their individual design characteristics, are not known and cannot be known at this time. The EIR provides a general analysis of the impacts of the General Plan. Project-level analyses in future EIRs will address site-specific issues.

At existing developed sites, persons are already exposed to any known or unrecognized geologic hazard that may be present. It is not foreseeable at this time that a change in land use designation would result in substantially increased exposure of people or buildings to geologic hazards. In any case, the same requirements for geologic studies that apply to new construction on undeveloped sites would apply to expansions of existing buildings.

#### **Response to Comment No. B.9-24**

The commentator requests increased level of detail to be provided in the EIR Executive Summary. Refer to response to comment B.9-22. The commentator also alleges that the Geology section fails to discuss geologic-related impacts associated with a change in the land use designation of existing developed parcels. See response to comment B.9-23.

#### **Response to Comment No. B.9-25**

The commentator requests increased level of detail to be provided in the EIR Executive Summary. Refer to response to comment B.9-22. The commentator alleges that Geology Section 3.6-10 makes an inaccurate statement regarding changes in existing developed areas, and that the City proposes significant changes in existing land uses. No changes are required to the EIR. Although the GP/CLUP proposes to change selected land uses, those changes would principally occur on existing vacant parcels. Proposed changes to existing developed parcels would not be significant.

#### **Response to Comment No. B.9-26**

The commentator alleges that the GP/CLUP Policy and Mitigation section is incomplete and inaccurate, and fails to reference all appropriate policies (mitigation measures) found in the GP/CLUP. Impacts 3.6-1 through 3.6-4 of the DEIR reference all appropriate policies listed in the GP/CLUP. These policies are also referenced in the Geology, Soils, and Mineral Resources portion of Table ES-1. The commentator has not specifically identified other mitigation alleged to be missing from the Section 3.6 impact discussion, or Table ES-1, so as to permit a more detailed response.

**Response to Comment No. B.9-27**

See response to comment B.9-26.

**Response to Comment No. B.9-28**

See response to comment B.9-26.

**Response to Comment No. B.9-29**

See response to comment B.9-26.

**Response to Comments No. B.9-30 through B.9-41**

The commentator references DEIR Table ES-1 and states that the table fails to list all the relevant GP/CLUP policies and policy subsections that lessen the hazards-related impacts. The commentator also uses the DEIR Table ES-1 to comment on specific impact assessment details that are more relevant to the EIR Section 3.7 comments. Moreover, the commentator repeats the concerns in more detail in subsequent comments in the comment letter. Specific responses to individual impact-related comments are provided in response to comments B.9-161 through B.9-175. The commentator is reminded that the purpose of the programmatic-level EIR Executive Summary is not to recapitulate each policy and policy subsection that reduces, avoids, or lessens individual impacts. It's not the function of the Executive Summary table to replicate that level of detail. Again, the commentator is referred to the applicable FEIR section for more detail regarding use of policy to reduce impacts.

**Response to Comment B.9-42**

The commentator requests that the EIR identify mitigation measures to address increased population. The EIR identifies applicable GP/CLUP policies/mitigation measures for all impacts where feasible mitigation measures exist. Potential environmental effects that cannot be avoided, even after mitigation, are discussed within each impact section and are also presented in DEIR Section 6.2. The commentator has not identified those GP/CLUP policies, alleged as missing, that could reduce potential environmental impacts associated with implementation of the GP/CLUP.

**Response to Comment B.9-43**

See response to comment B.9-42.

**Response to Comment B.9-44**

See response to comment B.9-42.

**Response to Comment No. B.9-45**

See response to comment B.8-61.

**Response to Comment B.9-46**

The EIR identifies applicable GP/CLUP policies/ mitigation measures for all impacts, where feasible mitigation measures exist. Potential environmental effects that cannot be avoided,

even after mitigation, are discussed within each impact section and are also presented in DEIR Section 6.2. The commentator has not identified missing applicable those GP/CLUP policies, alleged as missing, that could reduce potential environmental impacts associated with implementation of the GP/CLUP.

#### **Response to Comment B.9-47**

The commentator states that no mitigation is identified for Impact 3.12-7. This impacts is classified a long-term Class III impact, which is considered a less than significant impact. Mitigation measures are not required for Class III impacts.

#### **Response to Comment No. B.9-48**

The commentator alleges that policies or mitigation need to be identified to address the Class I impact at the Hollister/Storke intersection. It is permissible under CEQA to have unmitigated significant impacts, as long as that impact is disclosed in the EIR and as long as no feasible mitigation exists. The City has adopted a policy that places a maximum limit on the size of roadways and intersections within City limits—once capacity on a roadway facility has been improved to that limit, additional capacity is no longer feasible. Under this constraint, if LOS is expected to exceed standards and the facility is at maximum allowable capacity, no feasible mitigation exists, so the impact is significant and unavoidable. This is the case at the Hollister/Storke intersection.

#### **Response to Comment No. B.9-49**

The commentator states that the DEIR is incomplete because it does not reference all policies in the GP/CLUP as mitigation measures. While collectively, the policies provide the overall context in which for transportation planning is conducted within the City, not all of the transportation policies serve directly as mitigation measures. Some provide basis for decision-making or other procedures. Policies that could directly affect the potential impacts identified in the EIR, primarily those that could affect demand on or capacity of the transportation system, were referenced in the mitigation discussion.

#### **Response to Comment No. B.9-50**

The commentator states that the DEIR is incomplete because it does not reference all policies in the GP/CLUP as mitigation measures for Class III impacts. See response to comment B.9-49.

#### **Response to Comment No. B.9-51**

The commentator alleges that the Future City Service Area Aesthetics section of Table ES-1 is incomplete, and fails to reference all appropriate policies found in the GP/CLUP that result in a Class III finding for Impact 4.1-1.

As a Class III Impact, no mitigation is proposed for Future City Service Area Impact 4.1-1. No revisions are proposed to Table ES-1.

**Response to Comment No. B.9-52**

The commentator alleges that the Future City Service Area Aesthetics section of Table ES-1 is incomplete, and fails to reference all appropriate policies found in the GP/CLUP that result in a Class III finding for Impact 4.1-2.

As a Class III Impact, no mitigation is proposed for Future City Service Area Impact 4.1-2. No revisions are proposed to Table ES-1.

**Response to Comment No. B.9-53**

See response to comment B.9-8 above.

**Response to Comments No. B.9-54 through 57**

See response to comments B.9-30 through B.9-41.

**Response to Comment B.9-58**

See response to comment B.9-42.

**Response to Comment B.9-59**

See response to comment B.9-42.

**Response to Comment No. B.9-60**

The commentator has written, "See comment regarding Impact 3.10-3." However, the commentator has failed to provide a comment for Impact 3.10-3.

**Response to Comment B.9-61**

The DEIR's executive summary table incorrectly identifies Impact 4.12-1 as a Class I impact when it should be a Class III impact. The FEIR has been revised to fix this error.

**Response to Comment No. B.9-62**

The commentator states that policies or mitigation need to be identified to address the Class I impact. See response to comment B.9-48.

**Response to Comment No. B.9-63**

The commentator states that the definition of Class II impact 4.13-2 is the same as Class I, and that there is no evidence to support the conclusion. The basis for defining Class II impacts is described in this section directly under the heading "Class II Impacts," and comparison of this description to the descriptions of the other impacts will show that the definitions are unique for each class of impacts. The identification of impacts based on the Class II definition provided is fully supported by the transportation analysis completed for and presented in Chapter 3.0 of the EIR.

**Response to Comment No. B.9-64**

The commentator states that the definition of Class III impact 4.13-3 is the same as Class II and that there is no evidence to support the conclusion. The basis for defining Class III impacts is described in this section directly under the heading “Class III Impacts,” and comparison of this description to the descriptions of the other impacts will show that the definitions are unique for each class of impacts. The identification of impacts based on the Class III definition provided is fully supported by the transportation analysis completed for and presented in the EIR.

**Response to Comment No. B.9-65**

The commentator states that the definition of Class IV impact 4.13-4 is the same as Class II and that there is no evidence to support the conclusion. The basis for defining Class IV impacts is described in this section directly under the heading “Class IV Impacts,” and comparison of this description to the descriptions of the other impacts will show that the definitions are unique for each class of impacts. The identification of impacts based on the Class IV definition provided is fully supported by the transportation analysis completed for and presented in the EIR.

**Response to Comment No. B.9-66**

The commentator states concerns about what are perceived as inconsistencies between the housing growth potential contained in the Housing Element and the Land Use Element. The Housing Element and the Land Use Element use different estimates of housing development potential because they have different purposes. The purpose of the analysis in the Housing Element was to demonstrate sufficient sites to meet the City’s housing needs through 2009. The Land Use Element, on the other hand, provides a theoretical estimate of how much growth potentially could occur through approximately 2030 based upon the maximum allowed in the Land Use Plan. The Land Use Element data include several sites for mixed uses that are not included in the Housing Element data.

**Response to Comment No. B.9-67**

Refer to response to comment B.7-3.

**Response to Comment No. B.9-68**

See response to comment B.8-10.

**Response to Comment No. B.9-69**

The commentator states the opinion that GP/CLUP Policies VH 1, VH 2, VH 3, and VH 4 are overly broad, devoid of supporting scientific basis, or otherwise illegal and therefore not proper mitigation measures. Specific details regarding deficiencies were not identified in this particular comment. City staff notes that the GP/CLUP is intended to *guide*, not define, long-range planning in Goleta. While the plan establishes the City’s policy, zoning code will set forth detailed standards and regulations for development activities in a manner consistent with the policies of the plan. As stated in the State CEQA Guidelines, “the degree of specificity required in an EIR will correspond to the degree of specificity involved in the underlying activity which is described in the EIR.” As the CEQA Guidelines further explain, an EIR on the adoption of a local general plan will necessarily be less detailed than an EIR on a construction project because the effects of the general plan implementation cannot be predicted with greater

accuracy (Section 15146). The GP/CLUP policies provide adequate guidance for the protection and management of visual resources, consistent with the requirements of a General Plan. The DEIR uses the policies, where applicable, that reduce impacts in a manner consistent with a programmatic document. The EIR anticipates that later actions will require detailed CEQA analysis that will necessarily have detailed discussion of specific mitigation measures where appropriate.

#### **Response to Comment No. B.9-70**

The commentator observes that GP/CLUP Figure 6-1 identifies “scenic views to be protected” across the Residences at Sandpiper property, but alleges that Policy VH 1.2, coupled with Policies VH 1.4 and LU 1.7 effectively prohibit any economically viable development or use of the subject property. The commentator suggests that Policies VH 1.2, VH 1.4, and LU 1.7 would constitute a regulatory “taking” of the Residences at Sandpiper property.

In response, Policies VH 1.4 describes compatible development practices with the protection of mountain and foothill views. The commentator’s assertion regarding a “taking” is both unsubstantiated and irrelevant in the context of a programmatic-level general plan EIR. The commentator’s assertions are related to the CP/CLUP, not the adequacy of the EIR.

#### **Response to Comment No. B.9-71**

See response to comment B.9-70.

#### **Response to Comment No. B.9-72**

The commentator requests that a table be added to the FEIR summarizing impacts to aesthetic resources.

The City does not believe that addition of a tabular impact summary, as suggested by the commentator, is warranted.

#### **Response to Comment No. B.9-73**

The commentator alleges that the analysis of Impact 3.1-1 is inadequate and incomplete because it fails to include Policy VH-3 in the discussion of Impacts 3.1-1a and 3.1-1b.

The stated objective of GP/CLUP Policy VH 3 is “to preserve and enhance Goleta’s visual character.” This policy is not directly applicable to DEIR Visual Resources Impact 3.1-1, which addresses impacts to visual resources and scenic views within the City including views from Hollister Avenue and City Gateways. Rather, Policy VH-3 applies to DEIR Impact 3.1-2.

The paragraph titled “Policies That Would Reduce Impact 3.1-1, but Not to a Level of Insignificance” on page 3.1-9 of the DEIR has been revised to clarify that applicable policies are intended to preserve and enhance visual resources and scenic views within the City including views from Hollister Avenue and City Gateways.

#### **Response to Comment No. B.9-74**

See response to comment B.9-73.

**Response to Comment No. B.9-75**

The commentator has requested that the heading/title of Impact 3.1-2 be changed to reflect the applicability GP/CLUP Policies VH-2, VH-5, and VH-6.

The heading/title of Impact 3.1-2 is correctly shown in the DEIR as “Impacts of GP/CLUP on Citywide Visual Character.” The commentator has provided no information supporting the claim that Policies VH-2, VH-5, and VH-6 directly apply to Impact 3.1-2. See response to comment B.9-76.

**Response to Comment No. B.9-76**

The commentator alleges that the analysis of Impact 3.1-2 is inadequate and incomplete because it fails to include Policies VH-2, VH-5, and VH-6 in the discussion of Impacts 3.1-2a through d.

Impact 3.1-2 addresses citywide visual character. The GP/CLUP policies which best address this topic are Policies VH 1, Scenic Views, VH 3, Community Character, and VH 4, Design Review. The commentator has provided no information supporting the claim that Policies VH-2, VH-5, and VH-6 directly apply to Impact 3.1-2.

**Response to Comment No. B.9-77**

See response to comment B.9-76.

**Response to Comment No. B.9-78**

The commentator alleges that the analysis of Impact 3.1-3 is inadequate and incomplete because it fails to include Policy VH-3 in the discussion of Impacts 3.1-3a through d.

The stated objective of GP/CLUP Policy VH 3 is “to preserve and enhance Goleta’s visual character.” This policy is not directly applicable to DEIR Visual Resources Impact 3.1-3, which addresses impacts to visual resources within the City including scenic corridors and key public viewpoints. Rather, Policy VH-3 applies to DEIR Impact 3.1-2. The commentator has provided no information supporting the claim that Policy VH-3 directly applies to Impact 3.1-3.

**Response to Comment No. B.9-79**

See response to comment B.9-78.

**Response to Comment No. B.9-80**

The commentator alleges that Impact 3.1-3a overstates the impact or that the impact doesn’t exist. The commentator may be misinterpreting the impact. The views identified near that site are from Hollister Avenue across the site toward the mountain and foothills. Scenic views are shown on the map from US-101 but are to the east and west of the site.

**Response to Comment No. B.9-81**

The commentator alleges that the analysis of Impact 3.1-4 is inadequate and incomplete because it fails to include Policies VH-1, VH-3, VH-4, VH-5, and VH-6 in the discussion of Impact 3.1-4.

Impact 3.1-4 addresses the visual quality of City Gateways. The GP/CLUP policy which best addresses this topic is Policy VH 2, Local Scenic Corridors, which specifically includes Subpolicy 2.6, Gateways to the City. The commentator has provided no information supporting the claim that Policies VH-1, VH-3, VH-4, VH-5, and VH-6 directly apply to Impact 3.1-4.

#### **Response to Comment No. B.9-82**

The commentator alleges that the analysis of Impact 3.1-5 is inadequate and incomplete because it fails to include Policies VH-1, VH-3, VH-4, LU-1, LU-3, LU-5, and LU-6 in the discussion of Impact 3.1-5.

Impact 3.1-5 addresses the creation of well-defined public spaces. The GP/CLUP policy which best addresses this topic is Policy VH 3, Community Character, and more specifically GP/CLUP policy subsection VH 3.6, "Public Spaces." Policies VH-1, VH-4, LU-1, LU-3, LU-5, and LU-6 may be indirectly applicable, but not obviously so. The commentator has provided no information supporting the claim that these policies directly apply to Impact 3.1-5.

GP/CLUP Policy VH 3 was incorrectly referenced as Policy VH 2 in the discussion of Impact 3.1-5 in the DEIR; the policy reference is corrected in the FEIR.

#### **Response to Comment No. B.9-83**

See response to comment B.8-12.

#### **Response to Comment No. B.9-84**

The commentator requests clarification regarding the distinction between land zoned for agriculture, land used for agriculture, and land identified as being suitable for agriculture. In accordance with the City's established Thresholds of Significance, the impact discussion relates to the conversion of agricultural land that contains Important Farmland, as classified by the California Department of Conservation, Farmland Mapping and Monitoring Program. Where the conversion of existing agricultural land would not affect Important Farmland, impacts would be considered less than significant. The EIR analysis is adequate pursuant to CEQA Guidelines.

#### **Response to Comment No. B.9-85**

The commentator alleges that the EIR fails to include Policy CE 11 as a policy that would reduce Impact 3.2-1, but not to a level of insignificance. The commentator is mistaken; Policy CE 11 is identified as the General Plan Policy that would reduce the impact. However, the conclusion is that impacts would be significant and unavoidable even with this mitigation measure. See response to comment B.9-8 related to addressing all relevant policies.

#### **Response to Comment No. B.9-86**

The commentator has requested that the EIR contain a definition of "agriculturally productive areas." The FEIR text has been changed to eliminate the term "agriculturally productive areas" to minimize ambiguity.

#### **Response to Comment No. B.9-87**

See response to comment B.9-85.



**Response to Comment No. B.9-88**

The commentator requests that the Agriculture section of the EIR include an impact assessment methodology section. The requested text has been added to the FEIR. See response to comment B.8-14.

**Response to Comment No. B.9-89**

The commentator has alleged that the definition of ESHA is too broad in the GP/CLUP. As indicated in the introduction to EIR Section 3.4 and on Figure 3.4-2, the map in the DEIR showing ESHA habitat types in the City was produced by merging three datasets: the 2004 aerial imagery interpretation conducted by Jones & Stokes in April through May 2006, the 2004 habitat mapping for the area covered by the Ellwood-Devereux Coast Open Space and Habitat Management Plan, and the map of designated ESHAs in the Conservation Element of the GP/CLUP. In EIR Figure 3.4-2, areas are identified as ESHAs if they meet the ESHA definition in Policy CE 1-2, are identified in Policy CE 1-3 as a designated ESHA, or are listed as an ESHA on Table 4-2 in the GP/CLUP.

In response to comments on both the EIR and GP/CLUP, the City has revised the EIR and GP/CLUP maps showing ESHAs and special status species. The revised maps are now consistent with one another. See response to comment B.1-3 for map revision details. In addition, the EIR text preceding Section 3.4.1 has been revised to add more detail about the methods used in the aerial imagery mapping. The methods are based on accepted professional standards for the identification of habitat types based on characteristics visible in aerial imagery.

**Response to Comment No. B.9-90**

The commentator has requested an impact assessment methodology section for the Biological Resources section. In the EIR, the text preceding “Class I Impacts” in Section 3.4.3.3 describes the methods and assumptions used in the analysis of biological impacts. The format and approach is consistent with other sections of the EIR that do not assign a separate subheading to the description of methods.

**Response to Comment No. B.9-91**

See response to comment B.9-89.

**Response to Comment No. B.9-92**

See response to comment B.8-23.

**Response to Comment No. B.9-93**

See response to comment B.8-25.

**Response to Comment No. B.9-94**

The commentator is of the opinion that the GP/CLUP policies cited as mitigation measures are too broad. Comments noted. Consistent with the description of program EIRs in CEQA Guidelines [Section 15168], the EIR analysis of biological impacts treats the GP/CLUP policies as measures that reduce buildout-related impacts. On a program-level, all of the measures are

technically feasible. The EIR does not and is not intended to provide a project-level analysis of impacts and mitigation. Also see responses to B.9-89 and B.9-92.

#### **Response to Comment No. B.9-95 through B.9-98**

The commentator notes that Figures 4-1 and 4-2 in the Draft GP/CLUP and Figures 3.2-1 through 3.4-3 in the DEIR differ in the representation of habitat distribution of specific properties and also differ from the maps in EIRs for those properties. As relayed in more detail in Response to Comment B.1-3, the GP/CLUP and FEIR maps of habitats and ESHAs have been revised based on site-specific information provided during the response to comments period. The City also directs the commentator to Policies CE 1.3 and 1.5. These policies allow revisions to the map of ESHAs based on site-specific biological studies.

#### **Response to Comment No. B.9-99 through B.9-124**

The commentator repeats the assertions in comments B.9-15 through B.9-20 and in B.9-94 that the GP/CLUP policies cited as mitigation for biological impacts are too broad, are based on policies that are inconsistent with one another, or are not legally defensible. Comments noted. Also see response to comment B.8-25

#### **Response to Comment No. B.9-125 through B.9-144.**

See responses to B.8-25, B.8-28, B.8-29, B.8-32, B.9.15 through B.9-20, and B.9-94.

#### **Response to Comment No. B.9-145**

See response to comment B.9-21. Mitigation measures for potential short-term impacts to historical and archaeological resources are identified in Policy OS 8 and Policy VH 5. In addition, Policy subsection OS 8.7, Protection of Paleontological Resources, has been added to the GP/CLUP.

#### **Response to Comment No. B.9-146**

The commentator has alleged that the EIR has deferred development of mitigation measures related to Impact 3.5-2. The EIR does not defer the development of mitigation measures. At this stage of planning, it is adequate to refer to Policy OS 8, which calls for the inventory, identification, and evaluation of cultural resources on a project-specific basis and then development of project and impact specific mitigating measures.

#### **Response to Comment No. B.9-147**

See response to comment B.9-21.

#### **Response to Comment No. B.9-148**

The commentator alleges that the discussion of mitigation measures for Impact 3.5-3 is inadequate. At this level of planning, it is not possible to address the nature and value of cultural resource sites as yet unknown and recorded within a project site that is as yet undetermined. The policies presented in OS-8 and VH-5 can serve as mitigation by reducing impacts to a resource to a degree that valuable scientific data are preserved, to the point that ethnic values are not compromised, and to the extent that the visual and aesthetic quality of a building or

landscape is not impaired. The text of the FEIR has been revised to “will,” rather than “should,” for Impact 3.5-3.

**Response to Comment No. B.9-149**

The commentator has requested an impact methodology assessment section for Cultural Resources. Unlike for geology, the types and categories of potential impacts cannot be taken to a more specific level at this time. Potential impacts to buildings, landscapes, prehistoric sites (of which there are many types), paleontological sites, and other resources will vary based on the specific type of project. The methods by which a potential impact is evaluated are based on the details of a specific project.

**Response to Comment No. B.9-150**

See response to comment B.9-22.

**Response to Comment No. B.9-151**

See response to comment B.9-23.

**Response to Comment No. B.9-152**

See response to comment B.9-24.

**Response to Comment No. B.9-153**

The commentator correctly observes that the GP/CLUP contains additional policies relating to “the potential for geologic hazards to affect or be created by new development or redevelopment.” These include Coastal Act Policy 30212, OS 1, OS 2, OS 5, and OS 7. Text to this effect has been added to the FEIR. These policies reduce impacts by allowing public access to coastal resources (e.g., shoreline, beach, bluff-top, Ellwood-Devereux Open Space Area) only in safe areas and by creating or preserving open space on lands that require special management or regulation because of geologic hazards.

**Response to Comment No. B.9-154**

See response to comment B.9-25.

**Response to Comment No. B.9-155**

See response to comments B.9-23 and 24.

**Response to Comment No. B.9-156**

See response to comment B.9-26.

**Response to Comment No. B.9-157**

See response to comment B.9-27.

**Response to Comment No. B.9-158**

See response to comment B.9-28.

**Response to Comment No. B.9-159**

See response to comment B.9-29.

**Response to Comment No. B.9-160**

The commentator alleges that the GP/CLUP Mitigation and Residual Impact section is incomplete and inadequate, and fails to reference all appropriate policies (mitigation measures) found in the GP/CLUP.

DEIR Section 3.6.3.6, Mitigation and Residual Impact, states that no modifications are required to the proposed GP/CLUP policies. The commentator has not specifically identified other mitigation alleged to be missing, so as to permit a more detailed response.

**Response to Comment No. B.9-161**

The commentator alleges that the EIR fails to identify impacts related to hazards and hazardous materials associated with the GP/CLUP. The EIR identifies impacts associated with the entirety of GP/CLUP, including map diagrams (such as the Land Use Plan Map) and text policies. The commentator has not identified those impacts, alleged as missing, associated with the GP/CLUP's land use designations and therefore, no response is required or possible.

**Response to Comment No. B.9-162**

The commentator has requested that an Impact Assessment Methodology section be added to the FEIR. See response to comment B.8-57 and refer to the FEIR for revised text.

**Response to Comment No. B.9-163**

The commentator incorrectly alleges that the DEIR fails to provide any mitigation for the following Impact 3.7-1 Risk of Upset at the Venoco Facilities. The DEIR does discuss related policies that would reduce this impact. For example, the text of Impact 3.7-1 identifies Policy LU 10.4b and Policy SE 8.6 as measures that would reduce impacts, but concludes that these policies would not reduce the impact to a less than significant level. Policies SE 8.2, SE 8.3, SE 8.4, SE 8.6, and SE 8.10 are added to the FEIR as measures that would reduce Impact 3.7-1, but not to a level of insignificance.

**Response to Comment No. B.9-164**

The commentator states that the DEIR fails to provide any mitigation for the Impact 3.7-2 Transport. The DEIR does discuss certain measures that would reduce this impact. The text for Impact 3.7-2 identifies conformance with DOT and Caltrans regulations as a measure that would reduce Impact 3.7-2, but not to a level of insignificance. The text supporting Impact 3.7-2 is revised to also include Policy SE 11, Emergency Preparedness that would also reduce Impact 3.7-2, but not to a level of insignificance.

**Response to Comment No. B.9-165**

See response to comment B.6-16.

**Response to Comment No. B.9-166**

The commentator repeats that the DEIR fails to list all appropriate policies related to the Impact 3.7-5 Airport. The comment lacks sufficient substantive content to allow a response. Each of the eight policy subsections of Policy SE 9 would apply. Policies SE 9.1 through SE 9.8 set forth criteria and restrictions that minimize conflicts between land use and aircraft hazards. A list of these policies has been added to the FEIR. The EIR correctly concludes that with implementation of Policy SE 9, along with compliance with ALUC and FAA standards and requirements, residual impacts are less than significant. Refer to FEIR Impact 3.7-5 discussion of related policies that reduce potential impacts.

**Response to Comment No. B.9-167**

The commentator repeats that the DEIR fails to list all appropriate policies related to the Impact 3.7-6 Wildland. The comment lacks sufficient substantive content to allow a response. The pertinent policy subsections that would serve to reduce the level of significance of this impact are elements SE 1.1 through SE 1.8, and all of the six elements of SE 7. A list of these policies has been added to the FEIR. These policies would ensure that information on areas susceptible to wildland fire hazards are identified, and that development existing or proposed in such areas considers such hazards. In some cases, certain development may not be allowed in areas susceptible to wildland fire hazards. Enforcement of building and fire codes and abatement of public safety hazards would serve to reduce fire hazard for existing development. The EIR correctly concludes that with implementation of Policies SE 1 and SE 7, residual impacts are less than significant. Refer to FEIR Impact 3.7-6 discussion of related policies that reduce potential impacts.

**Response to Comment No. B.9-168**

The commentator repeats that the DEIR fails to list all appropriate policies related to the Impact 3.7-7 Surface Water. The comment lacks sufficient substantive content to allow a response. The EIR identifies the implementation of SWPPPs and SPCC Plans as measures that would reduce the level of Impact 3.7-7. The EIR also states that certain policies in the Conservation Element, including Policies CE 1, CE 2, CE 3, and CE 10, would also reduce the level of Impact 3.7-7. Each of the subsections within Policy CE 1, CE 2, and CE 3 would apply. A list of these policies has been added to the FEIR. The subsections of these policies pertain to identification, mapping, and performance standards for development in or near ESHAs, including riparian areas and wetlands. Implementation of these policy subsections would identify streams and other wetlands and water courses and minimize or prevent sedimentation into and disturbance of these watercourses. Hence, they would limit impacts to surface water quality. Each of the subsections of Policy CE 10, which provides for stormwater pollution prevention measures and runoff control for new development, would also apply and would serve to limit impacts on surface water quality from runoff from developed sites. Refer to FEIR Impact 3.7-7 discussion of related policies that reduce potential impacts.

**Response to Comment No. B.9-169**

The commentator alleges that the conclusions of Impact 3.7-8 are inadequate because the application of SE 10.6 is not enough to reduce the risk. Impact 3.7-8 correctly notes that SE 10 (in particular, SE 10.1, SE 10.3, SE 10.4, SE 10.5, SE 10.6, and SE 10.7) will ensure that listed/contaminated sites have adequate separation from sensitive, non-industrial uses and that any sites with contamination will be effectively remediated prior to any development, redevelopment, or rezoning that would expose the community to any significant hazards associated with the contamination. Refer to FEIR Impact 3.7-8 discussion of related policies that reduce potential impacts. A list of these policies has been added to the FEIR.

**Response to Comment No. B.9-170**

The commentator alleges that Impact 3.7-9 must be modified to identify contaminated sites from many sources, not just oil production. The EIR neither states nor implies that oil production activities are the only source for contaminated soils within the City. The location and variety of contaminated sites are discussed in FEIR Section 3.7.1.6 and in Impact 3.7-9. A list of applicable policies has been added to the discussion supporting Impact 3.7-9 in the FEIR.

**Response to Comment No. B.9-171**

The commentator alleges that there is no documented evidence that the application of Policy SE 10 would reduce the possibility of potentially significant exposure of the public to contaminated soils to less-than-significant levels. The comment lacks sufficient substantive content to allow a response, particularly in light of the fact that the Policy SE 10 and related subsections SE 10.5, 10.6, and 10.7 directly protect the public from significant exposure and require Soil Management Plans etc. Specific policy subsections are included in the FEIR for clarity. The FEIR text has been revised to include applicable policy subsections. In addition, DEIR suggested Mitigation Measure 3.7-1 (Soil Management Plan) has been deleted in the FEIR, since the requirement for such a Plan is already addressed by Policy SE 10.7.

**Response to Comment No. B.9-172**

The commentator repeats that the DEIR fails to list all appropriate policies related to the Impact 3.7-10 Exposure of Population to Oil and Gas Pipelines. The comment lacks sufficient substantive content to allow a response. Refer to FEIR Impact 3.7-10 for a discussion of related potential impacts. Note that it is clearly stated that oil and gas pipelines are regulated by the DOT and the California Public Utilities Commission and includes a review of the standards by which exposures of populations to these pipelines are minimized through existing practices. The impact is properly classified as a Class III impact and mitigation under CEQA is not required for a Class III impact.

**Response to Comment No. B.9-173**

The commentator repeats that the DEIR fails to list all appropriate policies related to the Impact 3.7-11 Ellwood Facilities. The comment lacks sufficient substantive content to allow a response. Refer to FEIR Impact 3.7-11 for a discussion of the related potential impacts. The text in 3.7-11 is modified and expanded to include a policy subsections. However, note that the impact is properly classified as a Class III impact and mitigation under CEQA is not required for a Class III impact.

**Response to Comment No. B.9-174**

The commentator repeats that the DEIR fails to list all appropriate policies related to the Impact 3.7-12 EMFs. The comment lacks sufficient substantive content to allow a response. Refer to FEIR Impact 3.7-12 for a discussion of the related potential impacts. The text in 3.7-12 is modified and expanded to include policy subsections. However, note that the impact is properly classified as a Class III impact and mitigation under CEQA is not required for a Class III impact.

**Response to Comment No. B.9-175**

The commentator repeats that the DEIR fails to list all appropriate policies related to the Impact 3.7-13 Upset and Accident Controls. The comment lacks sufficient substantive content to allow a response. Refer to FEIR Impact 3.7-13 for a discussion of the related potential impacts. Mitigation is not identified for this potential impact. Note that the impact is properly classified as a Class III impact and mitigation under CEQA is not required for a Class III impact.

**Response to Comment B.9-176**

The commentator requests that the legend for Chart 3.8-2 be updated to reflect all employment increments. This change has been made in the FEIR.

**Response to Comment B.9-177**

The commentator alleges that not all applicable GP/CLUP policies have been included in the EIR. However, the commentator has not identified those Housing Element policies, alleged as missing.

**Response to Comment B.9-178**

The commentator alleges that not all applicable GP/CLUP policies have been included in the EIR. The commentator has not identified those Land Use Element policies, alleged as missing.

**Response to Comment B.9-179**

According to CEQA, "An EIR should be prepared with a sufficient degree of analysis to provide decision-makers with information which enables them to make a decision which intelligently takes account of environmental consequences. An evaluation of the environmental effects of a proposed project need not be exhaustive, but the sufficiency of an EIR is to be reviewed in the light of what is reasonably feasible" (CEQA Guidelines Section 15151). Because the document is written for decision-makers and public review, "highly technical and specialized analysis and data in the body of an EIR should be avoided through inclusion of supporting information and analyses as appendices to the main body of the EIR" (CEQA Guidelines Section 15147). The impact assessment methodology used to analyze potential environmental impacts in Sections 3.1 through 3.13, and Chapter 4 is included in Section 3.02.3, Project Impacts and Mitigation. In addition, although not explicitly identified under a separate heading as was done in Section 3.6.3.4, each impact section contains a discussion of the methodology used to determine significance criteria or thresholds of significance that were used to in the evaluation evaluate of the GP/CLUP policies. In addition, detail regarding the impact analysis for several resource sections can be found in relevant appendices to the EIR.

**Response to Comment B.9-180**

The commentator alleges that development under the GP/CLUP would be infeasible. However, the commentator provides no evidence of the infeasibility of Policy HE 7.2 and Policy LU 3. This comment is beyond the scope of the plan and is too speculative for evaluation. CEQA Guidelines do not require that an EIR predict or speculate (see CEQA Guidelines Section 15145). An EIR must address the worst-case scenario and since the GP/CLUP allows for mixed use the environmental effects must be analyzed.

**Response to Comment B.9-181**

The commentator requests that the mitigation measures and GP/CLUP policies associated with Impact 3.8-1 be included in that section. The text of the EIR has been modified to better explain and substantiate the impact statement and associated mitigation.

**Response to Comment B.9-182**

See response to comment B.9-42.

**Response to Comment B.9-183**

See response to comment B.9-42.

**Response to Comment B.9-184**

See response to comment B.9-42.

**Response to Comment No. B.9-185**

See response to comment B.8-60.

**Response to Comment No. B.9-186**

The commentator has requested that the EIR contain all relevant policies in section 3.10.3.2. The EIR has been revised to include missing policies or policies that were revised or added to the Final GP/CLUP.

**Response to Comment No. B.9-187**

See response to comment B.8-62.

**Response to Comment No. B.9-188**

Refer to response to comment B.8-62.

**Response to Comment No. B.9-189**

Refer to response to comment B.8-63.

**Response to Comment No. B.9-190**

Refer to response to comment B.8-64.



**Response to Comment No. B.9-191**

See response to comment B.8-62.

**Response to Comment No. B.9-192**

See response to comment B.8-67.

**Response to Comment No. B.9-193**

The commentator requests that the EIR further explain the 60-dBA standard included in Policy subsection NE 1.2, specifically in regard to the standards of HUD, FAA, and OPR. Although the noise compatibility standards suggested by HUD, FAA, and OPR provide reasonable guidance regarding noise compatibility standards, the City is under no obligation to adopt noise compatibility standards that are consistent with these standards. The City furthermore has no obligation to adopt standards that are consistent with Title 24 of the California Code of Regulations or standards used by Santa Barbara County. The City is free to adopt whatever noise standards it deems to be appropriate for the Goleta community. A 60 dBA CNEL compatibility standard is in fact consistent with OPR guidelines and is a common compatibility standard for residential uses in other cities and counties in California. There is no requirement for the city to provide a “scientific basis” for the noise compatibility standards that it chooses to use or to “substantiate the need for a 60 dBA standard.”

**Response to Comment No. B.9-194**

See response to comment B.9-193.

**Response to Comment No. B.9-195**

The commentator has requested that the EIR include an impact assessment methodology section for the Noise section. The EIR noise section includes a detailed discussion for each major noise source in the city (traffic, rail, aircraft, and stationary sources) that describes how the impacts are evaluated. Refer to Section 3.11.1.2 and the discussion presented for each impact.

**Response to Comment No. B.9-196**

The commentator has requested that the EIR be revised to include a noise analysis and its results, including substantiation of the 60 dBA standard. As discussed in response to comment B.9-193, there is no requirement for the City to “substantiate the necessity for a 60 dBA standard.” The City may chose whatever noise compatibility standards it deems appropriate for the Goleta community. See the response to comment B.9-193 for a discussion of this issue. In addition, the statement, “There are a number of roadways where traffic noise on adjacent parcels is predicted to increase under the GP/CLUP to a level that exceeds 65 dBA CNEL,” is not inconsistent with Policy subsection NE 1.2. Policy subsection NE 1.2 does not prohibit increases in traffic noise or development of new residences in areas exposed to noise exceeding 65 dBA CNEL. Rather, it states actions that are to be taken and performance standards to be achieved if residential development is proposed in areas with noise exceeding 60 dBA CNEL.

**Response to Comment No. B.9-197**

The commentator has requested that the EIR be revised to include a noise analysis and its results, including substantiation of the 60 dBA standard and the viability of development within the City. The EIR properly evaluates the significance of noise impacts against current applicable noise standard (65 dBA CNEL), not the noise standard proposed as part of the GP/CLUP (60 dB CNEL). Accordingly, it is not appropriate to evaluate noise impacts against the 60 dBA CNEL standard. As discussed in response to comment B.9-193, there is no requirement for the City to “substantiate the necessity for a 60 dBA standard.” The City may chose whatever noise compatibility standards it deems appropriate for the Goleta community. See response to comment B.9-192 for a discussion of this issue.

Application of the 60 dBA CNEL noise standard specified in Policy subsection NE 1.2 would not in and of itself result in any adverse environmental effect. Rather, application of the policy would have the beneficial effect of reducing noise exposure to residences occupying new residences. This comment seems to suggest that adoption of Policy subsection NE 1.2 would make some properties “non-viable” for development and that this issue needs to be evaluated in the EIR. Adoption of Policy subsection NE 1.2 would not necessarily make development nonviable and does not prohibit development in any areas. Rather, it places additional requirements regarding acoustical performance in new residential areas that currently do not exist. These additional requirements may result in additional cost for areas exposed to noise exceeding 60 dBA CNEL. However, additional cost for development is an economic effect and not an environmental effect that must be evaluated in the EIR.

**Response to Comment No. B.9-198**

The commentator has requested clarification regarding alleged discrepancies between mitigation measures included in Impact 3.11-3 and the Land Use and Housing Elements of the GP/CLUP. Application of Policies NE 1, NE 2, and NE 3 would not actually prohibit development. The introduction to Section 3.11.3 has been revised to more accurately reflect the effect of adopting these policies. As discussed in response to comment B.9-193, there is no requirement for the City to “substantiate the necessity for a 60 dBA standard.” The City may chose whatever noise compatibility standards it deems appropriate for the Goleta community. See response to comment B.9-193 for a discussion of this issue. The City also is not required to evaluate the economic effect of this policy on development. See response to comment B.9-197.

**Response to Comment No. B.9-199**

See response to comment B.9-197.

**Response to Comment No. B.9-200**

See response to comment B.9-198.

**Response to Comment B.9-201**

Refer to response to comments B.8-68 and B.8-72.

**Response to Comment B.9-202**

Refer to response to comment B.8-60.

**Response to Comment B.9-203**

Refer to response to comment B.8-70.

**Response to Comment B.9-204**

Refer to response to comment B.8-71.

**Response to Comment B.9-205**

Refer to response to comments B.8-68 and B.8-72.

**Response to Comment B.9-206**

Missing applicable GP/CLUP policies have been added to Section 3.12.3.2, Discussion of Relevant GP/CLUP Policies.

**Response to Comment B.9-207**

Refer to response to Comment B.4-60.

**Response to Comment B.9-208**

A note has been added to Table 3.13-13 stating that intersection ID numbers where improvements are proposed are highlighted with a red circle in Figure 3.13-6. The figure already includes a reference to Table 2-5 explaining the overall source of the numbers.

**Response to Comment No. B.9-209**

See responses to comments B.6-19 and B.8-73.

**Response to Comment No. B.9-210**

See responses to comments B.6-20 and 21 and B.8-74.

**Response to Comment No. B.9-211**

See responses to comments B.6-22 through 24 and B.8-75.

**Response to Comment No. B.9-212**

See responses to comments B.6-25 and B.8-76.

**Response to Comment No. B.9-213**

See responses to comments B.6-26 and B.8-77.

**Response to Comment No. B.9-214**

See responses to comments B.6-26 and B.8-78.

**Response to Comment No. B.9-215**

See responses to comments B.6-27 and B.8-79.

**Response to Comment No. B.9-216**

See responses to comments B.6-35 and B.8-80.

**Response to Comment No. B.9-217**

See responses to comments B.6-29 and 30, and B.8-81 and 82.

**Response to Comment No. B.9-218**

See responses to comments B.6-31 and 32 and B.8-83.

**Response to Comment No. B.9-219**

See responses to comments B.6-33 and B.8-84.

**Response to Comment No. B.9-220**

See responses to comments B.6-34 and B.8-85.

**Response to Comment No. B.9-221**

See responses to comments B.6-35 and B.8-86.

**Response to Comment No. B.9-222**

See responses to comments B.6-36 and B.8-87.

**Response to Comment No. B.9-223**

See responses to comments B.6-37 and B.8-88.

**Response to Comment No. B.9-224**

See responses to comments B.6-38 and B.8-89.

**Response to Comment No. B.9-225**

See responses to comments B.6-39 and 40 and B.8-90.

**Response to Comment No. B.9-226**

See responses to comments B.6-43 and B.8-91.