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April 15, 2019

VIA E-MAIL AND HAND DELIVERY

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**Re: Comments Concerning Campbell In-N-Out Draft EIR
(SCH# 2018072028)**

Dear Mr. Fama,

Citizens for Sensible Growth (“CFSG”), a nonprofit organization comprised of concerned residents and businesses within the City of Campbell and surrounding area, offers the following comments regarding the Draft Environmental Impact Report (“DEIR”) prepared for the proposed Campbell In-N-Out project (“Project”). CFSG strongly opposes the Project, as proposed, and urges City staff to consider carefully the following DEIR comments.

The purposes of CFSG include protecting the environment within members’ neighborhoods, preserving the primarily residential character of the Project area, and promoting vibrant, safe, clean and livable communities in greater Santa Clara Valley, including in the cities of Campbell, San Jose, Los Gatos, and Saratoga. Members and supporters of CFSG seek to preserve a high quality of life in the larger urban area, recognizing that many people who are not local residents of the Campbell community of Hamann Park, but who work or shop in this area, must nonetheless access the community via SR17 and/or pass through the areas congested intersections. CFSG represents the interests of those who reside, work, recreate in, and travel through the area affected by the Project. These members have an interest in their health and well-being, and have conservation, aesthetic, and economic interests in the local environment.

The Project involves developing a 3,812-square-foot drive-thru fast-food restaurant with outdoor seating on a 1.2-acre site located at 499 Hamilton Avenue in Campbell, California.¹ In other words, the Project presents intensive commercial use on a comparatively small site that would operate seven days a week, either from 10:30 a.m. to 1:30 a.m. seven days a week (as

¹ See DEIR, pp. 1-2.

reported in the Traffic Impact Study), or from 10:00 a.m. to 1:00 a.m. Sunday through Thursday and from 10:00 a.m. to 1:30 a.m. Friday and Saturday (as reported in the Draft EIR).

As explained more fully below, the DEIR prepared for the Project does not comply with the requirements of the California Environmental Quality Act (“CEQA”).² While we have noticed problems with other sections of the DEIR, the comments herein place special emphasis on those sections that address potentially significant impacts that would most affect those residents adjacent to the site as well as the surrounding communities: aesthetics, traffic, noise, land use, and air quality. CFSG is also concerned that the proposed Project would cause adverse urban blight impacts associated with unprecedented late night activities in the neighborhood, fostered by the extended operating hours of In-N-Out. CFSG and its expert traffic consultant raised many of these issues in comments on the Notice of Preparation (“NOP”) for this Draft EIR.³ Unfortunately, the EIR consultant has not adequately addressed the issues, resulting in a deficient analysis under CEQA.

Below, after a brief summary of the proposed Project’s features and its potential to cause significant impacts, we present general comments. CFSG’s more specific comments are presented in Attachment A to this letter.⁴ The general comments address analytical flaws that pervade the DEIR, while the specific comments address informational errors in specific text and analyses. These comments demonstrate that the City Planning Commission may not approve the Project until an adequate revised DEIR is prepared and is recirculated for public review and comment.⁵

We have prepared these comments with the assistance of CFSG members with technical expertise and intimate familiarity with the Project site and the surrounding communities: The reviewers’ qualifications are provided herein as Attachment B. Please note that the attached CSFG member comments supplement the issues addressed below, thus the attached comments should be addressed separately in the responses to public Draft EIR comments.

I. GENERAL COMMENTS

A. The DEIR Does Not Satisfy CEQA’s Purpose and Goals

CEQA has two basic purposes, neither of which the DEIR satisfies. First, CEQA is designed to inform decision makers and the public about the potential, significant

² Pub. Resources Code, § 21000, et seq. and Cal. Code Regs., tit. 14, ch. 3 (the “CEQA Guidelines”), § 15000 et seq. All statutory citations are to the Public Resources Code, unless otherwise noted.

³ See DEIR, Appendix A, .pdf pp. 372-405.

⁴ Please include in the administrative record for this Project all reports and other documents referenced herein and in the attached comments.

⁵ See CEQA Guidelines, § 15088.5.

environmental effects of a project.⁶ CEQA generally requires a lead agency to analyze a project that could have potentially significant environmental impacts in an EIR.⁷

The purpose of an EIR “is to inform the public and its responsible officials of the environmental consequences of their decisions before they are made. Thus, the EIR protects not only the environment but also informed self-government.”⁸ The EIR has been described as “an environmental ‘alarm bell’ whose purpose it is to alert the public and its responsible officials to environmental changes before they have reached ecological points of no return.”⁹ The courts have repeatedly emphasized the importance of the public’s role in the CEQA process – such participation supplies both vitality and legitimacy to the environmental review process.¹⁰ An EIR must “include detail sufficient to enable those who did not participate in its preparation to understand and to consider meaningfully the issues raised by the proposed project.”¹¹ “If the deficiencies in an EIR ‘preclude[] informed decisionmaking and public participation, the goals of CEQA are thwarted and a prejudicial abuse of discretion has occurred.’”¹² “The failure to provide enough information to permit informed decision-making is fatal.”¹³ Further, Courts presume prejudice when an agency fails to adhere to CEQA’s mandatory procedures or when it fails to provide required information and that omission prevents meaningful assessment of environmental impacts.¹⁴

Second, CEQA directs public agencies to avoid or reduce environmental damage when possible by requiring feasible alternatives and mitigation measures.¹⁵ “[The EIR] must set forth mitigation measures that decisionmakers can adopt at the findings stage of the planning

⁶ CEQA Guidelines, § 15002(a)(1).

⁷ See Pub. Resources Code, § 21000; CEQA Guidelines § 15002.

⁸ *Citizens of Goleta Valley v. Bd. of Supervisors* (1990) 52 Cal.3d 553, 564 (*Goleta I*) (citations omitted).

⁹ *County of Inyo v. Yorty* (1973) 32 Cal.App.3d 795, 810.

¹⁰ *Center for Sierra Nevada Conservation v. County of El Dorado* (2012) 202 Cal.App.4th 1156, 1169 [citing and quoting *Laurel Heights Improvement Assn. v. Regents of University of California* (1993) 6 Cal.4th 1112, 1123 (*Laurel Heights II*)].

¹¹ *Habitat and Watershed Caretakers v. City of Santa Cruz* (2013) 213 Cal.App.4th 1277, 1303, quoting *Laurel Heights Improvement Assn. v. Regents of Univ. of California* (1988) 47 Cal.3d 376, 404-405 (*Laurel Heights I*).

¹² *Bakersfield Citizens for Local Control v. City of Bakersfield* (2004) 124 Cal.App.4th 1184, 1220, quoting *Save Our Peninsula Comm. v. Monterey County Bd. of Supervisors* (2001) 87 Cal.App.4th 99, 128 (*Save Our Peninsula*).

¹³ *Napa Citizens for Honest Gov. v. Napa County Bd. of Supervisors* (2001) 91 Cal.App.4th 342, 361.

¹⁴ *Environmental Protection Info. Center v. California Dept. of Forestry and Fire Protection* (2008) 44 Cal.4th 459, 485 (*EPIC*), quoting *Sierra Club v. State Bd. of Forestry* (1994) 7 Cal.4th 1215, 1237.

¹⁵ CEQA Guidelines § 15002(a)(2)-(3); *Berkeley Keep Jets Over the Bay Com. v. Bd. of Port Comrs.* (2001) 91 Cal.App.4th 1344, 1354.

process.”¹⁶ Under CEQA, a lead agency must consider a reasonable range of alternatives to the proposed project and mitigate a project’s significant impacts to the maximum extent feasible.¹⁷

For the following reasons, and as further explained below, the DEIR for the proposed Project does not comply with these basic requirements.

- The DEIR does not describe the planning and prior approval context for the proposed Project, including the approval of numerous commercial projects in the area (e.g., the neighboring Kohls retail development, etc.). Nor does the DEIR accurately describe the Project’s place within this context.
- The DEIR does not establish an accurate baseline against which the Project’s significant traffic impacts may be measured. For example, and more specifically, the traffic count data were not collected during the appropriate season, the extremely congested summer “beach day” traffic that greatly affects SR-17, which would be one of the primary access routes to the proposed project site.
- The DEIR does not analyze all of the Project’s significant impacts. The DEIR presents a generalized analysis of many potentially significant impacts and conclusory statements concerning the effectiveness of vague and otherwise inadequate project design features and mitigation measures. This is particularly true for the analysis of land use, traffic, noise, and aesthetic impacts.
- The DEIR ignored the potential for urban blight impacts and, consequently, proposes no mitigation measures to avoid or reduce them.
- The DEIR’s analysis of Project alternatives is perfunctory. The City must consider off-site alternatives, including potential Project locations outside the City of Campbell, that could avoid or minimize the Project’s significant impacts.

For these reasons, and as further explained below, the DEIR precludes a meaningful analysis of the Project’s impacts and the means devised to avoid or reduce them. These pervasive problems seriously undermine any assertion that the DEIR satisfies the CEQA requirement that an EIR provide the public, responsible agencies, and decision makers with a good faith full disclosure of a project’s impacts. The lead agency must therefore substantially revise the DEIR and recirculate the revised document for further public review and comment before making any decisions concerning the Project.

¹⁶ Remy, et al., Remy, et al., Guide to the California Environmental Quality Act (Solano Press, 11th ed., 2006) (Guide to CEQA), p. 503, citing § 21100(b)(3) and CEQA Guidelines, §§ 15126(e), 15126.4.

¹⁷ See *id.* at pp. 455-456.

B. The DEIR’s Analysis of Cumulative Impacts is Deficient.

“[I]t is vitally important that an EIR avoid minimizing the cumulative impacts. Rather, it must reflect a conscientious effort to provide public agencies and the general public with adequate and relevant detailed information about them.”¹⁸ In general, the poorer the quality of the existing environment, the more likely it is that a project’s incremental contribution to future cumulative conditions will be significant (i.e., “cumulatively considerable”).¹⁹

The DEIR must evaluate the cumulative effects of the Project in light of the various “closely related past, present, and reasonably foreseeable probable future projects” to ensure that all cumulatively significant environmental effects resulting from the Project are adequately identified and mitigated.²⁰ The DEIR purports to take into consideration the cumulative impacts of past, present and future projects within the City of Campbell.²¹ The brief discussion of other projects, however, does not consider relevant past projects located adjacent to the Project site. Specifically, the analysis of cumulative impacts do not consider the Project’s impacts in combination with the following relevant nearby projects that have been approved and constructed within the past 20 years: Kohls (and other retail businesses in adjacent shopping center), Fry’s, Staples, and Home Depot. These projects have dramatically transformed a large swath of the City in in the past two decades.

The DEIR does not consider numerous relevant recently completed and pending projects in its cumulative impacts analyses. As CFSG pointed out in its prior comments on the NOP, the analysis of cumulative impacts must consider the following pending projects:

Project Name and Description	Location
<u>Valley Medical Center Expansion:</u> 168-bed, six-story facility to replace patient facilities in Valley Medical Center’s nearby Old Main hospital. ²² Completed in 2017.	2.1 miles from Project site
<u>Good Samaritan Hospital:</u>	3.8 miles from Project site

¹⁸ *San Franciscans for Reasonable Growth v. City and County of San Francisco* (1984) 151 Cal.App.3d 61, 79; see *Citizens to Preserve the Ojai, supra*, 176 Cal.App.3d 421, 430-432.

¹⁹ *Communities for a Better Environment v. California Resources Agency* (2002) 103 Cal.App.4th 98, 120 (CBE); see also *Kings County Farm Bureau v. City of Hanford* (1990) 221 Cal.App.3d 692, 720.

²⁰ CEQA Guidelines, § 15355, subd. (b); *L.A. USD, supra*, 58 Cal.App.4th at pp. 1024-1025.

²¹ DEIR, pp. 4-4 – 4-10.

²² See The Mercury News, Long-delayed new building at Valley Medical Center set to open in 2017, available at: <https://www.mercurynews.com/2016/07/22/long-delayed-new-building-at-valley-medical-center-set-to-open-in-2017/>.

Project Name and Description	Location
<p>A \$30 million, 35-bed, emergency department expansion project will be completed during the second quarter with total completion of the project during the fourth quarter of 2019.²³</p> <p>In progress.</p>	
<p><u>Westfield Valley Fair Expansion:</u></p> <p>\$900 million expansion, including:</p> <ul style="list-style-type: none"> ○ A three-level, 150,000 square foot, Bloomingdale's department store, ○ 265,000 square feet of new interior shop space, adding 100+ new stores, ○ An outdoor dining promenade fronting Stevens Creek Boulevard – 3,000 new parking spaces.²⁴ <p>In progress.</p>	<p>2.4 miles from Project site</p>
<p><u>Santana Row:</u></p> <p>New 8 story building, 284,000 sq. ft., approximately 1 million square feet of office – parking unknown.</p> <p>Splunk, a machine data software company just leased 301K SF at the under-construction 700 Santana Row building. It previously leased 235K SF at 500 Santana Row. The new building could potentially accommodate up to 1,400 additional workers.²⁵</p>	<p>2.4 miles from Project site</p>

²³ See information provided by hospital re Expansion Project, available at: <https://goodsamsanjose.com/about/expansion-project.dot>.

²⁴ See Silicon Valley Business Journal, [Milpitas' Great Mall unveils major revamp as Silicon Valley shopping centers up the ante](https://www.bizjournals.com/sanjose/news/2018/10/02/milpitas-great-mall-unveils-major-revamp-as.html), available at: <https://www.bizjournals.com/sanjose/news/2018/10/02/milpitas-great-mall-unveils-major-revamp-as.html>.

²⁵ See The Mercury News, [Splunk Santana Row lease would expand tech company's San Jose foothold](https://www.mercurynews.com/2018/08/09/splunk-santana-row-lease-expands-tech-companys-san-jose-footprint-google-apple-amazon-facebook-adobe-jobs-economy/), available at: <https://www.mercurynews.com/2018/08/09/splunk-santana-row-lease-expands-tech-companys-san-jose-footprint-google-apple-amazon-facebook-adobe-jobs-economy/>.

Project Name and Description	Location
<p><u>Santana Row West:</u></p> <p>Up to 6 new buildings, as much as 9 stories tall, 29,000 sq. ft. new office space.</p> <p>Rockville, MD-based Federal Realty plans to develop Santana West, an 850,000-square-foot office campus on the site of a former domed movie theater in San Jose.</p> <p>Santana West is envisioned to include a pair of eight-story, 350,000-square-foot office buildings, as well as another five-story building totaling 150,000 square feet. A four-story parking garage is also planned.²⁶</p>	<p>2.4 miles from Project site</p>
<p><u>Residences at Railway:</u></p> <p>3.9 acres for 119 apartments, 83 one-bedroom units and 30 two-bedroom units, 32 townhomes. This is the largest apartment community to be built in Campbell, CA in nearly 20 years and provides much-needed housing in a transit- and pedestrian-oriented setting.</p> <p>Completed 2018.</p>	<p>1.1 miles from Project site (300 Railway Avenue)</p>
<p><u>North 40:</u></p> <p>The North 40 Specific Plan was approved on August 4, 2015, to include a maximum of 501,000 square feet of commercial space, including existing uses, and 270 housing units (with a state density bonus opportunity of up to 365 units).</p> <p>Beginning construction 2019</p>	<p>4.1 miles from Project site</p>
<p><u>Creekside Business Center:</u></p> <p>5-story 172,000 sq. ft. office building</p> <ul style="list-style-type: none"> • 1-story 11,500 sq. ft. office building • 2 multi-level parking structures • 1,025 new parking spaces 	<p>0.5 miles from Project site (675/705 Creekside Way)</p>

²⁶ See The Mercury News, [Santana Row developers eye launch of big new San Jose office campus this year](https://www.mercurynews.com/2019/02/14/santana-row-developers-eye-launch-big-new-san-jose-office-campus-google-apple-facebook-amazon-adobe/), available at: <https://www.mercurynews.com/2019/02/14/santana-row-developers-eye-launch-big-new-san-jose-office-campus-google-apple-facebook-amazon-adobe/>.

Project Name and Description	Location
Mostly completed, not yet fully leased	
<u>The Reserve Residential Project</u> Large apartment complex: The fully entitled project, a short jaunt from Santana Row, is slated to bring 640 new luxury apartment units and 8,000 square feet of retail to the site at 881 S. Winchester Blvd., replacing an existing 216 units that was once home to hundreds of residents.	2.0 miles from Project site (Winchester Blvd. and Williams Road – 881 S Winchester Blvd, San Jose)
Under construction.	
<u>The Pruneyard Shopping Center</u> <ul style="list-style-type: none">• 5 new retail buildings• 100,000 sq. ft. additional office space• 680 new parking spaces²⁷	1.0 mile from Project site
In progress.	

In spite of CFSG past comments that clearly identified these relevant pending and recently approved projects, the Draft EIR completely fails to consider them.²⁸

Further, the explanation concerning the cumulative impacts analysis provided in Section 3.0 of the DEIR provides pending project titles but insufficiently informative project descriptions, thus giving the reader limited information concerning how these projects may contribute to the cumulative environmental impacts.²⁹ This deficiency results in a failure to provide the public and decision-makers with the information that will enable them to intelligently take account of the Project's environmental consequences.³⁰

The DEIR should be revised to comprehensively analyze the cumulative impacts that Project-related development will have in combination with all relevant past, present, and reasonably probable future projects. This revised analysis of cumulative impacts must consider the Project's incremental impacts combined with impacts caused by relevant projects.

²⁷ See The Mercury News, Pruneyard Shopping Center's massive makeover off to a dramatic start, available at: <https://www.mercurynews.com/2017/07/13/pruneyards-massive-makeover-off-to-a-dramatic-start/>.

²⁸ See DEIR, Table 4-1.

²⁹ *Id.* at pp. 4-4 – 4-5.

³⁰ See *Kings County Farm Bureau, supra*, 221 Cal.App.3d at p. 720.

The DEIR and its appendices do not provide sufficient information to determine what extra-jurisdictional development was considered in the cumulative impacts analyses, if any. Please confirm that the cumulative impact analysis for traffic in particular considered all pending and planned extra-jurisdictional development in surrounding communities, including San Jose, Willow Glen, Los Gatos, and unincorporated Santa Clara County. When providing this response, please provide detailed information concerning the extra-jurisdictional projects and the regional growth considered.

C. The DEIR Does Not Analyze a Reasonable Range of Alternatives to the Project.

It is well-established that an EIR for a project must consider a reasonable range of feasible alternatives for the proposed Project, and that when appropriate this evaluation should consider alternative locations.³¹ In 1990, the California Supreme Court “reaffirm[ed] the principle that an EIR for any project subject to CEQA review must consider a reasonable range of alternatives to the project, or to the location of the project, which: (1) offer substantial environmental advantages over the project proposal [Citation]; and (2) may be ‘feasibly accomplished in a successful manner’ considering the economic, environmental, social and technological factors involved.”³²

Section 5 of the DEIR describes the three project alternatives that will be considered by City decision-makers.³³ The analysis does not examine a reasonable range of alternatives, as is required.³⁴ Instead, it dismisses the possibility of developing the Project on a different, more appropriate, site without supporting the conclusion with substantial evidence.

As explained herein and in Attachment A, the Project site is far too small to accommodate the intensive fast food restaurant use being proposed. Further, the development intensity associated with this Project will be added to the already intensive development along Hamilton Avenue.³⁵ As an additional alternative to the proposed Project, the City should instead consider feasible offsite alternatives. The Project’s significant impacts could be minimized through the selection of an alternative site that is better suited for the intensive commercial activities associated with the proposed Project.

³¹ See *Goleta I, supra*, 52 Cal.3d at p. 575 [Observing that “[t]here may be cases involving proposed development by a private entity in which the consideration of alternative sites is necessary and proper. The private developer may own or control feasible alternative sites, may have the ability to purchase or lease such properties, or may otherwise have access to suitable alternatives.”]

³² *Kings County Farm Bureau, supra*, 221 Cal.App.3d at p. 733, citing Pub. Resources Code, §§ 21002 and 21061.1, Guidelines, § 15364.

³³ See DEIR, pp. 5-5 – 5-6.

³⁴ See, e.g., *San Joaquin Raptor/Wildlife Rescue Center v. County of Stanislaus* (1994) 27 Cal. App. 4th 713, 735-739.

³⁵ See DEIR, Figure 3-2.

II. SPECIFIC COMMENTS

The following comments supplement the questions and comments contained in Attachment A.

A. Section 4.1 – Aesthetics

The DEIR does not analyze the aesthetic impacts associated with removing mature trees along East Hamilton Avenue along the Project site's street frontage, perhaps because it provides inconsistent information concerning this Project feature.³⁶ Removing mature Ash trees that took years to grow will certainly "degrade the existing visual character or quality of the site and its surroundings." As such, this potentially significant impact must be analyzed.

The Project will include a large monument freestanding sign approximately 40.7 square feet in size.³⁷ Such a large lighted sign in this community would degrade the existing physical character of the site and surrounding area. The DEIR does not squarely address this significant adverse aesthetic impact. Consequently, the Planning Commission should deny the request for a sign permit to increase the allowable number and/or size of project signs.

The analysis of the Project's contribution to cumulative aesthetic impacts does not take into consideration the numerous past projects that contribute to such impacts, including but not limited to the adjacent Kohl's shopping center. The Draft EIR should be revised to consider the Project's incremental contribution to cumulative aesthetic impacts.

B. Section 4.2 – Air Quality

The analysis of the Project's air quality impacts to sensitive receptors does not appear to consider the construction and operational emissions on the nearby preschool, children's learning center, and vulnerable residents of the Franciscan Apartments.³⁸ For example, the analysis does not appear to quantify the emissions caused by idling cars in the Drive-Thru queue and assess those impacts with a particular focus on nearby sensitive receptors. This is especially important here, given the prevailing wind direction would send exhaust directly toward these receptors.³⁹ Please confirm that the analysis of air quality impacts to sensitive receptors considered the potentially adverse air quality impacts to children, seniors, and other nearby sensitive receptors.

³⁶ Compare DEIR, Figure 3-7 with p. 4.1-11.

³⁷ See DEIR, p. 4.1-8.

³⁸ See DEIR, p. 4.2-23 – 4.2-24.

³⁹ Compare DEIR, pp. 4.2-24 – 4.2-25, with "Wind Rose" attached to Appendix C-1, .pdf p. 797.

C. Section 4.9 – Land Use

The analysis of the Project's consistency with relevant General Plan policies and goals is incomplete, perfunctory, and unsupported. For example, Section 4.9 of the DEIR does not even mention Policy LUT-5.1 (concerning neighborhood integrity) much less analyze the Project's potential inconsistency with this highly relevant General Plan policy.⁴⁰ In addition, the DEIR does not address the Project's potential inconsistencies with Policy LUT-5.3h. The DEIR's selective discussion of applicable General Plan policies reveals the injection of bias into what is supposed to be an objective analysis providing meaningful information concerning Project impacts to the public and decisionmakers. The DEIR should be revised to consider all of the potential inconsistencies the Project may have with relevant land use regulations.

D. Section 4.13 – Transportation and Traffic

We offer the following comments so that the DEIR may better perform its function as an informational document and so that all Project impacts are identified and mitigated to the extent feasible.

Thresholds of Significance. Case law recognizes that an adopted level of service ("LOS") standard may serve as a threshold of significance for CEQA purposes.⁴¹ Compliance with an LOS standard, however, does not relieve the agency of its duty to consider whether a significant impact may occur.⁴² This is because such thresholds "only define the level at which an environmental effect 'normally' is considered significant; they do not relieve the lead agency of its duty to determine the significance of an impact independently."⁴³

The analysis of cumulative traffic impacts must address whether the Project's incremental contribution to cumulative impacts caused by closely related past, present, and reasonably probable future projects will be "cumulatively considerable."⁴⁴ Rather than comply with this requirement, the DEIR analyzes cumulative traffic impacts by applying a threshold of significance that does not appropriately consider smaller impacts that may nonetheless be cumulatively considerable. Specifically, the City applies a 0.01 change to the volume-to-capacity (v/c) ratio for intersections operating at LOS F under background or cumulative

⁴⁰ See DEIR, pp. 4.9-5 – 4.9-4.

⁴¹ See *Schaeffer Land Trust v. San Jose City Council* (1989) 215 Cal.App.3d 612, 623-625.

⁴² *Mejia v. City of Los Angeles* (2005) 130 Cal.App.4th 322, 342 [observing a public agency cannot apply a threshold of significance in a way that prevents consideration of other evidence showing that there may be a significant effect]; see CEQA Guidelines, § 15064.7, subd. (b); *Protect the Historic Amador Waterways v. Amador Water Agency* (2004) 116 Cal.App.4th 1099, 1109-1111.

⁴³ *Center for Biological Diversity v. Department of Fish & Wildlife* (2015) 62 Cal.4th 204, 230-231.

⁴⁴ See CEQA Guidelines, § 15355, subd. (b); see also *Environmental Protection Information Center v. Johnson* (1985) 170 Cal.App.3d 604, 624-625 (*EPIC*) [EIR must consider cumulative effects of past projects]; see also *Environmental Protection & Information Center v. Cal. Dept. of Forestry and Fire Protection* (2008) 44 Cal.4th 459, 523 (*EPIC*) [same].

conditions as the threshold of significance for both direct and cumulative traffic impacts to intersections and Projects.⁴⁵

In the context of cumulative impacts, the issue is not the relative contribution of the project as compared to existing conditions, but whether “any additional amount” contributed by the project should be considered significant in light of the severity of the existing problem.⁴⁶ CFSG urges the City to apply a more protective threshold of significance for identifying Project-related cumulative traffic impacts at intersections operating at LOS F to a change in v/c ratio of 0.005 (or even less, depending on the existing level of congestion). If the City insists on using the same peak hour analysis and threshold of significance for cumulative traffic impacts as it does for direct traffic impacts, CFSG requests a reasonable explanation verifying that application of this threshold complies with CEQA’s requirements for analyzing cumulative impacts.

Land Use Assumptions. The Population and Housing section reports that the City as a whole will experience a substantial increase in both residents and employees.⁴⁷ Population and employment growth in the amount reported, together with unreported regional growth, will certainly cause substantial land use changes and bring associated traffic. The forecasted traffic conditions may not have considered the City and regional growth projections. Thus, the traffic analysis may underestimate the cumulative impacts of the Project combined with foreseeable development activities based on under-estimated land use assumptions. The DEIR must rectify the omission of relevant information concerning regional growth projections and must reconcile any conflicting information and conclusions concerning environmental impacts.

The revised analysis must consider, for example, the anticipated re-use of the nearby parcel currently occupied by the Fry’s Electronics store (at the SR-17 SB ramp at Salmar, adjacent to the Kohl’s and Home Depot). The Fry’s store at this location has not been doing well. We understand that the Planning Commission was recently informed at a public meeting that the property representative indicated that the Fry’s lease is up in two years and the property would be developed for housing. Further, the revised analysis must also consider the traffic associated with planned high-density housing along the entire light rail corridor, adjacent to SR-17 and running through downtown Campbell. Together, these nearby projects will add thousands of vehicle trips to already congested roadways. The DEIR does not appear to consider these future land use changes and their implications for Project-related traffic.

Traffic Counts for Weekday Traffic Analysis (p. 4.13-10). The DEIR states that the traffic count data for the weekday PM peak hour analysis were derived from the Santa Clara County Congestion Management Program.⁴⁸ Please provide additional specific information concerning

⁴⁵ DEIR, pp. 4.13-09 – 4.13-10; *see also* TIS, p. 17.

⁴⁶ *CBE, supra*, 103 Cal.App.4th at p. 120.

⁴⁷ *See* DEIR, pp. 4.11-3 – 4.11-4. The section does not disclose projected regional population and growth.

⁴⁸ *See id.* at p. 4.13-10.

the timeframe within which traffic counts for the weekday analysis were performed. Please also verify, based on substantial evidence, that the dates and times of traffic counts were representative of current typical peak weekday hour conditions.

Weekday Peak Hour Analysis. As stated in CFSG's comments on the NOP for this Draft EIR, the analysis of traffic impacts should have also addressed the Project's impacts during the weekday lunch hour. Due to the nature of this proposed Project (a fast food restaurant) and the already heavy roadway congestion at mid-day during weekdays, the analysis must address traffic impacts when they are likely to occur.

Summer Weekend Traffic Analysis. For the summer weekend analysis prepared for the Project, the traffic consultant only collected existing traffic data on two fall days (Sat., 10/07/17, and Sat., 10/20/18) and only collected between 12:00 p.m. to 2:00 p.m. The traffic study appendix to the DEIR does not describe in greater detail the time of data collection or the methodology used.⁴⁹ This off-peak season, 2-hour midday window, for weekend traffic counts was both inappropriate and inadequate. The traffic counts should have been conducted at the peak of the summer "beach season" and should have included morning traffic on SR 17 towards Santa Cruz and the coast and returning traffic on SR 17 in the evening. Summer weekend traffic along SR 17 and neighboring cities is notoriously congested, and the problem has become worse with the advent of navigation apps.⁵⁰ Conducting weekend traffic counts in the summer, when traffic is far worse, will produce a conservative baseline for assessing the Project's traffic impacts, as is appropriate.

Background Conditions. The analysis of traffic impacts deducts the trips that would have been generated by the former restaurant that occupied the site. Pursuant to the VTA TIA Guidelines, the City has discretion to count these former trips as Project trips for purposes of impact analysis.⁵¹ Because the Elephant Bar and Restaurant on the Project site has been closed for nearly 3 years, and because the intensive nature of an In-N-Out Drive Thru substantially changes the nature and frequency of vehicle trips, the projected trips associated with this past use should not be deducted from existing traffic conditions for the purpose of impact analysis.

Cumulative Impacts (p. 4.13-29). The DEIR does not adequately consider the Project's potential cumulative traffic impacts and applicable mitigation measures, taking into account all of the development projects that have already been approved in Campbell and surrounding area, as well those that are currently planned and those project's on the planning horizon. The traffic analysis must consider these projects in a revised traffic impact analysis. However, it is

⁴⁹ DEIR, App. H, p. 9.

⁵⁰ See Local TV news report re weekend traffic problems affecting the residents of Los Gatos, available at: <https://sanfrancisco.cbslocal.com/video/4062453-pix-now/>; see also City of Los Gatos FAQ re summer weekend cut through traffic, available at: <https://www.losgatosca.gov/DocumentCenter/View/19731/Weekend-Cut-Through-Traffic-FAQ>.

⁵¹ See VTA TIA Guidelines, § 7.2.

not clear that these projects were considered because the DEIR does not specifically state that these projects were included and considered in the cumulative analysis.

The DEIR also does not describe the worsening traffic congestion along SR 17, especially during the summer months.⁵² Nor does it consider the Project's contribution to this existing problem. The analysis should be revised to address these issues.

Mitigation Measures. To the extent that the Project is responsible for traffic impacts, the City must ensure that feasible measures to reduce or eliminate such impacts are defined and enforceable.⁵³ As further explained below and in the attached comments from CFSG, the mitigation measures for traffic impacts are deficient for one or more of the following reasons: they (i) are based on dubious impact analysis methodology, (ii) fail to include the necessary details and mandatory language to ensure enforceability, (iii) do not sufficiently mitigate the Project's impacts to traffic, (iv) do not include adequate sources of funding, or (v) do not include performance standards or otherwise impermissibly defer mitigation.

Again, CEQA requires the City to mitigate all of the Project's impacts to the extent feasible.⁵⁴ Also, mitigation measures must be designed to minimize, reduce or avoid an identified environmental impact or to rectify or compensate for that impact.⁵⁵ Where several mitigation measures are available to mitigate an impact, each should be discussed and the basis for selecting a particular measure should be identified.⁵⁶ A lead agency may not make the required CEQA findings unless the administrative record clearly shows that all uncertainties regarding the mitigation of significant environmental impacts have been resolved.

In particular, CEQA requires the lead agency to adopt feasible mitigation measures that will substantially lessen or avoid the Project's potentially significant environmental impacts⁵⁷ and describe those mitigation measures in the DEIR.⁵⁸ A public agency may not rely on

⁵² See Los Gatos FAQ circular, available at <https://www.losgatosca.gov/DocumentCenter/View/19731/Weekend-Cut-Through-Traffic-FAQ>. The FAQ addresses the increasing volume of traffic going over SR 17, which now exceeds the capacity of the roadway, the resulting spillover onto local streets, and the ramifications of this problem for local residents and businesses. According to the FAQ, traffic congestion on SR 17, and other roadways, has historically been an issue for Los Gatos during peak commute periods and during the summer months ("Beach Traffic"), but the problem has grown much worse in recent years.

⁵³ See CEQA Guidelines, § 15126.4(a)(1)(B); see also *Endangered Habitats League v. County of Orange* (2005) 131 Cal.App.4th 777, 793–794 *Sacramento Old City Assn. v. City Council of Sacramento* (1991) 229 Cal.App.3d 1011, 1028-1029 (SOCA); see also *Federation of Hillside and Canyon Associations, supra*, 83 Cal.App.4th at p. 1262.

⁵⁴ *City of Marina v. Board of Trustees of California State University* (2006) 39 Cal.4th 341, 366-367; see also *City of San Diego v. Bd. Of Trustees of California State University* (2015) 61 Cal.4th 945, 960-961; see also *County of San Diego v. Grossmont-Cuyamaca Community College Dist.* (2006) 141 Cal.App.4th 86, 104.

⁵⁵ CEQA Guidelines, § 15370.

⁵⁶ *Id.* at § 15126.4(a)(1)(B).

⁵⁷ §§ 21002, 21081(a).

⁵⁸ § 21100(b)(3); CEQA Guidelines § 15126.4.

mitigation measures of uncertain efficacy or feasibility.⁵⁹ Instead, mitigation measures must be fully enforceable through permit conditions, agreements or other legally binding instruments.⁶⁰

In light of concerns previously expressed by CalTrans regarding the effectiveness and feasibility of this previously identified traffic mitigation measure,⁶¹ and given the evidence of cost escalation presented by CFSG in Attachment A (comments 16.1 and 16.2), the City should coordinate with CalTrans to determine whether the proposed mitigation is even feasible. Without a finding of feasibility, the City cannot conclude that Project traffic impact TRANS-1 (and others) will be reduced to LTS levels with this mitigation.

The revised DEIR must propose and describe mitigation measures sufficient to minimize all significant adverse environmental impacts identified in the EIR.⁶² The Draft EIR must also provide a feasibility analysis, more information concerning the implementation of mitigation, and analysis of secondary effects on pedestrians and transit, as required by the VTA TIA Guidelines.⁶³

Proposing mitigation without more of an effort to ensure the mitigation is adequate and will be implemented as advertised is a form of improper deferral of mitigation.⁶⁴ While identifying potentially feasible mitigation is an improvement over biological report mitigation in *Defend the Bay*, the strategy suffers from a similar deficiency: failing to identify enforceable and feasible mitigation that the City can recommend to outside agencies (e.g., CalTrans) to implement and can be partially funded by contributing fair share fees.

Due to the deficient analysis of Project impacts to roadways and intersections, CFSG does not believe it would be productive to comment further at this time on other possible traffic mitigation measures for the potentially significant traffic impacts. Instead, we urge the City to revise the analysis, in consultation with CalTrans. Following receipt and review of the revised analysis, CFSG may have more specific comments regarding identified impacts and proposed mitigation measures.

⁵⁹ *Kings County Farm Bureau, supra*, 221 Cal.App.3d at p. 727 [finding groundwater purchase agreement inadequate mitigation measure because no record evidence existed that replacement water was available].

⁶⁰ *Id.* at § 15126.4(a)(2).

⁶¹ See Exh. 1: CalTrans meeting minutes, dated 07/16/08 and 09/12/08, respectively.

⁶² §§ 21002.1(a), 21100(b)(3).

⁶³ See VTA TIA Guidelines, pp. 50 - 51, ¶¶ 3, 4, 7.

⁶⁴ See *Defend the Bay v. City of Laguna Hills* (2004) 119 Cal.App.4th 1261, 1275 [deferral of mitigation is impermissible when an agency “simply requires a project applicant to obtain a report and then comply with any recommendations that may be made in the report”]; see also *Federation of Hillside and Canyon Associations v. City of Los Angeles* (2000) 83 Cal.App.4th 1259, 1262 [mitigation measures must be “incorporate into the project or required as a condition of project approval in a manner that [would] ensure their implementation”].

The DEIR Does Not Analyze Impacts that will be Caused by Traffic Mitigation. The DEIR does not analyze in any meaningful or informative way the impacts associated with infrastructure improvements required as Project mitigation, including the impacts caused by the right-of-way acquisition, tree removal, and roadway construction.⁶⁵ These impacts must be analyzed now. CEQA requires that lead agencies analyze both the direct and indirect impacts of the “whole of the project,” including impacts that may arise from implementation of mitigation measures.⁶⁶ Failing to consider these impacts is a form of impermissible piecemeal review.⁶⁷

III. CONCLUSION

For all of the foregoing reasons, and for the reasons described in the attached comments and questions from CFSG, the City must revise and recirculate the DEIR. The revised analysis must fairly and objectively address all of the Project’s significant environmental impacts and must consider project alternatives and mitigation measures to avoid or reduce those impacts.

Thank you for considering these comments. If you have any questions or concerns about anything expressed in this letter, please do not hesitate to contact me.

Sincerely,



Jason Holder
Counsel for CFSG

Attachments:

- A: CFSG’s Specific Questions and Comments, dated April 14, 2019
- B: DEIR Reviewers’ Qualifications and Background

Exhibits:

- 1: CalTrans Meeting Minutes, dated 07/16/08 and 09/12/08, respectively

cc: Paul Kermoyan, Community Development Director (e-mail: paulk@cityofcampbell.com)
Wendy Wood, City Clerk (e-mail: cityclerk@cityofcampbell.com)
Jannette Ramirez, Caltrans, District 4 (jannette.ramirez@dot.ca.gov)
CFSG Board

⁶⁵ See, e.g., DEIR, pp. 4.13-17 [description of Mitigation Measure Trans-1, with no analysis of secondary impacts caused by the mitigation measure].

⁶⁶ See CEQA Guidelines, § 15003, subd. (h).

⁶⁷ See *Santiago County Water Dist. v. County of Orange* (1981) 118 Cal.App.3d 818, 829 [EIR failed to analyze impacts of constructing facilities necessary to deliver water to project].

Citizens for Sensible Growth

In-N-Out Burger DEIR Review and Response

April 14, 2019

Introduction

Introduction to CSFG Comments on Draft Environmental Impact Report for the Proposed *In-N-Out* drive-thru Restaurant at 499 E. Hamilton at Highway 17 in Campbell, California

Citizens for Sensible Growth (“CSFG”) is a neighborhood association formed in 2017 with the objective of opposing the building of a new *In-N-Out* drive-thru restaurant at the already very congested intersection of Hamilton Avenue and Almarida, adjacent Highway 17. CSFG members oppose the Project for a number of reasons.¹ In a nutshell, this site is simply the wrong place for an intensively used day and late-night restaurant that will get 50% of its business from drive-thru car traffic.

Basically, the Draft EIR is fundamentally flawed in several respects and is incomplete, despite its length. CSFG members with technical expertise thoroughly reviewed the Draft EIR and other relevant documents.

Based on our thorough review of the Draft EIR, including the revised traffic study, we conclude that the analysis of environmental impacts fails in many critical areas. The most serious errors in the analysis stem from inaccurate current neighborhood traffic counts at Hamilton and Central Avenues, and SR-17, failure to include accurate Cal Trans information about the SR-17 southbound ramp enhancement, the actual cost of that construction, and lack of information regarding pedestrian dangers crossing both Hamilton and Almarida from Home Depot and Kohls, etc.

CSFG members who reside near the Project site or frequent the area know that current traffic is far more congested than reported and that the Project will make the congestion much more severe. If *In-N-Out* was built, the nearby residential streets, Almarida and Central, would be used by *In-N-Out* customers as drive-through streets to access the restaurant due to heavy congestion at Hamilton, Winchester & SR-17, greatly impacting their neighborhood including other neighborhood streets entered from Winchester, Hamilton or Salmar. Because Central and Salmar (exit off of SR-17 South) are **gateways to downtown Campbell**, this worsened traffic congestion would **affect the entire City**.

¹ See CSFG website with information concerning Project impacts to the neighborhood and surrounding communities: <http://citizensforsensiblegrowth.com/>.

Heavy auto traffic generated by the Project will block nearby streets.² CSFG members who are intimately familiar with these neighborhood streets also know that the already congested intersection at East Hamilton and Almarida would likely motivate many *In-N-Out* customers to cut through the Hamann Park and other City neighborhoods to avoid the congestion (described by some customers on-line as their “secret routes”, but with pervasive use of navigation apps, the cut through routes are hardly secret). The Draft EIR brushes aside these concerns and downplays the Project’s significant traffic impacts.

The Draft EIR recommends the following mitigation measure for traffic impact Trans-1: “*Widening the southbound approach at the intersection of Hamilton Ave/Salmar-SR South Off-Ramp to include 3 left turns...is recommended to improve traffic...and reduce the project impact to a less-than-significant level.*” Conclusions regarding the efficacy of this measure are inaccurate. **This would make the traffic condition worse, not better.** In addition, the Draft EIR does not mention that there is **inadequate funding** for the offramp widening project (proposed 15 years ago, **and still not built**). Finally, the cost estimate for the offramp widening project is not up to date with current construction costs – this compounds the analytical errors with another glaring inaccuracy.

Additionally, there are many more important traffic issues that are dismissed or glossed over in the analysis, including the cumulative effects on traffic patterns and backups caused by the widespread use of mobile navigation apps (e.g., WAZE). Again, the use of such apps will certainly drive very heavy SR 17 traffic to an already very congested area and will promote dangerous U-turning problems at Hamilton and Almarida. Vehicles making U-turns to access the restaurant will block both Hamilton North and Hamilton South, exacerbating heavy traffic congestion and safety hazards.

Another glaring error is the assumption and use of current DEIR listed *In-N-Out* sites “similar to the Hamilton site” for comparison and as the basis of assumptions. These sites are **not similar** – CSFG members have visited all of them:

- Mountain View, 1159 Rengstorff. Size of property is larger, **not located near residential**, and has good access on El Camino and freeway.
- Mountain View, 53 El Camino. Property is small but has good access on side street, **NOT impacting residential**.
- Union City, 32060 Union Landing Blvd. Next to a huge shopping complex with a Lowe’s, **NOT impacting residential**.

In-N-Out should NOT be allowed to build on this small site at an already heavily congested intersection, close to homes and apartments. **They belong on bigger parcels – not** next to residential neighborhoods. An example is the new *In-N-Out* at the Cottle Road location in San Jose which is part of a large 17-acre development which includes a Lowe’s Improvement store and is not directly adjacent to residential neighborhoods.

² See CSFG website with information concerning long lines at *In-N-Out* restaurants. http://citizensforsensiblegrowth.com/lines_lines.html.

The Project is incompatible with the City of Campbell's historic character and it would severely adversely affect the local environment. As one citizen put it – "Even my dog knows this is the wrong place for *In-N-Out*." Simply put, the proposed Project conflicts with the desires of most Campbell residents and does not meet the standards for sensible growth and development.

Comments posted on the City website forum reveal that at least 68% of Campbell residents DO NOT want *In-N-Out* at this location and many do not want ANY more fast-food restaurants. Campbell's downtown has many distinctive sit-down restaurants which are very popular with Campbell citizens **and** citizens from nearby towns who enjoy them, too.

A sit-down restaurant would be a better choice for this site. Most recently, the Elephant Bar Restaurant successfully operated at the site from 1980-2016. This type of restaurant was not controversial because the volume of traffic generated was relatively small and there was not a constant flow of non-neighborhood cars streaming into the neighborhood, the intersection and other City streets, all day and night until 1:00 A.M. or 1:30 A.M. in the morning. Planning staff should assess the feasibility of this type of alternative use.

There **should not be any fast food restaurant, with or without drive-thru at this location.** Instead of shoehorning this out-of-place highly intensive fast food restaurant onto the site, development should be designed to fit more harmoniously into the character Campbell and our nearby neighbors and towns. Such a design approach would preserve, **rather than undermine**, the quality of life of the residents Campbell and surrounding communities.

Alternatively, CSFG urges the City to instead consider promoting new housing at this location. For example, the adjacent Franciscan Apartment complex could expand to allow for core housing. A four story or smaller apartment/condo project, with some units designated as low-cost housing, would also be a good use of the space since affordable housing is in short supply.

Putting high-density housing next to VTA transit corridors would also be a good use of the property and minimize traffic in general. Residential traffic is far different than the high-volume traffic that is generated with fast food operations.

Allowing any business to use **limited land spaces** to make money for their company without regard for the congestion, safety hazards, and quality of life of local citizens is incompatible with quality of life and sensible growth in Campbell, and the nearby towns that also have to use the same roads – Winchester, Bascom, and SR-17.

CLOGGED traffic, dangerous intersections and blocked freeway entrances and exits **disrupt the entire South Bay corridor.**

The land use and environmental review process, including The General Plan and Municipal Code changes must reflect QUALITY OF LIFE AND BASIC SAFETY. And City staff and the City Council need to work FOR the citizens and their quality of life when soliciting or considering ANY business for the city. Putting inappropriate businesses in the wrong place will result in many unsolvable issues in the future. Once built, there will be no recourse.

Our questions and comments on the Draft EIR follow:

DEIR Comments and Questions

1. Page 3-1, Section 3.1.1, 2nd paragraph, last sentence (PDF page 39)

DEIR REFERENCE: Local access to the project site is provided via Highway 17, East Hamilton Avenue, Almarida Drive, and North Central Avenue.

DISCUSSION: North Central Avenue, both northbound and southbound are service streets for local neighborhoods.

- 1.1** What projections for proportion of traffic are from southbound Central Avenue to Hamilton Avenue, and what proportion from southbound Central Avenue to Hamilton Avenue

2. Page 3-4, Section 3.1.3, 2nd paragraph, first sentence (PDF Page 42)

DEIR REFERENCE: The project site is zoned General Commercial (C-2). The purpose of the C-2 zoning district is intended to provide a wide range of retail sales, business, and personal services primarily oriented to the automobile customer and accessible to transit corridors.

DISCUSSION: *“Oriented to the automobile customer”* would indicate that is primarily how customers will reach these businesses. Limited public transit is available on Hamilton Avenue.

- 2.1** In terms of transportation type and customer volume, what is the expected access from public transportation?

3. Page 3-4, Section 3.2, Last bullet point (PDF Page 42)

DEIR REFERENCE: The project applicant has developed...objectives... To utilize the project site's location via Highway 17 and other major transportation and transit corridors to facilitate local and regional access to the project site.

DISCUSSION: With respect to major transportation, there is only one bus line with a stop within ¼ mile of restaurant location. All other transit stops are ½ - ¾ mile away on Bascom or Winchester Ave. By default, then, the major customer type being targeted by this Project is automobile traffic.

- 3.1** Are there plans by VTA to increase transportation frequency and improve access on the Hamilton Avenue Corridor?

4. Page 3-7, Section 3.3.2, Paragraph 2, sentence 4 (PDF Page 45)

DEIR REFERENCE: The proposed fast-food restaurant would employ approximately 40 people at any given time.

- 4.1** Where will these employees park – on the proposed In-N-Out site, or on the premises of neighboring businesses?

5. Page 3-9, Section 3.3.3, Paragraph 2, sentence 3 (PDF Page 47)

DEIR REFERENCE: Signage would be installed along Almarida Drive to discourage guests from accessing the drive-thru lane via that entrance

- 5.1** Of the total number of vehicles approaching the In-N-Out site Almarida Avenue entrance how many are estimated to approach from the north, and how many are estimated to approach from the south?
- 5.2** What proportion of these vehicles are expected to be “discouraged” from entering through the Almarida entrance?
- 5.3** For “discouraged” traffic approaching the site from the south (i.e., Hamilton Avenue), where are they expected to go? How many are projected to continue north through the Hamann Park neighborhood, and how many are expected to turn into the Kohl’s/Bed Bath & Beyond site to park, and walk across Almarida Avenue to In-N-Out?

6. Page 3-9, Section 3.3.3, Figure 3.6 (PDF page 48)

DEIR REFERENCE: Figure 3-6.

- 6.1** Please describe the issues of safety for pedestrians crossing the vehicle queue line to access the building from the west parking area or from the center parking area?
- 6.2** Please describe the plan for vehicles exiting the drive-through lane where they may conflict with the extended vehicle queue?

7. Page 4.1-3, Section 4.1, Table 4.1-1 (PDF Page 61)

DEIR REFERENCE: Land Use and Transportation Plan (LUT). LUT 5.1. Neighborhood Integrity: Recognize that the City is composed of residential, industrial and commercial neighborhoods, each with its own individual character; and allow change consistent with reinforcing positive neighborhood values, while protecting the integrity of the city’s neighborhoods.

7.1 The Project will undermine neighborhood integrity by generating substantial traffic, encouraging loud and disruptive late-night activities, and increasing pedestrian and vehicle safety hazards, among other things.

7.2 How is the proposed In-N-Out project consistent with LUT 5.1?

DEIR REFERENCE: LUT 9.3m. Location of Service Areas: Locate parking areas, truck loading areas, drive-thru lanes and drive-thru windows away from streets, out of immediate public view, while minimizing land use conflicts and traffic impacts. The Project includes a drive-thru lane and a drive-thru window that is within public view. It also involves incompatible land uses that will cause significant traffic impacts.

7.3 How is the proposed In-N-Out project consistent with LUT 9.3m?

8. Page 4.9-1, Section 4.9, Land Use and Planning (PDF Page 197)

DEIR REFERENCE: Regional Regulations, Plan Bay Area 2040, Transit Priority Area (TPA). The project site is located within a Transit Priority Area (TPA) by Plan Bay Area.2 Senate Bill 375 defines a TPA as a lot or area within a half mile of a major transit stop or within one-quarter of a mile of high-quality transit corridors.3 Plan Bay Area identifies TPA zones with the goal of locating land uses that would not substantially increase automobile traffic, and will instead decrease automobile transit and allow for promotion of public and active transportation. [DEIR Page 4.9-1]

DISCUSSION: The DEIR indicates that In-N-Out qualifies under Plan Bay Area 2040 to be within the Transit Priority Area (TPA), an area ½ mile from major transportation hubs. We contend that they are NOT qualified, even when using the 'Vehicle Miles Traveled' rule.

The PBA 2040 and the TPA zone guidelines are meant to discourage placing businesses like In-N-Out in this area as they promote heavy vehicle traffic, have a harsh impact on our air quality with its excessive greenhouse gasses, do not promote pedestrian use, and will greatly hinder traffic flow in critical transport areas during peak hours. PBA 2040 places air quality, housing and pedestrian-focused development above all else and further states that TPA zones should be a concentration of housing with transit friendly, walkable/bikeable businesses.

However, In-N-Out is not focused on the pedestrian. In-N-Out claims that most of its business comes from the vehicles going through the drive-thru; very little comes from foot traffic – they require vehicle traffic, not pedestrian traffic, to even be profitable.

Plan Bay Area 2040 identifies areas further than ½ mile from major transportation, but still central to residents, as the more appropriate location for businesses that have a heavy dependency on vehicle traffic.

CalTrans see's VMT differently than In N Out does. "Caltrans' Strategic Management Plan 2015-2020 aims to reduce Vehicle Miles Traveled (VMT) by tripling bicycle and doubling both pedestrian and transit travel by 2020." [From the CALTRAN letter written to Campbell regarding the In N Out project.]

8.1 Please explain how the In-N-Out Burger project aligns with Plan Bay Area, Senate Bill 375, and CALTRANS objectives.

9. Page 4.10-2, Section 4.10, Noise (PDF Page 206, 211)

DEIR REFERENCE: Because community receptors are more sensitive to unwanted noise intrusion during the evening and at night, State law and the City require that, for planning purposes, an artificial dB increment be added to quiet time noise levels in a 24-hour noise descriptor called the Community Noise Equivalent Level (CNEL) or Day-Night Noise Level (Ldn). [DEIR Page 4.10-2]

It is possible that noise from future patrons' car stereos could intermittently exceed the 65 dBA exterior noise limit at the nearby receptor property lines. Periodic noise limit exceedances from car stereo noise is not typically evaluated in noise studies due to the intermittent nature of the source and the inability to predict the intensity and frequency of potential occurrences. Nonetheless, there is a potential for future patrons to play their stereos at loud volumes in the parking lot or drive-thru lane, which could pose a nuisance for nearby residents, particularly during nighttime hours. Therefore, as a condition of approval, the City will require installation of signage at the northern and western perimeters at a spacing of at least every 5 parking spaces and at every 50 feet along the edge of the drive-thru advising patrons to turn down car stereos. [EIR Page 4.10-7]

DISCUSSION: The EIR acknowledges that ambient noise is more pronounced in the evening, and that state law requires more stringent guidelines to prevent disturbances during late hours, but it failed to properly address the very likely disturbances exceeding acceptable levels in the late evening by rowdy patrons eating and playing stereos in the parking area.

- Since this business intends to be open until 1:30 A.M. next to residential home, we cannot ignore this issue simply because the EIR didn't know how to properly study the problem.
- In-N-Out conducts more of its business outdoors (as opposed to indoors where it is quieter), making it far more likely than a traditional restaurant that it will create late evening disturbances.
- Cities have been banning busy drive-thrus by residential homes for the last few decades because they've learned late evening noise is an issue that cannot be controlled by posting a few signs.

The following addresses comprise In-N-Out Burgers' greater Bay Area locations – NONE of these locations are immediately adjacent to residences (such as the Franciscan Apartments or the homes on Harrison Avenue). Campbell would be the first Bay Area city to allow this. In fact, out of their 340+ stores, none have been approved to open next to residential homes in decades.

555 Willie Stargell Ave. Alameda	5581 Lone Tree Way, Brentwood
260 Washington St. Daly City	43349 Pacific Commons Blvd. Fremont
641 Leavesley Rd. Gilroy	1881 N. Livermore Ave. Livermore
798 Redwood Hwy. Mill Valley	11 Rollins Rd. Millbrae
50 Ranch Dr. Milpitas	895 Cochrane Rd. Morgan Hill
53 W. El Camino Real, Mountain View	1159 N. Rengstorff Ave. Mountain View
820 Imola Ave. Napa	8301 Oakport St. Oakland
1010 Lakeville Hwy. Petaluma	1417 Fitzgerald Dr. Pinole
4550 Delta Gateway Blvd. Pittsburg	570 Contra Costa Blvd. Pleasant Hill
6015 Johnson Dr. Pleasanton	949 Veterans Blvd. Redwood City
5145 Redwood Dr. Rohnert Park	445 Industrial Rd. San Carlos
333 Jefferson St. San Francisco	15575 Hesperian Blvd. San Leandro
2270 San Ramon Valley Blvd. San Ramon	3001 Mission College Blvd. Santa Clara
2131 County Center Dr. Santa Rosa	604 E. El Camino Real, Sunnyvale
32060 Union Landing Blvd. Union City	720 Admiral Callaghan Ln. Valejo

9.1 In light of the above discussion, please explain your assumptions regarding the suitability of this residential-area location with respect to noise, particularly the impact of late-night noise and disturbances.

10. Page 4.10-10, Section 4.10.4, Noise-3 (PDF Page 214)

DEIR REFERENCE: Impact Discussion, NOISE-3: The proposed project would not cause a substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the proposed project.

DISCUSSION: The DEIR does not include the indirect effects of removing the existing trees and shrubs along the west edge of the Highway 17 SB exit at Hamilton Avenue. Widening of this exit is listed as a "Mitigation" for reducing Hamilton Avenue traffic congestion.

According to the USDA National Agroforestry Center, a 25-foot deep tree/shrub buffer beside a roadway attenuates automobile road noise by about 3 dB. The third paragraph in this DEIR section states that "Only 'audible' changes in noise levels at sensitive receptor locations (i.e., 3 dBA or more) are considered potentially significant."

10.1 Please assess the noise impact of the removal for these trees and shrubs.

11. Page 4.13-10, Section 4.13.1.2, Tables 4.13-8 and 4.13-9 (PDF Page 258)

DEIR REFERENCE: Existing Conditions Traffic Operations, Traffic Volumes

DISCUSSION: The section on Existing Conditions Traffic Operations, Traffic Volumes, on Page 4.13-10 provides some detail how the existing traffic volumes at various intersections were computed. Traffic counts from the Santa Clara County Congestion Management Program were used for the PM peak hour analysis, and other traffic data were collected during October 2017. The W-Trans report (appendix H of the DEIR) does not provide any further details.

It is important to know when the Santa Clara County Congestion Management Program traffic counts were performed: The Elephant Bar restaurant that previously occupied the project site ceased operations on the first weekend of October 2016 (source San Jose Mercury News, edition published October 8th 2016). If the traffic count data were collected before that date, the site would be operating with a high turnover restaurant business, and afterwards with no restaurant present.

The Background and Background plus Project data given in Tables 4.13-8 and 4.13-9 respectively, use a formula to subtract previously permitted traffic from the existing traffic conditions to provide a background operating condition. If the existing traffic conditions are based on data collected with a high turnover restaurant present on the site, there is the possibility of double counting traffic in the calculation of the background operating condition.

- 11.1** Please list when the Santa Clara County Congestion Management Program traffic counts data were collected.
- 11.2** If the traffic counts include data taken before October 2016, how is the EIR calculating the existing traffic where some of the data has a restaurant in place on the project site, and some has no restaurant?
- 11.3** Is any traffic double counted in this analysis?
- 11.4** Why is older data (2017 and previous) considered representative of the existing traffic conditions?

12. Page 4.13-12, Section 4.13, Tables 4.13-8 and 4.13-9 (PDF Page 258)

DEIR REFERENCE: Net Total Trip Generation Estimates.

DISCUSSION: The trip distribution pattern was estimated using the Santa Clara County Travel Demand Model and then applying manual adjustments based on knowledge of the area (page 4.13-12).

- 12.1** What manual adjustments were applied to this data? (Please describe all adjustments with specificity.)

12.2 What justification is there for each of the manual adjustments?

DISCUSSION: Tables 4.13-4 and 4.13-5 present the net total trip generation estimates.

12.3 In these tables, why is the peak hour during the weekday considered to be 5:30 - 6:30 P.M., but on the weekend it is either 12:00-1:00 or 12:45-1:45 P.M.? This might be true, but it needs justification. Please clarify.

DISCUSSION: There is a net total trip generation of 2,672 trips per day on a weekday (table 4.13-4), which equals a mean of 205.5 trips per hour over the 13 hours the restaurant intends to open (10:30 A.M. - 1:30 A.M.). The PM peak weekday net total trip generation is 238 (table 4.13-4). This means the restaurant operates at near peak all day, given that the mean trip generation over the entire day is 86.3% (205.5/238) of the peak PM peak weekday trip generation

12.4 For how many hours is the restaurant operating above 90% of the peak PM weekday trip generation?

13. Page 4.13-15, Section 4.13.3, Background plus Project Conditions (PDF Page 263)

DEIR REFERENCE: Background plus Project Conditions.

DISCUSSION: The DEIR attempts to evaluate a number of projects in the area and their impact on traffic, including Campbell Creekside Center, Carden Day School, Pruneyard Shopping Center Expansion, St. Anton's, Opa Expansion, etc. However, the DEIR, DOES NOT include other projects that are likely to significantly increase traffic on SR17 and on community streets. These other projects that are approved or in progress include the Westfield Valley Fair expansion, Santana Row expansion, Santana Row West development, Residences at Railway (300 Railway Avenue), and the huge 640 residential unit complex under construction on Winchester Avenue at Williams Road.

13.1 Please re-evaluate the Project's traffic impacts, taking into consideration all relevant approved and proposed developments in the area, whether within the City of Campbell or in the surrounding communities.

14. Page 4.13-14,16, Section 4.13-3 (PDF Page 263, 264)

DEIR REFERENCE: Existing Plus Project Conditions and Background Plus Project Conditions Calculation of the Background Conditions and Existing Permitted Rights.

DISCUSSION: In Table 4.13-7 the traffic analysis gives the expected delay and LOS at a number of junctions around the Project site under the existing conditions and existing conditions with the project. Table 4.13-8, the background and background plus project conditions, adds in other traffic from approved developments in the neighborhood and factors in the existing permitted traffic for a restaurant on the project site. In table 4.13-8 some average delays get shorter than the equivalent entries in table 4.14-7, notably the

PM weekday peak for existing plus project at Hamilton/Salmar/Southbound SR17 off ramp is 56.8 seconds (Table 4.13-7, row 4) compared with 54.6 seconds in the background plus project weekday peak (Table 4.13-8, row 4).

The details of how the background operation conditions are calculated from the existing traffic conditions are not explained with specificity in either the DEIR or W-Trans report (appendix H), but if the delay is shorter, the preparers must have subtracted more journeys associated with the existing permitted rights than were added from the expected Project traffic and the other pending developments around the site. The existing traffic conditions are one with no restaurant on the project site. The other pending projects listed on page 4.13-15 will all either add to the total number of trips or have existing permitted rights that one would expect a net trip generation close to zero. As the DEIR notes in section 4.13.3 (page 4.13-13) In-N-Out has a higher expected trip generation than an equivalent high-turnover (sit-down) restaurant. One would therefore expect the background plus project to have more trips than existing traffic conditions, and the delays to get longer rather than shorter.

The existing permitted rights at the project site are for a high turnover sit down restaurant. The Institute of Transportation Engineers (ITE), Trip Generation Handbook, 3rd Edition, 2014, defines the pass-by trip percentage for high-turnover (sit-down) restaurants to be 43% during the weekday PM peak period.

- 14.1** Have the existing permitted rights been reduced by the ITE pass-by rate (43%) to calculate that background numbers?
- 14.2** Please explain the methodology used to calculate the background numbers.
- 14.3** Please provide a table equivalent to Tables 4.13-4 and 4.13-5 for the existing permitted rights that shows what is the existing permitted daily new trips, and net new trips taking into account the pass-by rate.

15. Page 4.13-17, Section 4.13.3, TRANS-1, first sentence (PDF Page 265)

DEIR REFERENCE: "... widening of the southbound approach at the intersection of Hamilton Avenue/Salmar Avenue-SR 17 southbound off-ramp to include three left-turn lanes, one through lane and one right-turn lane."

DISCUSSION: The scope of the proposed road changes is unclear. Various drawings and documents appear to show a) the ramp expansion on SR17, b) a modified right turn lane on Hamilton Avenue from the Salmar intersection to Almarida Avenue that uses property currently occupied by a sidewalk and parking at the south end of the Kohl's property, and c) expansion into the sidewalk and parking on the east side of Almarida Avenue from Hamilton Avenue to a point near the north end of the Kohl's property.

- 15.1** Does the proposed TRANS-1 mitigation for the SR17 southbound ramp include construction for the new or modified right lane on Hamilton Avenue?

- 15.2** Does the proposed TRANS-1 mitigation for the SR17 southbound ramp include construction for the new or modified right (east) lane on Almarida Avenue?
- 15.3** Do the estimated costs for TRANS-1 mitigation include modifications to the right (north-side) westbound lane of Hamilton Avenue, modifications to Almarida Avenue, and changes to the eastbound left-turn lane at Hamilton and Almarida.
- 15.4** Please provide drawings and written descriptions for ALL proposed road modifications, including the SR17 southbound off-ramp expansion, modifications to the right (north) lane of Hamilton Avenue, modifications to Almarida Avenue, and changes to the eastbound left-turn lane at Hamilton and Almarida.

DISCUSSION: Drawings and documents appear to indicate that a widened right (turn) westbound lane on Hamilton Avenue would NOT align with the right through-lane on Hamilton Avenue to the west of Almarida Avenue.

- 15.5** If true, would this force right turns on Almarida during periods of heavy traffic?
- 15.6** If true, would this increase potential hazards associated with weaving as drivers attempt to merge into through traffic past Almarida?
- 15.7** If true, would there be an increased risk of rear-end collisions as drivers slow or stop through confusion and/or to attempt to merge into through lanes?

16. Page 4.13-17, Section 4.13.3, TRANS-1, first paragraph (PDF Page 265)

DEIR REFERENCE: Impact Discussion: The most recent estimate anticipates a project cost of \$1,800,000.00 for the proposed widening of the southbound approach at the intersection of Hamilton Avenue/Salmar Avenue-SR 17 southbound off-ramp .

DISCUSSION: The Federal Highway Administration maintains a cost/benefit model called "HERS" (Highway Economic Requirements System), which model is used to evaluate highway construction and highway improvement projects. According to the HERS analysis, adding a new lane to an interstate on flat terrain in a major urbanized area costs \$62.4 million per lane mile.

Thus, based on this method of estimating highway construction costs, the \$1.8 million estimated in the DEIR would actually cover only a small percentage of the cost (\$1.8 million/\$62.4 million = 0.029 mile = 153 feet of additional lane). The existing SB Hwy 17 freeway exit ramp at Hamilton Avenue is 700 feet long. Including lane extension of 50 feet plus a standard 90-foot bay taper transition, the modified freeway exit ramp would be at 840 feet long. Using HERS analysis, the cost for this length of highway lane expansion equates to $840/5280 \times \$62.4 \text{ million} = \9.93 million . Also, the HERS estimates are for large projects. Construction projects have Economies of Scale factors used in construction cost estimating. Small projects have the highest multipliers, medium size projects have lower multipliers, and large projects have multipliers somewhere in between. Typical small construction projects have at least a 2.0 multiplier.

For a highway project, this proposed exit widening would be a Very Small project. Applying a 2.0 multiplier to the HERS estimates, this roadway widening project would have a construction cost of \$9.93 million x 2.0 = \$19.86 million.

HERS estimates are national averages. Using a modest construction cost multiplier for SF Bay Area of 1.15, this project would have a construction cost of \$19.86 million x 1.15 = \$22.84 million.

Assuming a congressional funding delay of six years and annual inflation of 3%, this project would have a construction cost of \$22.84 million x 1.03 x 1.03 x 1.03 x 1.03 x 1.03 x 1.03 = \$27.3 million.

16.1 Please provide the COMPLETE construction cost estimate used in the DEIR and explain the discrepancy between the stated \$1.8 million cost and the estimated \$27.3 million cost from the above discussion.

16.2 Please revise the estimate for the Project's financial contribution to the SR 17 southbound ramp widening mitigation project, taking into consideration the HERS model and all applicable multipliers.

17. Page 4.13-17, Section 4.13.3, TRANS-1 (PDF Page 265)

DEIR REFERENCE: This paragraph states that this freeway exit widening project is included in Santa Clara County's Measure B list of potential projects.

DISCUSSION: The SCC VTA Website (<http://www.vta.org/>) states that *"Transportation projects, especially larger projects, are typically built using a variety of funding sources. A countywide sales tax provides a local revenue source that can be leveraged to help obtain additional funds through regional, state and federal fund sources...."*

17.1 What are the funding sources for the SR 17 southbound ramp widening mitigation project and what is the status of funding from each source?

18. Page 4.13-17, Section 4.13.3, TRANS-1 (PDF Page 265)

DEIR REFERENCE: Since it is estimated that the proposed Project would contribute 1.65 percent to the cost to implement this improvement based on the method for calculating equitable mitigation measures (as outlined in the Guide for the Preparation of Traffic Impact Studies published by Caltrans in December 2002), the project applicant shall provide a financial contribution equal to 1.65 percent of the final construction cost of the aforementioned ramp widening project. The most recent estimate anticipates a project cost of \$1,800,000.00, resulting in a financial contribution from the proposed project of approximately \$29,700.

DISCUSSION: In 2004 the Kohl's Developer / property owner apparently paid the City a traffic mitigation fee for the SR17 ramp expansion of \$275,000 and transferred title for

two pieces of property totaling 22,962 square feet (0.527 acres). It is difficult to determine the value of the property that was transferred; however, an off-the-cuff estimate might be \$50,000. Thus, in 2004 the Kohl's property owner contributed over \$300,000 for mitigation work that was never undertaken and is currently unfunded. The 2004 TIA for the Kohl's development estimated Average Daily Trips (ADT) of 1,938, while the 2019 DEIR for the In-N-Out project estimates an ADT of 2,672 – an increase of 734 daily trips.

Without consideration for inflation or increases in construction costs in the 15 years between the two assessments, the difference between Kohls contribution toward similar mitigation and that of In-N-Out is over 1,000%.

- 18.1** Why was the Kohl's developer assessed over \$300,000, while In-N-Out – with a significantly higher ADT – would be assessed ONLY \$29,700?
- 18.2** How is the fee charged to Kohl's consistent with the Guide for the Preparation of Traffic Impact Studies published by Caltrans (December 2002).
- 18.3** Is the Kohl's developer / property owner due a refund?

19. Page 4.13-22, Section 4.13.3, Weaving (PDF Page 270)

DEIR REFERENCE: Available crash records for the five-year period from 2013 to 2017 was reviewed along the segment of Hamilton Avenue from the SR 17 Off-ramp to Harrison Avenue. During this period, there were 93 total crashes documented. Of those crashes, only three occurred between the SR 17 Off-ramp and Almarida Drive involving two (or more) westbound vehicles. Two of those crashes involved a rear-end collision with a stopped vehicle and the remaining crash involved a car and a bicycle where the bicycle was traveling in the wrong direction on Hamilton Avenue. A high number of sideswipe crashes may suggest an existence of a lane changing or weaving safety issue. Since there are zero sideswipe crashes reported during this five-year period, a safety concern involving vehicle lane changing or weaving in the westbound direction is not demonstrated. The calculated average speeds, and crash history do not suggest that a lane-changing or weaving deficiency exists for westbound Hamilton Avenue. Therefore, the project would not have the potential to exacerbate an existing hazardous traffic condition and the impact would be less than significant.

DISCUSSION: The rear-end collisions noted may well have resulted from drivers stopping suddenly when attempting or intending to conduct a lane change (weaving). Further, the low number of purported collisions during the 5-year period do not include a) unreported collisions, or b) the “close-calls” due to weaving and sudden stops that many in our community have witnessed or experienced at this location.

To base the conclusion that the weaving hazard is less than significant on reported accidents alone is roughly equivalent to the FAA asserting in September 2018 (prior to the Lion Air and Ethiopian Airlines crashes) that the Boeing 737 Max was “safe” because there were no reported crashes.

Further, the “Weave Study” presented in Appendix B (Count Data), PDF page 1,472, covers only 25 minutes for October 10, 2018 and does NOT provide an adequate and factually supported assessment of the *risks* or *hazards* associated with the 16 reported lane changes.

- 19.1** Did the lead agency and/or any associated contractors conduct reviews of other data sources such as insurance records pertaining to accidents and incidents on westbound Hamilton Avenue between Salmar and Almarida Avenues?
- 19.2** Why was the weaving observation limited to 25 minutes?
- 19.3** Why was the weaving observation conducted between 5:15 P.M. and 5:40 P.M. and not for the full PM peak hour time?
- 19.4** Why was there no weaving observation conducted during noontime peak hours when there may be many vehicles attempting to access Home Depot?
- 19.5** What were the qualifications and specific training of the observers conducting the weaving surveillance on 10/24/2018?
- 19.6** What standards and methods did these observers employ to assess the risks associated with the 16 reported lane changes?

20. Page 4.13-22, Section 4.13.3, Neighborhood Traffic Analysis (PDF Page 270)

DEIR REFERENCE: It should be noted that the use of popular mobile navigation applications by drivers may alter these trip estimates slightly as conditions change from day-to-day or even hour-to-hour. Since these mobile navigation applications are constantly updating road conditions and adapting travel routes based on new information, *it is speculative* to anticipate their potential recommended routes in the future and how many drivers would use them. [Editor’s emphasis added.]

DISCUSSION: “*It should be noted*” that the recent experiences of Los Gatos residents who experienced gridlock on residential streets from Santa Cruz beach-bound drivers using WAZE and similar mobile applications caused Los Gatos officials to close the road segments from South Santa Cruz Avenue to SR17. This indicates that the impact from the use of such navigation applications can be “Significant.” It should NOT be assumed that the use of these navigation applications would NOT have a significant impact on traffic routing to the proposed In-N-Out location from local locations, such as Santana Row, or downtown Campbell, particularly during peak hours when arteries such as SR17 and Hamilton and Winchester and Hamilton Avenues experience heavy or congested traffic conditions.

20.1 Please re-evaluate the use of mobile navigation applications and their impact on residential streets.

21. Page 4.13-24, Section 4.13-3, Hamilton Avenue Travel Times (PDF Page 272)

DEIR REFERENCE: The DEIR states on page 4.13-24 in the section on Hamilton Avenue Travel Times that the average travel time on Eastbound Hamilton Avenue between Winchester and Bascom Avenues during the weekday PM peak hour increases by 36.8 seconds and that the distance between Winchester and Bascom is 1 mile. The background condition speed for this section is given in Table 4.13-16 as 7 mph with an average travel time of 771.8 seconds. If this distance is 1 mile (as stated on page 4.13-24) then the speed for a travel time of 771.8 seconds is 4.66 mph.

$$\text{Average speed} = \frac{1}{771.8 \times 3600} = 4.66 \text{ mph}$$

21.1 Please explain the discrepancy in the speed and travel time given in Table 4.13-16. Is the travel distance longer than that stated on page 4.13-24, the time incorrect or the speed incorrect?

DISCUSSION: The decrease in speed for Background with Project compared with Background is 4.6% (808.6 versus 771.8 seconds average travel time, assuming the times quoted are correct). This is considered not significant as the average speed difference is less than 1 mph and the speed has been rounded to the nearest whole number, and there is a statement on page 4.13-28 that “there is no change to the average speeds.” The DEIR seems to have taken an arbitrary cut-off in speed as the basis of this change being not significant.

Why is an increase of 36.8 seconds travel time deemed not significant? This is certainly noticeable, particularly for emergency vehicles. The City of San Jose Fire Department which serves Campbell 911-EMS response policy is to respond to 90% of emergency calls within 8 minutes for code 3 responses (source <https://www.scc.gov.org/sites/bos/Management%20Audit/Documents/SJFinalReport.pdf>). An increase in travel time of 36.8 seconds represents a significant fraction (7.6%) of the allotted response time.

21.2 Why is an increase of 36.8 seconds travel time deemed not significant?

22. Page 5-4, Section 5.4.1, Alternative Locations (PDF Page 317)

DEIR REFERENCE: One of the two reasons provided for not identifying an alternate site to consider in the proposal is that “*there are few areas in the city where a drive-thru restaurant is permitted.*”

DISCUSSION: The locations within the City of Campbell that were considered were not identified, and there is no discussion of potential suitable locations outside the City.

- 22.1** Please list each location **within** the City of Campbell that was considered in the analysis and provide the reason(s) for each rejection.
- 22.2** Please list all locations **outside** the City of Campbell that were considered in the analysis and provide the reason(s) each was rejected.

APPENDICES

NOTE: The following references and questions pertain to the **Appendices** of the In-N-Out Burger Draft EIR. Appendix pages in the DEIR have inconsistent or non-existent document page numbering, thus the page number as indicated in the PDF left Navigation Pane – Page Thumbnails (1 through 1636), is used as the primary document location reference.

APPENDIX G

23. **Appendix G, SimTraffic Arterial Output** (PDF Page 1589)

DEIR REFERENCE: Arterial Flow

DISCUSSION: The SimTraffic Arterial Output provided by W-Trans lists model predictions for the arterial flow within and around the proposed Project site. These tables include average delay at intersections for the PM Background and PM Background plus Project, and in several cases show the Project increases the average delay by approximately 10 seconds. Two examples will suffice:

Westbound Hamilton Avenue at the Southbound SR-17 exit Intersection

On page 1596 of the DEIR, there is a table with the PM Background levels of the arterial level of service for westbound Hamilton at various cross-streets and page 1603 has the same table for the PM Background plus Project. Line 4 of both tables contains the data for WB Hamilton at the SR-17 Southbound exit ramp intersection, and the average wait time for vehicles is shown in column 3 in seconds/vehicle. The tables start with an average value, and then show the actual data for a number of runs of the traffic simulator.

The average wait time for vehicles on WB Hamilton at the SR-17 SB exit ramp intersection for the PM Background is 43 seconds, for the PM Background plus Project it is 52.9 seconds. The Project increases the delay time by 9.9 seconds.

As noted above, this junction is in the CMP network expected to operate at LOS F under cumulative conditions. The data from Appendix G appears to show the project condition increases the average control delay by more than four seconds - in this case the delay increases by 9.9 seconds from 43 to 52.9 seconds. This is a significant impact under the traffic operation standards.

Eastbound Hamilton Avenue at the Central Avenue Intersection

On page 1594 of the DEIR, there is a table with the PM Background levels of the arterial level of service for Eastbound Hamilton at various cross-streets and page 1601 has the same table for the PM Background plus Project. Line 2 of both tables contains the data for EB Hamilton at the Central Avenue intersection, and the average wait time for vehicles is shown in column 3 in seconds/vehicle. The tables start with an average value, and then show the actual data for a number of runs of the traffic simulator.

The average wait time for vehicles on EB Hamilton at the Central Avenue intersection for the PM Background is 165 seconds, for the PM Background plus Project it is 178.8 seconds. The project increases the delay time by 13.8 seconds.

This data is notably different than that presented in table 4.13-8, where the average delay at Hamilton and Central Avenue for Background PM peak is 14.5 seconds (week-day) and 14.6 seconds (weekend). Table 4.13-8 infers that this intersection is operating at LOS B. The data from Appendix G seems to indicate the junction is operating at LOS F.

23.1 Does the data in Appendix G show the Project has a significant impact?

23.2 Please confirm the average wait numbers and interpretation of the tables in Appendix G are correct.

23.3 What is the LOS for Hamilton at the Central Avenue intersection?

DISCUSSION: Cumulative and Cumulative plus Peak Hour Intersection Levels of Service. Table 4.13-9, Cumulative and Cumulative plus peak hour intersection levels of service shows that the Hamilton Avenue/Salmar Avenue/SR-17 southbound off ramp operates at LOS F, even with the TRANS-1 mitigation in place.

23.4 Why does the Draft EIR conclude that the mitigation plan provides a less than significant impact when the intersection after mitigation is at LOS F?

DISCUSSION: The impact is deemed less than significant because the delay with the mitigation is reduced to less than the delay without the mitigation AND without the Project. However, the data in Table 4.13-9 does not have entries for the cumulative conditions without the project with the southbound approach widening in place (Table 4.13-9 row 5). This does not allow direct comparison of the effect of the project with the TRANS-1 mitigation in place.

Comparing the average delay at the Hamilton Avenue/Salmar Avenue/SR-17 southbound off ramp for cumulative conditions (Table 4.13-9, row 4, data in bold), the effect of the Project is to increase the average delay from 145.9 seconds to 150.2 seconds, a total of 4.3 seconds. Without mitigation this would be considered a significant impact. We can also see from Table 4.13-9 that the effect of TRANS-1 is to reduce the average delay at the Hamilton Avenue/Salmar Avenue/SR-17 southbound off ramp by 48 seconds at the PM peak for the Cumulative plus project traffic. Were TRANS-1 built now, pre-project, we might estimate the average delay for the cumulative conditions to be reduced

by a similar amount, i.e. reduced from an average delay of 145.9 seconds LOS F (Table 4.13-9, row 4) to an average delay of 97.9 seconds LOS F. Comparing this to the Cumulative plus project delay of 102.4 seconds, we can see that the effect of the project is an increase 4.5 seconds. This would be significant as it has increased the control delay for critical movements by more than 4 seconds. The v/c ratio may also have increased more than 0.01 as well.

23.5 Why does the Draft EIR conclude that the mitigation plan provides a less than significant impact when the junction after mitigation is at LOS F?

23.6 Please explain why the Draft EIR concludes that this impact will be reduced to less than significant given that the data demonstrates the Project increases the control delay for critical movements by more than 4 seconds. What is the increase in v/c ratio for row 4 and row 5 of Table 4.13-9?

23.7 Please provide the missing data in Table 4.13-9 row 5, specifically the PM peak average delay for the Cumulative Conditions for Hamilton Avenue/Salmar Avenue/SR-17 southbound off ramp with the Southbound Approach Widening.

23.8 What is the increase in delay on row 5 of table 4.13-9 and is it significant?

DISCUSSION: Queue Lengths at Freeway Ramps. Table 4.13-10 shows a comparison of queue lengths at freeway ramps. The previous table 4.13-9 showed that the most impacted freeway ramp is the SR-17 southbound ramp. However, this ramp is not included in Table 4.13-10 despite the possibility that the queues are likely to exceed the available storage by a wide margin. We appreciate the VTA TIA Guidelines do not require you to make an impact finding based on freeway queue lengths, but this is important information for the city to consider.

23.9 Why is the SR-17 Southbound ramp not included in Table 4.13-10?

23.10 Please add in the data for the southbound SR-17 off ramp to Hamilton into Table 4.13-10.

DISCUSSION: The southbound exit of SR-17 at Hamilton is two signposted exit lanes on the freeway, at approximately 900 feet from the lights, these lanes turn away from the main freeway. The left-hand lane from the freeway continues directly to the left-hand lane towards the lights, i.e. the lane markings on that lane do not split the lanes, you have to change lanes across a dotted lane marking to be in any other lane at the lights. In contrast, the right-hand lane on the freeway splits twice, i.e. the lane markings show the lane becomes two lanes and you can move into either lane without crossing a dotted lane marking. The first split of the right-hand freeway lane allows you to move into the right turn lane at the lights. The second split allows you to select either the left turn/through lane, or the middle left turn lane at the lights.

The projected traffic mitigation solution, TRANS-1, provides an extra right turn lane to this junction.

23.11 Please explain whether the results in table 4.13-13 are modeling the junction with the TRANS-1 improvement, or if it models the existing junction. Table 4.13-13 includes the description 'right turn lane' (note the singular) which implies it is the existing junction. However, the conclusion drawn in the Draft EIR talks about including the effect of TRANS-1, this may just be a typo in table 4.13-13, but it is important to the conclusions.

APPENDIX H

24. Appendix H – Traffic Impact Study (PDF Page 1396)

DEIR REFERENCE: It is recommended that a permanent extinguishable lighted sign should be installed within the landscaped area directly adjacent to each driveway entrance which reads *“Parking Lot Full. Please Come Back Later.”* Activation of the sign should also be accompanied by a uniformed employee who would be responsible for verbally engaging with newly arriving customers to reinforce the message on the sign. The employee would also be responsible for aiding the safe maneuvering of vehicles turning away from the parking lot.

- 24.1 What proportion of “discouraged” traffic would proceed to North Central Avenue and turn right, then turn right again on David (or Harrison to David), and turn right on Almarida to return to the In-N-Out’s Almarida entrance or park in the Kohl’s parking lot?
- 24.2 What proportion of “discouraged” traffic would proceed to North Central Avenue execute a U-Turn to proceed back to the Hamilton Avenue entrance, or alternatively to turn left and park in the Kohl’s parking lot?
- 24.3 Does In-N-Out propose to have employees on Hamilton Avenue acting as police officers directing traffic? What are the legal and safety issues associated with this behavior?

25. Appendix H, SimTraffic Queue Lengths (PDF Page 1613)

DEIR REFERENCE: Queuing and Blocking Report PM Background.

DISCUSSION: The W-Trans report (Appendix H, SimTraffic Queue Lengths, specifically the Queuing and Blocking Report) has the underlying model data that Table 4.13-13 is derived from. The table on page 1613 of the DEIR pdf document has the 95% percentile queue length at PM peak for the Background Conditions, while page 1619 has a table with the Background plus Project queue lengths. It is apparent from these tables that the model used considers the four exits at the southbound off-ramp to be:

- The left turn lane at the very left of the junction with Hamilton to be separate turn lane with a storage bay distance of 500 feet.
- The middle left-hand turn and the left-hand/through turn lanes to be two freeway segments that extend 10,713 feet (essentially back to the I-280/SR-17 intersection).
- The right turn lane to be a separate turn lane with a storage bay distance of 900 feet.

- 25.1** Please explain the description terms (column 1) in table 4.13-13 with respect to the lanes on the ground, particularly which lanes extend back to the freeway segments.

DISCUSSION: The background plus project table (on page 1619) shows the 95% percentile queue length for the right-hand turn lane to be 1443 feet, the number reported in Table 4.13-13. This figure exceeds the storage bay distance of that lane by 543 feet and is not physically possible in the actual junction - the queue has to merge with the left turn/through lane. The left turn lane on the far left of the junction has the same problem. The queue lengths shown in Table 4.13-13 show the 95th percentile background plus project left hand turn lane extends back 8958 feet back. This appears to be close to the intersection of SR-17 with I-280. If the traffic extends far enough back, the intersection of SR-17 and I-280 will become clogged as traffic trying to access southbound SR-17 from I-280 who are not trying to exit at Hamilton will get stuck in the queue trying to exit.

- 25.2** Please explain why the queue length exceeds the storage bay distance for the right-hand turn lane.
- 25.3** If the physical lengths of the exit lanes have not been considered, do you consider your model of this intersection valid? Please explain why you believe the model accurately shows the queue lengths at this intersection.
- 25.4** Should the queue lengths of the right hand and extreme left-hand turn lanes that exceed capacity be added to the other freeway segment queues?
- 25.5** The left turn/through lane splits into the right-hand turn lane and the left turn/through lane 900 feet from the junction. The queue lengths extend back beyond this distance. Does the model include in the left hand/through lane traffic that is actually turning right?
- 25.6** Please provide a map showing how far the queues extend backwards on the freeway exit lanes towards the intersection of I-280/SR-17, including that intersection so that the committee can assess the extent of the expected increase.

DISCUSSION: The model results in table 4.13-13, for the background increase only, shows that the right-hand turn lane is 5.9 times longer (8,538 feet versus 1,439 feet respectively) and clearly extends into the freeway exit lanes.

The central conclusion of table 4.13-13 is that the difference in predicted right turn queue length with and without the project is less than one car length, and since this is not significant there is no impact from the project. However, the same table also shows that the left-hand turn queue lengths increase by approximately 276 feet by adding in the project to the model.

- 25.7** Please explain the decision to just use the right turn lane queue length in your conclusion that there is no impact from the project.

- 25.8** The analysis clearly shows a large increase in left turn queue lengths as a result of the project. Why is the increase in left turn queue length demonstrated in the analysis not deemed significant?
- 25.9** What is the extra number of queuing cars represented by the extra 276 feet?
- 25.10** The statement, on page 4.13-23, that *“the queue length on the SR-17 southbound off ramp would remain relatively unchanged with the addition of project generated trips”* appears to disregard the facts. Given that the analysis shows queue lengths increase by 276 feet due to the project, how can this statement be an accurate conclusion concerning impact?

DISCUSSION: From the model perspective the Project adds in car journeys to and from the restaurant. The only reason to be on the southbound SR-17 off ramp at Hamilton for these extra journeys is to go to the restaurant, you cannot leave the restaurant using that ramp. The traffic analysis provided by W-Trans in appendix H, shows in Figure 6 (page 1420 of the DEIR pdf) that there is an increase of 17 cars per hour (weekday PM peak) and 21 cars per hour (weekend PM peak) turning right, and no addition to the left turn lanes. Why then does the model used to predict the queue lengths in Table 4.13-13 show an increase in left turn queue length but effectively no change to the right turn queue length?

- 25.11** Please explain why Table 4.13-13 shows the effect of the Project increases left turn queue lengths but not right-hand turn queue lengths, while Figure 6 of the W-Trans report (appendix H, page 1420 of the DEIR pdf) shows an increase in traffic turning right and no increase in traffic turning left.

DISCUSSION: Queue Lengths on Hamilton/Almarida, Appendix H, Table 13, gives the expected left-hand turn queue lengths on Hamilton/Almarida and finds that the queue length will be 250 feet which exceeds the current storage capacity of the left turn lane. The mitigation for the increase in queue lengths is to add an extra 50 linear feet to the storage capacity of the left turn lane on eastbound Hamilton at Almarida.

The cycle length of the lights at this intersection is 166 seconds (Appendix H Table 13). The left turn light is green for only a fraction of this time, while the exact time is not stated we can estimate it is probably of order 30 seconds. A 250-foot queue is 10 car lengths: it is clear that all 10 cars could not get through in time. This means the queue is not cleared each time and grows to a much longer length and average wait time.

- 25.12** Please explain how the model takes the likely non-clearing of the 250-foot queue in the left-hand turn lane on eastbound Hamilton avenue at Almarida into consideration and why the extra 50-foot lane capacity for the east bound left turn lane reduces this to non-significant impact.

- 25.13** Please confirm that the current model just includes roads in the vicinity to the proposed project but does not include anything in the restaurant site itself. In particular does the model include the length of the drive through queue? While this may be difficult to model, data on queue lengths in similar projects are available that could be directly imported.
- 25.14** Does the model include what happens to any vehicle that cannot enter the drive through line? A fraction of traffic that cannot enter the restaurant will loop back rather than leave the area. If the model does not include this, please explain why this is not considered relevant to the traffic analysis?

APPENDIX J

26. Appendix J, Drive-Through Queue Management Plan (PDF Page 1613)

DEIR REFERENCE: Parking Spaces.

DISCUSSION: The letter provided by In-N-Out attached to the very end of the DEIR (PDF pages 1629 and 1630 of the DEIR document) suggests their plan will have 64 parking spaces. The DEIR states there will be 61 parking spaces (Traffic & Transportation section, page 4.13-26), less than the analysis shown in table 4.13-14 which says that 64 parking spaces are required, and the site plan on page 48 of the DEIR pdf document shows only 61 parking spaces.

26.1 Please clarify the number of parking spaces available in the planned Project.

26.2 Please confirm that the analysis of traffic and parking impacts considers the accurate number of Project parking spaces.

DISCUSSION: Tables 4.13-4 and 4.13-5 provide estimates of the net total trip generation. These tables indicate there would be a 2,672 net total trip generation per day on a weekday, which equals a mean of 205.5 trips per hour over the 13 hours the restaurant intends to open (10:30 A.M. - 1:30 A.M.). The PM peak weekday net total trip generation is 238 (table 4.13-4). This means the restaurant operates at near peak all day, given that the mean trip generation over the entire day is 86.3% of the peak PM peak weekday trip generation. However, the DEIR states on page 4.13-26 that the “parking intrusion into adjacent facilities is expected to be an infrequent occurrence.”

26.3 Please confirm that the restaurant trip generation has a mean value of 86.3% of the PM peak.

26.4 Over what period of the day do we expect the parking occupancy shown in Table 4.13-14 to equal or exceed 100% of the 61 parking spaces the project anticipates having?

26.5 What is the definition of “infrequent occurrence” used by the DEIR here, and does the answer for the previous question meet that definition?

DISCUSSION: You have stated that the project has insufficient parking spaces (page 4.13-26, paragraph 2).

26.6 Why does the DEIR expect “no secondary circulation or hazardous effects” to occur from having insufficient parking for the project site?

26.7 Why is this impact considered less than significant despite finding there is insufficient parking?

DISCUSSION: Drive-through Queue. The drive-through queue survey results of nearby In-N-Out restaurants given in Appendix E Summary of Services of the W-Trans report is shown on page 1569 of the DEIR report for the 4:00 - 6:00 P.M. time period, and on page 1570 for the 12:00 to 2:00 P.M. time period.

Looking at the table on page 1570 for the 12:00 - 2:00 PM period, we can see that the Drive-Through Max Queue at the In-N-Out location at 1159 Rengstorff Avenue is in excess of 28 vehicles for 5 out of the 8 surveyed 15 minute periods, i.e. a total time of 1 hour 15 minutes during the survey. This site has a similar number of parking spaces as the proposed project (67 at 1159 Rengstorff Avenue, compared with 64 recommended at the project site in Table 4.13-4, which is reduced to 61 at the project site in the discussion on page 4.13-26), and is therefore the closest direct comparison in terms of vehicular access of the three comparison sites.

The Project design has Drive-Through Lanes that can accommodate 22 cars, and a claim that the site can accommodate a further 3 or 4 cars in the parking area as part of that queue.

- 26.8** What is the anticipated length of the drive through queue at the Project site during the PM peak period?
- 26.9** For what period of time does that queue length exceed 26 cars (22 in queue plus 4 in the parking lot)?
- 26.10** Will In-N-Out employees close the drive through lanes when the queue exceeds 26 cars?

Citizens for Sensible Growth DEIR Reviewers

April 12, 2019

Following are principal reviewers of the In-N-Out Burger Draft Environmental Impact Report

Charles Drew

Captain Drew piloted large turbojet aircraft in international corporate operations before joining the National Aeronautics and Space Administration (NASA) in 1989. In his 23 years of service with NASA's Aviation Safety Reporting System (ASRS) he served variously as an Expert Pilot Analyst, Publications Manager, Principal Research Scientist, Research Manager, and his final seven years as Program Manager.

The ASRS is the world's preeminent experiential aviation safety reporting system. ASRS collects voluntarily submitted aviation safety incident/situation reports from pilots, controllers, and others. ASRS data are used to:

- Identify deficiencies and discrepancies in the National Aviation System (NAS) so that these can be remedied by appropriate authorities.
- Support policy formulation and planning for, and improvements to, the NAS.
- Strengthen the foundation of aviation human factors safety research.

Captain Drew has supported the Federal Aviation Administration (FAA) by conducting numerous ASRS research projects and studies and has testified at the National Transportation Safety Board (NTSB).

Mr. Drew and his wife Jean have resided in Campbell's Hamann Park neighborhood since 1999.

Mark Field

Dr. Field holds a Ph.D. in physics from Cambridge University in the United Kingdom and is currently employed as a principal engineer at Rigetti Computing building quantum computers (electrical engineering with physics and materials science). As such, Dr. Field possesses an understanding of data analysis and how general computer models work.

Dr. Field is a resident of Campbell's Hamann Park neighborhood.

Pat Mitchell

Mr. Mitchell earned both his BS Mechanical Engineering and his MBA from Santa Clara University and resides in San Jose. He has spent the last 8 years guiding large Manufacturing and Supply Chain customers to transform their operations through the strategic deployment of new business capabilities and technology.

Prior to his current role, Pat spent 10 years in Cisco's supply chain organization leading multiple process teams and business transformation initiatives. In those roles, he helped shape Cisco's strategy related to Product Lifecycle Management, Solutions Delivery, Order Management, Environmental and Trade Compliance and Emerging Markets. Before joining Cisco, Pat held several management positions in the discrete manufacturing industry related to Design, Assembly, Integration and Test, Systems Engineering, Finance and Quality Management.

Mr. Mitchell has been a resident of the South Bay since 1990 and has lived with his wife and two daughters in Campbell's Hamann Park neighborhood for 11 years.

John Nourse

John C. Nourse is a Registered Electrical Engineer and Registered Control Systems Engineer in California. He received a BSEE from University of Santa Clara in 1967 and completed one year of graduate study in electrical engineering. He served as Chief Instrumentation Engineer for Kennedy/Jenks Engineering for 5 years. He designed power distribution, radio-telemetry, instrumentation and computerized process control systems for water and wastewater treatment plants and pumping facilities in California. In his 52 years of engineering work, Mr. Nourse has prepared numerous design proposals, study reports, construction plans, specifications, engineering cost estimates, construction cost estimates, shop drawing reviews, and value engineering reports.

Mr. Nourse is a San Jose resident.

Other Reviewers

Other CFSG members have provided valuable guidance, written input and review. These include Hamann Park residents Jean Lund-Drew, Karen Petersen, and Dawn and George Haskin. Additional support has been provided by Alan Zisser, Andrew Green, Karen Moskaluk, Stuart Young, Tom and Linda Weldon, Angela and Gordon Hoshiko, Rob Knudson, Stuart Young, and others.



Meeting Minutes

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Date July 16, 2008

Project:	City of Campbell – Widening of Hwy 17 S/B Off-Ramp at Hamilton Avenue
Location:	Caltrans District 4 Permits
Subject:	Concept Approval Meeting

In Attendance:

Al Oxonian, City of Campbell	mailto:albertoo@cityofcambell.com
Matthew Jue, City of Campbell	mailto:matthewj@cityofcambell.com
Bilal Achekzai, City of Campbell	mailto:bilala@cityofcambell.com
Ta-Wei (David) Hu (for Rudy Dantes), Caltrans Permits	mailto:Ta-Wei_Hu@dot.ca.gov Rodrigo_Dantes@dot.ca.gov
Kazem Rezaei (absent), Caltrans Permits	Kazem_Rezaei@dot.ca.gov
Jim Bass, Caltrans Design SCL “B”	mailto:Jim_Bass@dot.ca.gov
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Hassan Nikzad, Caltrans Design South	mailto:Hassan_Nikzad@dot.ca.gov
Ken Xu, Caltrans Electrical Design	mailto:Kenneth_Xu@dot.ca.gov
Gerino Capino, Caltrans Traffic Operations	mailto:Gerino_Capino@dot.ca.gov
Venu Gopal (for Richard Chan), Caltrans Engr Services-I, Materials-C	mailto:Venu_Gopal@dot.ca.gov
Jerome de Verrier, TranSystems	jcdeverrier@transystems.com
Brian Sowers, Kimley-Horn & Associates	Brian.Sowers@kimley-horn.com
Aftab Loya, Kimley-Horn & Associates	Aftab.Loya@kimley-horn.com

1. Al Oxonian and Jerome de Verrier presented a brief discussion of the project including the general design approach: The current off-ramp configuration consists of 4 lanes (2 dedicated left turn, 1 through-left and one free right). Because of a decreased level of service, City would like to widen the off-ramp by one lane consistent with recent traffic study recommendations. The proposed configuration will have 5 lanes (3 dedicated left turn, 1 dedicated through and one free right). All widening to occur to the right side of the existing off-ramp (west side) to avoid conflict with existing adjacent loop ramp and traffic signal controller cabinets.
2. Al Oxonian and Jerome de Verrier described the existing right of way: The adjacent property owner has already dedicated a 15 foot wide strip of land to the City for this project. The plan is to dedicate this parcel to the State so that the improvements can be constructed. Although the plan shows the proposed right of way fence to be at the proposed right of way, Jerome discussed the opportunity of placing the fence closer to the proposed improvements and the possibility of an agreement with the property owner to maintain the landscaping.
3. Concern was raised by Caltrans personnel regarding the proposed pork chop island as the Department’s recent policies are moving away from them. Brian Sowers explained that the traffic counts would likely require that a free right, and hence, the pork chop island be a part of the design. All agreed to follow up with Caltrans Traffic Operations to see whether this project can proceed as a design exception. Designers will need to provide traffic study results showing a

need for the island for Caltrans to allow. **ACTION: Caltrans to follow up with Traffic Operations on this issue. TranSystems/Kimley-Horn to conduct traffic modeling to determine feasibility of removing the pork chop island.**

4. Matthew Jue confirmed that the existing traffic signal is operated and maintained by the City of Campbell.
5. JD Bamfield explained that Caltrans will expect improvements to better accommodate cyclists. Specific locations included at the pork chop island (possibly push back proposed curb line to make space for a bike lane) and the area adjacent to the existing traffic signal cabinets. JD commented that the existing 10 foot wide sidewalk here can be narrowed to as little as 5 feet in an effort to accommodate cyclists, but keep in mind that ADA requirements in California require a minimum 48-inch wide path adjacent to obstacles such as light poles, etc. Designers must show that improvements east of the project are not feasible if accommodations are not made. **ACTION: TranSystems to revise the conceptual layout to accommodate cyclists as described above.**
6. JD Bamfield questioned the need for extra Detail 40 shown in the intersection. Jerome de Verrier explained that due to the shape of the intersection, the additional striping was an effort to eliminate vehicles from traveling through the intersection from the No.3 left turn lane. JD agreed but stated that the No. 3 lane striping should not extend to the Hamilton Avenue No. 4 eastbound lane. Matthew Jue suggested that the No. 3 lane striping be a solid line instead of dashed. **ACTION: TranSystems to revise the striping as described.**
7. Caltrans questioned the need for guardrail shown adjacent to the traffic signal controller cabinets. Explanations were provided from the designers but not to the satisfaction of the group. Caltrans suggested eliminating the guardrail from the design. **ACTION: TranSystems to remove guardrail.**
8. Caltrans noted that the proposed location of the Hamilton Avenue westbound stop bar (east leg of the intersection) may create an interference between stopped traffic and traffic turning onto the southbound loop ramp. **ACTION: TranSystems to review the stop bar and revise as necessary.**
9. Although the plan shows removed trees to be replaced in equal amount, Caltrans environmental staff may require a higher ratio. Jerome de Verrier explained that the existing trees are already at a high density and there would not be room for additional trees at this location. JD Bamfield explained that it may be acceptable to plant additional trees, if required, at other locations within the City, such as a park or even within City resident's front yards. **ACTION: TranSystems/City of Campbell to provide a tree list (size, number, species) to David Hu, Jim Bass, Rudy Dantes and Hassan Nikzad for review on this subject. Also provide specific reasons why all trees are to be removed (e.g. storage length, sight distance, etc.).**
10. Regarding the overhead sign, layout and type, etc. should be coordinated with Caltrans Signing (Jerolyn Struben).
11. Matthew Jue and Brian Sowers discussed traffic counts and queuing to the group to explain the need for the project.
12. Aftab Loya asked Caltrans personnel whether the project would qualify as a regular permit project or whether a PEER would be required as a PEER would require additional studies such as a Storm Water Data Report and possibly other environmental studies. Jerome de Verrier explained that the estimated costs were approximately \$980,000, very close to the threshold that may trigger a PEER. Caltrans responded that the process depends on the complexity of the project and that this project would likely fall into the category of a regular permit. Caltrans also commented that the PEER process is similar to the regular permit process with respect to required studies and reporting (e.g. storm water data report and design exceptions are required under both). Designers must follow up with Caltrans Environmental group either as a separate meeting or via phone/email to determine if additional studies would be required. **ACTION: TranSystems to follow up with Caltrans Environmental staff.**
13. It was mentioned that Kazem Rezaei (absent) has been assigned as the permit agent for this project.

14. Al Oxonian and Matthew Jue explained that the project may be constructed as early as next year (2009) but the City does not yet have complete funding for construction yet.
15. Jerome de Verrier explained that he had spent much time in locating the Caltrans' as-built drawings for the current configuration of the ramp through map files and Permits but had had no luck in finding it. Venu Gopal commented that he believes that an as-built is available and may be able to find a set. Matthew Jue commented that he may have some as-built drawings related to a VTA project. **ACTION: Venu Gopal to find as-built drawings of the existing 4 lane off-ramp. ACTION: Matthew Jue to review City files for related as-builts.**



Meeting Minutes

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Date September 12, 2008

Project:	City of Campbell – Widening of Hwy 17 S/B Off-Ramp at Hamilton Avenue
Location:	Caltrans District 4 – 7 th Floor Conf. Room
Subject:	Pork Chop Island at NW Corner of Intersection

In Attendance:

Al Oxonian, City of Campbell	mailto:albertoo@cityofcampbell.com
Matthew Jue, City of Campbell	mailto:matthewj@cityofcampbell.com
Roland Au-Yeung, Caltrans Traffic	mailto:roland_au-yeung@dot.ca.gov
Lance Hall, Caltrans Highway Operations	lance_hall@dot.ca.gov
Min Lee, Caltrans Signal Operations	mailto:min-yin_lee@dot.ca.gov
Walter Ancheta, Caltrans Highway Operations	mailto:w.ancheta@dot.ca.gov
Jerome de Verrier, TranSystems	jcdeverrier@transystems.com
Brian Sowers, Kimley-Horn & Associates (by telephone)	Brian.Sowers@kimley-horn.com

1. Roland Au-Yeung explained why free right turns are undesirable: 1) there is a sacrifice in pedestrian safety because they are forced to cross fast moving traffic that has just left a high-speed facility, 2) drivers often look to their left to view merging traffic rather than look for pedestrians, and 3) drivers may not want to slow for fear of being rear-ended. Caltrans current policy is to remove free right turns/pork chop islands whenever possible.
2. Lance Hall indicated that he had completed his own modeling for the subject intersection and had determined that the as-designed configuration (free right turn lane and pork chop island) would achieve LOS F, which would not be an improvement over existing conditions. Brian Sowers and Matthew Jue explained that the Fehr and Peers Traffic Impact Analysis, March 2004, offered different results by concluding that the as-designed configuration would improve from LOS F to LOS E.
3. Lance preferred to see a southbound configuration of two left turn lanes, a through-left lane, and two controlled right turn lanes. Lance had modeled this configuration and concluded that although the LOS would not improve (LOS F), there would be improvements to pedestrian safety. Brian indicated that he obtained the same results (LOS F) for this configuration.
4. The group discussed the fact that the existing through-left lane (Lane No. 3) is the worst lane with respect to queuing. Brian and Matthew explained that many vehicles subsequently turn right on nearby Creekside Way and Bascom Avenue. Min Lee suggested the City of Campbell explore adding a second right turn lane at Bascom Avenue which may improve the queuing in the No. 3 lane.
5. Because Almarida Avenue is close to the S/B off-ramp intersection, vehicle movement in the free right turn can and does come to a stop during westbound red lights. Because of this, the free right is not always free. Brian confirmed that he accounted for this in his model.
6. Matthew indicated that the intersection sees a “fair” amount of pedestrians. Brian stated that his simulations accounted for pedestrians.

7. It was explained that if the pork chop island were to be removed, crosswalk lengths would increase. Signal cycle times may require adjustment to account for this.
8. Lance requested that Brian provide his electronic simulation files that supported his August 1, 2008 memo so he can review and confirm Brian's findings. The simulations completed for this memo included the as-designed configuration and an alternative with a controlled right turn. Lance and Min stated they would need 2 weeks to complete review the simulation models. **ACTION: Kimley-Horn to provide Caltrans with electronic simulation files. Caltrans to review the simulation models.**
9. Because Caltrans preferred to conduct further simulation modeling, a decision on this matter was not made at this meeting. Although the discussion focused more on removal of the pork chop island, allowing the pork chop island to remain was not ruled out. **ACTION: TranSystems to inquire in 2 weeks to determine need for an additional meeting on the subject.**