



Torrey Pines Community Planning Board
14151 Boquita Drive, Del Mar, CA 92014
www.torreypinescommunity.org

BOARD MEMBERS: Dennis E. Ridz, Chair, dennisridz@hotmail.com ; Noel Spaid, Vice Chair; Kenneth Jenkins, Treasurer; Bob Shopes, Secretary; Patti Ashton; Richard Caterina; Barbara Cerny; Roy Davis; Michael Foster; Rich Hancock; Rick Jack; Cathy Kenton; Nancy Moon; Norman Ratner, Dee Rich; Michael Yanicelli.

From: Dennis E. Ridz, Chair
Torrey Pines Community Planning Board
14151 Boquita Drive
Del Mar, CA 92014

To: Martha Blake, Environmental Planner
City of San Diego Development Services Center
1222 First Avenue, MS 501
San Diego, CA 92101
Via email: DSDEAS@sandiego.gov

Date: May 29, 2012

Re: **One Paseo** Project 193036/SCH No. 2010051073

The Torrey Pines Community Planning Board (TPCPB) is taking this opportunity to respond to the San Diego Development Services Draft Environmental Impact Report (DEIR) for the One Paseo Project) issued March 29, 2012. Pursuant to California Environmental Quality Act (CEQA) guidelines and as a Responsible Agency, we believe it is our obligation to provide feedback, observations, and critical analysis to the Development Services. Our feedback will identify Omissions in the DEIR, Inadequacies in the submission, as well as Errors and Alternatives not considered. The TPCPB reserves the right to amend, under separate cover, this document as new details and research become available up until the end of the comment period ending May 29, 2012 or as part of the administrative record after public comment is closed.

On January 10, 1995 the Council of the City of San Diego adopted the Torrey Pines Community Plan and the certified Environmental Impact Report No. 92-0126. On February 8, 1996, the California Coastal Commission certified the Torrey Pines Community Plan Update and on April 16, 1996, the Council of San Diego accepted and adopted the California Coastal Commission's modifications to the Torrey Pines Community Plan.

The Executive Summary of the Torrey Pines Community Plan (TCP) states, "the vision of this community plan is to provide the highest possible quality of life for residents and businesses while preserving the community's unique natural environment." Furthermore, the Planning Area is a

community “rich in environmentally sensitive resources.” The community contains large areas of Torrey Pine trees, lagoons, wetlands, and canyons, which in turn provide habitat for several species of unique wildlife.

The TPCPB, as a duly elected agency, is responsible to both its current residents and future generations. Based upon the guiding principles of the Community Plan, the TPCPB members are stewards for the land, air, water, unique flora, and fauna that live within and surround our community. What negatively affects surrounding environments has a ripple effect on our fragile ecological systems.

The proposed One Paseo DEIR provides one No Project/ No Development Alternative, one No project/Development under Existing Plans Alternative, Commercial Only Alternative, Medical Office/Senior Housing Alternative and No Retail Alternative. Under the No Project/Development under Existing Plans Alternative, this alternative **would avoid two significant traffic impacts and significant community character impact.**

Under the Commercial Only Alternative, no residential uses or the hotel would be constructed. Parking would be through surface lots and/or above-grade parking structures. The amount of earthwork would be **greatly reduced**. This alternative would reduce Average Daily Trips (ADT) by around 15 %. Traffic impacts would be lessened but remain at a significant level. Medical Office/Senior Housing Alternative would include 425,000 sf of medical office and 600 senior housing units. This alternative would reduce Average Daily Trips (ADT) by around 12 %. Traffic impacts would be lessened but remain at a significant level.

No Retail Alternative includes the 510,000 sf of office, a 150-room hotel, and 608 multi-family residences. This alternative was developed to reduce project-generated traffic as well as provide a slight reduction in development intensity relative to the proposed project. This alternative would result in a net ADT reduction of around **61 percent**. This alternative would result in potentially **significant traffic impacts** to the same three roadway segments, five intersections, and two freeway ramp meters as the proposed project. This alternative would reduce the Bulk and Scale but the alternative like the proposed project creates a potential inconsistency with lower-scale commercial and residential development proximate to the project site.

Under CEQA Guidelines 15151, a “**good faith effort at full disclosure**” must be made. “An EIR should be prepared with a sufficient degree of analysis to provide decision makers with information which enables them to make a decision which intelligently **takes account of environmental consequences.**” Development Services has failed to exercise “careful judgement” based on available “scientific and factual data” as required by CEQA Guideline 15064(b). Furthermore, Development Services has a legal duty to consider alternatives and is **not conditioned upon project opponents** demonstrating that other feasible alternatives exist (Practice Under CEQA 15.40). In what manner, has Development Services abided by the requirements of CEQA Guidelines 15151? Where are the **scientific and factual data incorporated within** the One Paseo DEIR?

How can the elected public decision makers and local organizational leaders make a careful judgement on the merits and environmental impacts on a plan that contains little or no information on **adjacent** communities such as Torrey Pines, Pacific Highlands Ranch and the City of Del Mar ?

Thanking you in advance for your careful consideration and review of the TPCPB's specific comments, we look forward to your detailed responses to our comments, which are as follows:

I. General Considerations and Comments

- A. Torrey Pines Community Plan and its relationship to the One Paseo DEIR
 - 1. Transportation Element
 - 2. Mass Transit Element
- B. The City of San Diego General Plan –Mobility Element
- C. Omissions and Errors in One Paseo DEIR
 - 1. Parking Strategies effect on Transit Usage
 - 2. Impacts to Arterial Streets within the Torrey Pines Community
 - 3. AB 1358 (Leno) **The Complete Streets Act**
 - 4. California Environmental Quality Act (CEQA) issues
 - 5. Flawed DEIR Document under CEQA Guidelines
 - 6. Compliance with CEQA Section 21081.6
 - 7. Alternatives Not Considered

II Comments on sections of the One Paseo DEIR

- A. Cumulative Environmental Impacts
 - 1. Schools –Impact of One Paseo
 - 2. Traffic
 - a. Overview
 - b. Portofino Drive & Del Mar Heights Road I-5 SB on ramp (WB)
 - c. Mango Drive to Portofino Drive
 - 3. Grading
 - 4. Emergency Services
 - 5. Asthma linkage to Freeway Pollution (ultrafine particles)

III Conclusion

I. General Consideration and Comments

A. Torrey Pines Community Plan (TPCP) and its relationship to One Paseo Generated traffic

The Torrey Pines Community Planning Board asserts that the DEIR **is inadequate**, as it has not accurately or properly assessed how this project affects the Torrey Pines Community. In particular, Development Services has **inadequately** documented the many ways in which the traffic generated by this project is in direct conflict with the TPCP as detailed in the following sections. Since both Caltrans I-5 NCC project under SB 468, and SANDAG 2050 RTP/SCS FEIR are an integral component of future local and regional highway/ arterial systems, the broad-brush approach taken by Development Services does not address the known **Direct and Cumulative Impacts, which** are clearly indicated.

Questions:

- How does simply stating that potentially significant intersection impacts “are outside the control of the City.” provide clarity and inform the public of when this issue will be cured?

- What is Development Services (DS) understanding of when the Caltrans Phase Two for I-5 NCC will be started and completed?
- What is DS rationale for not providing this information?
- Why is there no discussion by DS on the Attorney General of California's legal action against SANDAG's 2050 RTP?
- What impact would this lawsuit have on the unanswered question of 'outside the control of the City'?

1. Torrey Pines Community Plan – Transportation Element

Page 43 of the TPCP, states that Torrey Pines Community faces the challenge of planning and developing a transportation system that **emphasizes mass transit**, without disrupting the community's unique environment and the lifestyle of its residents. On page 45 under Goals, item two. "Ensure that transportation improvements **do not negatively impact** the numerous open space systems located throughout the Torrey Pines Community." Item 7, on page 46, is the key to this discussion - "Provide a transportation system that **encourages the use of mass transit, rather than building and/or widening roads and freeways.**" On page 11, under Issues, is the following "The need to reduce auto trips and improve air quality regionally through the implementation of transportation demand management strategies, **transit oriented developments** and other measures." (Highlighted to place emphasis on critical issues.)

Questions:

- What mass transit alternatives have been considered that support the Torrey Pines Community Plan and reduce freeway auto trips in our community?
- How does Bus Route 473 planned for the year 2030 support TPCP's Transportation Element?
- Are the funds for this Bus route assured?

The Torrey Pines Community Planning Board asserts that the One Paseo DEIR **is in error** and has misinterpreted or ignores the intent of the TPCP Transportation Vision. The proposed project is not consistent with the goals of the TPCP. The DEIR project causes further encroachment on residential neighborhoods and amenities. This encroachment will raise noise levels along the I-5 corridor and reduce air quality as a result of increased particulate matter and other by-products of automobile pollutants **stuck** on I-5 ramps.

Questions:

- Why are no sound or air quality studies included in this DEIR that relate directly to additional traffic generated on I-5 and supporting ramp systems?
- Would you not agree that the DEIR is **inadequate** and misleading without these studies? If not, why not?

2. Torrey Pines Community Plan – Mass Transit Element

The TPCP is very clear in its goal of supporting Mass Transit whether it is light rail systems, commuter rail, or local bus service.

Question:

- Would DS agree that allowing single occupant vehicles to use City Street is **counterproductive** to the much-supported concept of car-pooling?

Questions:

- Will Bus Route 473 connect to rail stations in Sorrento Valley and Solana Beach?
- Why is there no analysis on how much Bus 473 will reduce ADT's for One Paseo?

It is the intention of the TPCPB to further expand comments and critical analysis within Part II.

B. The City of San Diego General Plan –Mobility Element

The City of San Diego General Plan, March 2008, is another key official citywide document that relates directly to the One Paseo DEIR. Under section B. Transit First, starting on page ME-16, the city states that “a primary strategy of the General Plan is to **reduce dependence** on the automobile in order to achieve multiple and inter-related goals including: increasing mobility, preserving and enhancing neighborhood character, improving air quality, reducing storm water runoff, reducing paved surfaces, and fostering compact development and a more walkable city. Expanding transit services is an essential component of this strategy.” Furthermore, the Regional Transit Vision (RTV), adopted as a part of the 2030 Regional Transportation Plan (RTP), calls for development of a fast, flexible, reliable and convenient transit system.

The TPCPB asserts that the One Paseo DEIR is in error as it has inaccurately and inadequately assessed the degree to which this project fails to support the San Diego General Plan and actually detracts from accomplishing the Plan’s stated goals. To more fully assess the compatibility of this project with the City of San Diego General Plan, and SANDAG’s 2050 RTP, the Applicant needs to answer the following;

Questions:

- Why does this project seek to encourage automobile travel by not providing more Transit alternatives?
- How does this project decrease local arterial and I-5 ramps air pollution or improve air quality?
- How does this project reduce paved surfaces?
- Why has Development Services and the Kilroy designed this project to encourage the use of single occupant vehicles?
- How does this project support a fast, flexible, reliable, and convenient transit system?
- What assurances have been provided that the MTS Bus Line 473 is funded and will actually happen?

C. Omissions and Errors in One Paseo DEIR

1. Parking Strategies effect on Transit Usage

The One Paseo DEIR omits any serious consideration of the impact that Parking Strategies have on Transit Usage. SANDAG has done considerable research on parking restrictions/policies as an inducement to increase transit usage and transit mode share. Why has Development Services failed to include information from SANDAG’s 2010 *Parking Policies for Smart Growth*?

- Why is it not reasonable to work in collaboration with affected communities throughout San Diego County, and develop guidelines for parking availability and pricing for various jurisdictions before presenting the One Paseo project?
- How would it not make sense to first initiate regional educational programs regarding the effects of free parking on congestion and mode choice?

Increased congestion pricing by elevating parking fees is proven to work. The TPCPB asserts that this concept makes sense as SANDAG's 2010 Parking Policies clearly show congestion parking in Other cities and nations does work.

Question: Please explain why this strategy was disregarded?

Smart Growth studies, experience across the country, and including SANDAG's 2010 *Trip Generation for Smart Growth* study, have concluded that smart growth development leads to a "reduction in vehicle trip generation and a higher transit, pedestrian and bicycle mode share."

Question: Why does this DEIR fail to support the SANDAG Smart Growth policies?

The One Paseo DEIR has excluded any mention of "form-based building codes" which SANDAG supports. SANDAG was established a regional policy basis for adoption of local form-based codes through its Smart Growth Design Guidelines including Multimodal Street – "describing how to create **streets that balance the needs of all modes of transportation.**"

Question: Why has Development Services failed to comment on SANDAG's policy?

2. Impacts to Arterial Streets within the Torrey Pines Community

Questions:

- Since queuing and wait times will increase adjacent to arterial streets west of I-5, why is it not reasonable to conclude that the One Paseo Project will force additional traffic to the major and minor arterial streets in the Torrey Pines Community?
- Won't this happen at two different phases of the various One Paseo project:
 - a. During construction, users will opt for surface streets that would allow them to avoid traffic and avoid unsafe travel conditions. We have seen this occur at Del Mar Heights Road and Portofino Drive for smaller temporary projects/events such as the Fairgrounds traffic, Golf tournament traffic, special events, etc.
 - b. Upon completion of the project phases, the increased volume of travelers will introduce more traffic to the arterial streets.
- Isn't the increased arterial traffic in the Torrey Pines area, strictly a result of the One Paseo project?

The increased arterial traffic is not contributed to by the population of Torrey Pines or the City of Del Mar. The populations of Torrey Pines and Del Mar will not substantially increase in the future. These communities are mature in the sense that there is very little developable land remaining.

Question: Why should our communities who will not be contributing to the increased traffic conditions be forced to live with the results of more traffic on our arterial streets?

The One Paseo DEIR omits any consideration of the indirect impacts of arterial traffic for the following reasons:

a. The DEIR does not study or present any facts associated with this “foreseeable impact” caused by additional traffic and associated with the dated infrastructure of the Torrey Pines neighborhood.

b. The DEIR does not present or analyze any alternative or mitigation measures to help the community understand the indirect traffic impacts of the Project.

Since Development Services must comply with CEQA guidelines, as stated above, the following sections of the CEQA guidelines must be addressed:

- Under CEQA 15064, “An indirect physical change is to be considered only if that change is a reasonably **foreseeable impact** which may be caused by the project.”
- Under CEQA Guidelines 15151, a “good faith effort at full disclosure” must be made. “An EIR should be prepared with a sufficient degree of analysis to provide decision makers with information which enables them to make a decision which intelligently takes account of environmental consequences.” Development Services has failed to exercise “careful judgement” based on available “scientific and factual data” as required by CEQA Guideline 15064(b). Furthermore, Development Services has a “legal duty to consider alternatives and is not conditioned upon project opponents demonstrating that other feasible alternatives exist (Practice Under CEQA 15.40). “

Questions:(When referring to “the three streets in question”, the following questions are referring to Del Mar Heights Road, Portofino Drive, and Mango Drive)

- Why are the above guidelines not being addressed in this DEIR?
- What are the quantified impacts to ADT and LOS on Del Mar Heights, Portofino, and Mango?
- What levels of ADT or LOS would cause the City Traffic department to upgrade the street “classification” that Portofino, Del Mar Heights and Mango are currently defined as? i.e. Local Street, Sub-Collector Street, Collector Street, Major Street, or Arterial Street?
- If the street classification is upgraded, would this require the City to widen the 3 streets in question?
- If the street classification is upgraded, would this require the City to change the speed limit of the 3 streets in question?
- If the street classification is upgraded, would this require the City upgrade/add traffic signals on the 3 streets in question?
- If the street classification is upgraded, would this require the City to add streetlights, call boxes, or other safety measures at the location of the 3 streets in question?
- Due to extreme downhill grades on these three streets, could these three streets be considered for this type of increased permanent traffic based on the Street Design Standards manual (Table 1)?
- Would the increased traffic impacts to the surface streets west of I-5 force the citizens living along those streets to live in dangerous conditions? This would be the case if the streets are “unfit” for classification upgrades due to downhill slope, width, etc.
- Since there is no shoulder or median at the location of the three streets in question, would the increased traffic, queuing, and congestion on the three streets in question effect the emergency response time?

The Torrey Pines Community needs to understand how our major arterial streets, such as Del Mar Heights Road, Mango Drive, and Portofino Drive will be impacted. In addition, we need to

understand how the Applicant's plans will mitigate these harmful traffic impacts. The following questions need to be answered:

Questions:

- If the Applicant's proposal does not fully mitigate impacts, will the City of San Diego do so?
- How has Development Services budgeted dollars outside of the One Paseo project to improve traffic for our arterial streets?
- How does Development Services and Kilroy plan to aid in the implementation of a mass transit project(s) to ease traffic on our arterial streets?
- Why is there no analysis or even a mention of One Paseo's traffic impact West of I-5?
- Does the synergized traffic light system planned for Del Mar Heights road include the traffic signal at **Mango Drive and Crest Way**? If not, why not?
- Has traffic spillover from I-5 ramp congestion been studied? If not, why not?
- Has any analysis been done to estimate the impact on **Portofino Drive** of One Paseo traffic generated by congested I-5 SB (WB) ramp both during construction phases and before traffic mitigation can be completed which is outside the control of the City? Can the impact be quantified in "ADT" and "LOS"?
- Why have no studies been done or included in One Paseo DEIR, which relate to the issue of widening Del Mar Heights Road West of I-5?
- What levels of ADT or LOS would cause the City Traffic department to upgrade the street "classification" that Portofino, Del Mar Heights and Mango are currently defined as? i.e. Local Street, Sub-Collector Street, Collector Street, Major Street, or Arterial Street?
- If the street classification is upgraded, would this require the City to widen Del Mar Heights, Portofino Dr., and/or Mango Dr.?
- If the street classification is upgraded, would this require the City to change the speed limit of Del Mar Heights, Portofino Dr., and/or Mango Dr.?
- If the street classification is upgraded, would this require the City upgrade/add traffic signals on Del Mar Heights, Portofino Dr., and/or Mango Dr.?
- If the street classification is upgraded, would this require the City to add streetlights, call boxes, or other safety measures at the location of Del Mar Heights, Portofino Dr., and/or Mango Dr.??
- Due to extreme downhill grades on these three streets, could Del Mar Heights, Portofino Dr., and/or Mango Dr. be considered for this type of increased permanent traffic based on the Street Design Standards manual (Table 1)?
- Would the increased traffic impacts to the surface streets west of I-5 force the citizens living along those streets to live in dangerous conditions? This would be the case if the streets are "unfit" for classification upgrades due to downhill slope, width, etc.
- If deemed necessary by the City to widen DMHR West of I-5, will Kilroy pay its "fair-share"?
- What is the impact at Del Mar Heights Road west of I-5 due to the fact that the road is only 4 lanes west of I-5 and 6 lanes east of I-5? Is this going to cause a "bottleneck"?
- What is the impact of queuing at the I-5 south ramp from Del Mar Heights east-bound? This will likely cause Portofino Drive to be used as a shortcut. What is the impact to of this queuing to Portofino in terms of ADT and LOS?

3. AB 1358 (Leno) The Complete Streets Act

This SANDAG 2050 RTP is the first Transportation plan to be brought forth since the passage of California's Complete Streets Act (AB1358). The purpose of AB1358 is to ensure that

transportation plans of California communities meet the needs of all users of the roadway including pedestrian, bicyclists, users of public transit, motorists, children, the elderly, and the disabled. More information can be found at www.completestreets.org. Portland, Oregon has taken a similar approach and has seen a 74% increase in bicycle commuting. The AB1358 fact sheet states that “if each resident of a community of 100,000 replaced one car trip with one bike just once a month, it would cut carbon dioxide emission by 3,764 tons per year.” The City of San Diego Street Design Manual is shown as one of the Communities Leading the Way. Section 4(E)(3) of the TransNet Extension Ordinance requires all of its funded projects to support active transportation if reasonable to do so. Development Services needs to provide detailed guidelines and training to assist local agencies to meet the key strategies of AB1358, which include encouraging physical activity, reduction of greenhouse gases, and cutting short commute trips.

The TPCPB asserts that One Paseo directly opposes the purpose of AB1358 within the Torrey Pines and Carmel Valley communities. The One Paseo project will continue to divide Torrey Pines from local shopping and parks within Carmel Valley and Pacific Highlands Ranch due to impactful traffic congestion. Under SB 468, the 8+4 expansion of I-5, coupled with much higher projected local traffic volume will make Del Mar Heights Bridge crossing more hazardous to pedestrians and bicyclists.

Questions:

- Would Development Services agree that AB1358 is a Common Sense approach to getting people out of their cars?
- Why has Development Services not provided funding to support and assist local agencies in developing manuals and local safe street design criteria?
- Please explain, how does One Paseo with its 4,000 plus parking spaces supports AB1358?

4. California Environmental Quality Act (CEQA) issues

Section 21081 of the California Public Resources Code and Section 15091 of the California Environmental Quality Act (CEQA) Guidelines require a public agency, prior to approving a project, to identify significant impacts of the project. Evidence outside the DEIR itself is beside the point. Whatever is required to be in the DEIR must be in that **formal report**. What any official might have known from **other writings or oral presentations** cannot supply what is lacking in the report (San Joaquin Raptor/Wildlife Rescue Center v. County of Stanislaus, (1994)). The applicant has made various statements and provided materials to the public, which is not included in the DEIR. The applicant has promised that they are looking into a transit system other than Bus Route 473.

Question: Why is this information not included in the DEIR?

Generally speaking, an EIR must identify and analyze certain issues such as **growth-inducing Impact(s)** of the proposed project, **significant Irreversible Environmental changes**, and alternatives to the proposed project.

Question: Please explain why the growth-inducing impacts are either missing from the DEIR or details are so lacking that an informed decision on their merits cannot be made?

“A DEIR must include a description of the environment in the vicinity of the project, as it exists before the commencement of the project, **both from a local and regional perspective**. The

description is necessary to understanding of the significant effects of the proposed project. (14 CCR 15125).”

This is one of the salient points **not addressed** by the One Paseo DEIR. Why has the regional perspective been ignored or not articulated in sufficient detail or scope on both short- and long-term impacts and foreseeable environmental impacts?

Question: Why has the Applicant chosen to ignore regional impacts to the communities of Torrey Pines, Pacific Highlands Ranch, City of Del Mar, and the City of Solana Beach?

“It is vitally important that a DEIR avoid **minimizing the cumulative impacts**. Rather, it must reflect a **conscientious effort** to provide the public agencies and the general public with adequate and relevant detailed information about them. It is critical that the cumulative impact analysis be corrected. It **understates the severity** and significance of cumulative impacts, **impedes meaningful public discussion**, and **skews the decision maker’s perspective** concerning the environmental consequences of the project. An inadequate cumulative impact analysis does not demonstrate to an apprehensive citizenry that the governmental decision makers have in fact fully analyzed and considered the environmental consequences of its actions. “ Ojai at 431

The One Paseo DEIR understates the severity of the consequences and fails to provide the public with vital information. Throughout the DEIR discussion of Traffic Mitigation, such as Table 5.2-41, the caveat is made that “Direct and cumulative impacts would remain potentially significant following installation of the improvements,” **which are outside of the control of the City**”. Traffic improvements being ‘outside the control of the city’ does not preclude an in-depth analysis.

The TPCPB asserts that Development Services and the applicant have failed to live up to their fiduciary responsibility and are impeding meaningful public discussion. Some projects may be ‘reasonably foreseeable’ even though they may never be built. What matters is whether they appear foreseeable at the time of the DEIR preparation. (City of Antioch v. City Council). The TPCPB would ask that a conscientious effort be made to fully answer the following

Questions:

- Has the Applicant or DS fully reviewed the FEIR’s for Caltrans I-5 NCC, SANDAG 2050 RTP, or 22nd Agricultural District Fairgrounds Master Plan? If not reviewed, why not ?
- Explain how these projects will or should affect the timing of installation of the improvements, **which are outside of the control of the city?**
- Will a detailed timeline be provided that clearly projects the **time gap** between the estimated finish of One Paseo Phase Three and the required installation of improvements outside the control of the City?
- Has the Applicant taken into consideration the State Attorney General’s legal action against SANDAG’s 2050 RTP? Why not?
- Will the Applicant provide a detailed analysis of the One Paseo’s projected 1.9 million sf versus the SANDAG 2050 plan that only considers the inclusion 510,000 sf development of this property? If not, why not?
- Has the Applicant taken into consideration Caltrans I-5/SR-56 Connector project? The DEIR will be issued on May 18th, 2012.

- Has the Applicant taken into consideration that the FEIR I-5 NCC includes the demolition of the Del Mar Heights Bridge to accommodate more lanes? If not, why not?
- Has the Applicant taken into consideration the extensive future build-out at the Del Mar Fairgrounds and Direct Access route into the 22nd AG property? What would be the implications on wait time on the I-5 North bound (WB) metered ramp?

A legally adequate “cumulative impact analysis” is an analysis of a particular project viewed over time and in conjunction with other related past, present, and reasonably foreseeable probable future projects whose impacts might compound or interrelate with those of the project at hand. Such an analysis “assesses cumulative damage as a whole greater than the sum of its part.” (*Environmental Protection Information Center v. Johnson*) (1st Dist. 1985).

Question:

- Will the Applicant provide a summary of such individual projects’ expected environmental impacts, with specific reference to additional information, stating where such information is available?
- Will the Applicant provide a reasonable analysis of all of the relevant projects’ cumulative impacts, with an examination of reasonable option for mitigating or avoiding such effects (CEQA 15130(b)?
- The City of San Diego is considered the lead agency under CEQA because it has the principal responsibility for approving the proposed project. The Public Resources Code, Section 21081.6 requires public agencies adopt a reporting or monitoring program to **ensure that mitigation measures** adopted pursuant to CEQA **are implemented**. Both Development Services and the Applicant have stated that the identified improvement would fully mitigate the impacts at various intersections. The improvements “**are outside the control of the City.**”

Questions:

- Is this not a fatal flaw in the DEIR since the lead agency (Development Services) cannot ensure that mitigation measures will be implemented? If not, why not?
- What happens if the Applicants’ “fair-share” mitigation costs prove to be economically infeasible?
- Will the Applicant post bonds or some other type of financial instrument to cover their “fair-share”?
- How does the City intend to fund its associated cost of this One Paseo Project?

5. Flawed DEIR Document under CEQA

Under CEQA Guidelines 15151, a “good faith effort at full disclosure” must be made. “An EIR should be prepared with a sufficient degree of analysis to provide decision makers with information which enables them to make a decision which intelligently takes account of environmental consequences.” Development Services and the applicant have failed to exercise “careful judgement” based on available “scientific and factual data” as required by CEQA Guideline 15064(b).

The TPCPB asserts that the contents of the One Paseo DEIR are so scattered throughout the massive document that it is impossible to ascertain in which sections and appendices subject matter on an issue can be found. The 'paper' copy is incomplete and additional information was released after the March 29th official release date. Even the applicant stated that the tables were "confusing".

Question:

- Would you agree that the flawed organization of this DEIR document makes it difficult to find information that would provide a "good faith effort at full disclosure"? If not, why not?
- Will you agree that the DEIR must be re-issued?
- Will you agree to granting additional time for the public review and response?

6. Compliance with CEQA – Section 21081.6

The City of San Diego is the lead agency under CEQA and the City Council will be required to certify the final environmental document. The Public Resources Code, **Section 21081.6** requires Development Services to adopt a reporting or monitoring program to ensure that mitigation measures adopted pursuant to CEQA **are implemented**. San Diego's Development Services clearly states that direct and cumulative impacts would remain potentially significant following the installation of improvements (mitigation measures), which are " **outside the control of the City**".

It is clear that the DEIR includes **improperly deferred traffic mitigation**. There is no certainty of mitigation since the funding is uncertain or projected so far into the future that there is no assurance that forecasted projections will become reality.

Questions:

- Would Development Services agree that the DEIR fails to comply with Section 21081.6? If not, would you provide sufficient case law to support your contention?
- How would Development Services ensure that the mitigation measures would occur?
- What assurances has the City of San Diego been given from SANDAG and Caltrans that the funding for " **outside the control of the City**" issue is resolved?
- If these documents, internal e-mails, or telephone conversations exist, why have they not been provided to the public as part of the DEIR?

Additionally, the DEIR and Precise Plan Amendment fail to evaluate the impact of the project on **transit system operations**. As a minimum, the DEIR failed to provide a meaning full Transportation Demand Management (TDM) program in consultation with SANDAG, MTS, and NCTD that facilities a **balanced approach to mobility**. The proposed pedestrian routes through One Paseo only address the issue of what happens once commuters park their 4,000 cars. The DEIR has failed to provide a solution to the **ultimate goal of reducing vehicle trips**.

Questions:

- Why are there no other transit system solutions provided to support a robust TDM?
- If there have been communications between Development Services/ City of San Diego, where are these document?

Under these circumstances, the City of San Diego cannot ensure that mitigation measures adopted pursuant to CEQA are or can be implemented. A public agency may exercise only those expressed or implied powers provided by law. CEQA does **not limit the lead agency's obligation to mitigate** the direct or cumulative impacts of a project. The DEIR and PPA fail to consider the possibility of raising funds that would allow Caltrans and SANDAG to complete the mitigation **outside the control of the City**. The California Supreme Court's decision in *Marina* concluded that more analysis could be done to determine the source of non-legislative funds to offset mitigation.

Questions:

- What additional funding sources and plans have been explored to resolve the issue of the lead agency's requirement to meet its obligations under CEQA 21081.6?
- Has 'bridge' loan concept been reviewed as a method to complete the required mitigation measures?
- Have there been discussions held with SANDAG or Caltrans on how to bridge this funding and timing gap so as to align One Paseo's Phase Three completion with Caltrans I-5 NCC mitigation requirements? If not why not?
- Has the Applicant considered providing additional loans to bridge this funding and timing gap?

7. Alternatives Not Considered

The National Environmental Policy Act (NEPA), under Title 40 Sec. 1502.14, is very clear on what actions must be taken when preparing a DEIR. "Section 1502.14 is the heart of the environmental impact statement. Based on the information and analysis presented in the sections on the Affected Environment (Sec. 1502.15) and the Environmental Consequences (Sec. 1502.16), it should present the environmental impacts of the proposal and the **alternatives in comparative form**, thus sharply defining the issues and providing a clear basis for choice among options by the decision makers and the public. In section 1502.16, agencies shall:

(a) Rigorously explore and **objectively evaluate** all reasonable alternatives, and for alternatives, which were eliminated from detailed study, briefly discuss the reasons for their having been eliminated.

(b) Devote substantial treatment to each alternative considered in detail including the proposed action so that reviewers may evaluate their comparative merits.

(c) Include reasonable alternatives not within the jurisdiction **of the lead agency**.

(d) Include the alternative of no action.

(e) Identify the agency's preferred alternative or alternatives, if one or more exists, in the draft statement and identify such alternative in the final statement unless another law prohibits the expression of such a preference.

(f) Include appropriate mitigation measures not already included in the proposed action or alternatives." The One Paseo DEIR has largely avoided addressing these mandatory items under NEPA.

Question:

- What are Development Services answers to the above items a-f?
- If Development Services does not believe they need to answer items a-f, then why?

- Why are there no comparative traffic studies included to indicate what the traffic congestion or Level of Service (LOS) and Average Daily Trips (ADT) would be for each alternative?
- Why is there no scaled down version of the One Paseo project provided?
- If other alternatives or scaled down versions were considered, why has that information been excluded?
- What other similar size mixed -use projects were reviewed?
- What are the applicants Return on Investment (ROI) for this project to yield a profit?
- What is the **minimum size** of the mixed-use project to meet Kilroy’s projected or corporate ROI and break-even analysis?

Furthermore, Development Services and the applicant have a **legal duty** to consider alternatives and this duty is **not conditioned upon project opponents demonstrating that other feasible alternatives exist** (Practice Under CEQA 15.40). The TPCPB asserts that Development Services and the applicant have failed their legal duty to consider other alternatives.

For example, the Union Tribune Mission Valley site is considering adding a 22-story, 198 unit residential tower, a ten-story, 234,415 square foot office building, a parking garage topped by a pool, a fitness center and tennis courts and 6,470 sf of retail on their 12.9-acre site. The TPCPB would like to point-out that retail is only a small fraction of the project but the developer, Douglas Manchester, stated “ the fact that people will not only be able to work there but be able to reside, shop and dine there “. This concept is supported by “rapid transit, because of the trolley being a few hundred yards away.”

Questions:

- Why wasn’t a smaller Mixed-Use Development considered? If a scaled down version was rejected, where are the details and why was a smaller project rejected?
- What would be the results in regards to significant and unmitigated direct and /or cumulative impacts of a project designed as follows? Commercial office of 510,000 sf, Professional Office of 10,000 sf, residential housing set at 194 units or approximately 70,000 sf (no 10 story tower), NO 150-room hotel, retail space reduced to 70,000 sq, No Cinema.
- What would be the revised ADT’s, LOS, volume, V/C and delta of V/C of this smaller project of approximately 660,000 sf for all intersections studied?
- Would you agree that Development Services and the applicant may not “hide behind its own failure to gather relevant data” (Sundstrom V. County of Mendocino (1988) 202 Cal.App.3d 296, 311.)?

II. Comments on sections of the One Paseo DEIR

A. Cumulative Environmental Impacts of One Paseo

1. Schools –Impact of One Paseo Project

Section 5.12- Project Area and Recreation Facilities/ Recreation

Questions:

- Why was Canyon Crest Academy, a public school of choice, with an attendance of 1,893 students within the San Dieguito Union High School District public facilities not included on the Facilities Chart and Project Area Public Service and Recreational Facilities Map?
- How much does this **omission** change the Average Daily Trip (ADT) calculations?
- Will you provide new ADT numbers?

All students in Carmel Valley are eligible to attend Canyon Crest Academy. Admission is by lottery and only Special Education students are provided bus transportation. Students from Carmel Valley must drive to school on Del Mar Heights Road, El Camino Real, Carmel Country, Interstate 5, or Highway 56, which adds to the morning congestion.

Questions:

- Has the One Paseo project accounted for the ADT's generated by **new students** living in the apartment complex?
- If so, what is One Paseo's 'fair share' towards providing transit for the students?

Question: Will Canyon Crest Academy be added to all facilities charts and will traffic considerations of access to school become part of the DEIR?

Torrey Pines High School is an open campus, and students leave in large numbers to buy lunch at local establishments.

Questions:

- Was this student traffic taken into consideration, especially during lunch period and at close of school?
- Will this traffic generated ADT's be included in the DEIR?

The Master Planned Community of North City West, now Carmel Valley, was approved by the San Diego City Council in conjunction with the North City West School Facilities Master Plan. The addition of 160 students, 7-12 grades, and 122 elementary school students grades K-6 in the Solana Beach Elementary District will add an unplanned burden to the respective school districts. Carmel Valley Middle School is presently over the designed capacity.

Question: Will the One Paseo developer assist the SDUHSD and the Solana Beach Elementary District to avert overcrowding which requires at least one new middle school to alleviate this future impact?

The project applicant has said that Kilroy will pay developer fees as per Government Code 65996. However, the original developer fees for Carmel Valley were significantly higher than the State fees in order to build the school for the North City West Development. Developer fees were then replaced by CFD's or Mello Roos fees with a change in state law. CFD's are an essential part of the master planned communities of Carmel Valley, Pacific Highlands Ranch, and Torrey Hills. Students from homes that pay Mello Roos fees (CDF's) have priority by state law to attend schools built

with CFD money. At present, new students cannot be accommodated at Carmel Valley Middle School.

Question: Will the project applicant, Kilroy, pay CDF fees to help build a new middle school or will One Paseo students only have spaces that are not filled with students that pay CFD fees?

The CFD priority for students is state law.

Question: Will the developer, Kilroy, pay a fair-share that others have already paid which is necessary to build a new middle school in Carmel Valley?

Questions:

- Why is the developer asking for a significant change in the general plan of a master planned community?
- Why has a housing element been added to a commercially zoned area? How does Carmel Valley qualify for a City of Villages designation?
- Why are more than 60,000 people without any transit?

City of Villages development is tied to transit.

Questions:

- How can a project qualify for City of Villages designation without any transit?
- Why is no transit proposed for the next 20 years in this area?

The mitigation for all of the phases of Carmel Valley in EIR's was transit since the 1970's approval of the first neighborhood of Carmel Valley. Each phase of development of Carmel Valley promised transit as mitigation.

Questions:

- Is the City of San Diego in VIOLATION of CEQA by not implementing TRANSIT for any of the communities of Torrey Pines, Carmel Valley, Pacific Highland's Ranch, Torrey Highlands, and Del Mar Mesa?
- Is the lack of PUBLIC TRANSIT NOW and the LACK OF NEW TRANSIT concurrent with the building of One Paseo not a violation of state law?

Question: If public transit is not available for residents, why did the DEIR not consider the impact of the probable elimination of school transportation money from the Governor's Budget and the subsequent elimination of school busing except Special Education students by the San Dieguito Union High School District?

More cars will be on the road delivering students to school.

Questions:

- If State transportation funding is discontinued, will the additional ADT's generated by middle school students from the Torrey Pines area and Carmel Valley area using the Interstate 5 ramps Northbound to reach Earl Warren Middle School in Solana Beach, and Carmel Valley residents using local streets to reach Carmel Valley Middle School be considered?
- Will Students being driven on local streets to Carmel Valley Middle School who were previously bused in the AM and PM be considered in the EIR if school busing is eliminated?

Metropolitan Transit cannot provide school specific routes by law. Public transit for the public on

Del Mar Heights Road would offer alternatives and, at a minimum, get people to One Paseo without additional clogging of the access road to Torrey Pines High School, Canyon Crest Academy, Earl Warren Middle School, Carmel Valley Middle School, skateboard park, recreation center and library.

No school busing except Special Education students is presently available to students in the Del Mar and Solana Beach Elementary School Districts.

Question:

- Has the DEIR considered the impact on local streets as freeways back up and the few major arteries are clogged at the same time elementary and high school students are going to school?

The Carmel Valley community and Torrey Pines community differ from many areas in the City of San Diego with few major arterials and many cul de sacs.

Question:

Was this fact taken into consideration? If not, why not?

Question: Funding for schools is addressed in the draft DEIR. The DEIR **incorrectly** states that new funding will come to the Districts from additional students. The Del Mar Union Elementary District, the Solana Beach Elementary District, and the San Dieguito Union High School District are considered Basic Aid Districts. They do not receive new money per student and must fund new teachers and other expenses from the same money they had before the new students arrived.

Question:

- Will the statements in the draft EIR be corrected to accurately reflect the funding mechanism?

School districts in Carmel Valley (formerly North City West) have provided “Facilities in Accordance with Need” to all students generated from housing in Carmel Valley.

Question:

- What is the justification to add a new housing element with significant student generation that cannot presently be accommodated in existing Carmel Valley schools?

One Paseo would create a situation in which no new middle school students from One Paseo can be accommodated in Carmel Valley until a new Middle School is built.

Questions:

- Why does the DEIR **incorrectly** state the “project- generated students would not overburden school capacity”?
- Will the DEIR be changed to accurately reflect a Significant Impact to Schools?

Residents or developers have all paid higher developer fees or Mellos Roos fees than One Paseo Applicant is suggesting in the DEIR.

Questions:

- Will this inequity be addressed and corrected?
- If not what are the applicant’s reasons for taking that position? Why is not Kilroy’s problem?

One Paseo project puts residential housing in a commercial office area. The community was master planned to avoid putting students in the middle of commercial development.

Question: Has a plan been developed for “**Safe Routes to School**” to mitigate for putting students in the middle of a commercial development?

2. Traffic

a. Overview

The Applicant has claimed that the ‘rush hour’ represents only one hour in the morning and one hour in the afternoon at which time there is traffic congestions. Furthermore, the Applicant has dismissed our concerns as ‘mere apprehension’ of a non-technical expert. Under Citizens Association for Sensible Development of Bishop Area v, County of Inyo (1985), “relevant personal observations” are evidence. For example, an adjacent property owner may testify to traffic conditional based upon personal knowledge.”

Questions;

- Would Development Services and the Applicant agree that residents living by, around or traveling on Del Mar Heights Road have made many “relevant personal observations” relating to the fact that the ‘rush hour’ occurs for a longer period of time than an hour?
- What were the ADT counts during the 7:00 – 9:00 AM and 4:00 to 6:00 PM rush hours?
- Has the DEIR taken into account the Torrey Pines students leaving the campus for lunch along with local business workers during the 11:30 AM to 1:15 PM lunch break?
- Has Development Services and the Applicant determined the cumulative traffic impacts on Del Mar Heights Road and I-5 during the San Diego County Fair and the Del Mar Racing Season?

The DEIR reports that several roadway segments and intersections will be severely impacted and that the impacts will NOT be mitigated. The segments are as follows:

- I-5 SB Ramps to I-5 NB Ramps
- I-5 NB Ramp to High Bluff
- Del Mar Heights Road and High Bluff Intersection
- Del Mar Heights Road and El Camino Real Intersection

These areas are of major impact to the Torrey Pine Community due to commuter routes to I-5 freeway at peak hours, morning and afternoon school routes for our children and teens, and various other daily trips from our community to the east side of I-5.

Questions:

- Since the level of service at the above-mentioned areas is already unacceptable, what will be the cumulative impact in terms of “wait times”?
- Since the developer is not responsible for all the mitigation that is required for these areas, how can the Torrey Pines community be certain that the mitigation by the City or third parties will be done? What is the timeline for the mitigation that is outside of the control of the developer?
- What is the environmental air quality impact of the stationary cars that will be impacted by the congestion along Del Mar Heights Road from I-5 to El Camino Real?

- Has a study been done to include the synchronized traffic signals to the west side of I-5 along Del Mar Heights Road at Mango and Crest Way?
- What is the environmental air quality impact of the stationary cars that will be impacted by the congestion along the Del Mar Heights Bridge?
- What are the impacts of the above mentioned areas in the times that are not “peak” traffic hours?
- Has a study been done that quantifies the negative impacts to response times for police and fire personnel to the Torrey Pines Community during peak hours?
- What are the impacts to emergency response times to the Torrey Pines community for police and fire emergencies during the peak traffic hours?
- Bases on the unmitigated impacts to LOS and ADT for Del Mar Heights Road, specifically with the surplus of volume that the road is classified to handle, what will be the necessary scope of improvements to conform the road to be able to handle the new traffic volumes?
 - When will these improvements take place?
 - Will the speed limits change?
 - Will the cargo weight requirements change?
- By how many square feet of retail space would One Paseo have to be reduced to meet the demand and quantity of ADTs that will be produced without mitigation under the developer’s control. In other words, since the City and Cal Trans do not have a specific schedule for the mitigation of the off ramps and the Del Mar Heights Bridge, or if that schedule is far in the future, what would be the proper amount of square feet to build at One Paseo that could potentially be accommodated if only the mitigation measures required solely by the developer are implemented?

CEQA Guidelines 15370(b) defines mitigation as “minimizing impacts by limiting the degree or magnitude of the action and its implementation.”

- Did the Applicant really minimize the impact, or could more have been done?
- How would the Applicant demonstrate that no more could feasibly have been done to reduce cumulative impacts?
- Were there mitigation measures and actions considered but rejected? If so what other mitigation measure were contemplated?

b. Portofino Drive & Del Mar Heights Road I-5 SB on ramp (WB)

Section 6, page-5, under “Ramp Meters” states: the ramp meter at Del Mar Heights Road/I-5 SB on-ramp (WB) would experience a **delay of 47.61 minutes** during the AM peak period and **29.84 minutes** during the PM peak period under the Long-term Cumulative (Year 2030) with Project conditions (refer to Table 5.2-37).

It is reasonable to assume that until the mitigation measures are installed, measures which are “**outside of the control of the city**”, Portofino Drive will be used as a by-pass to avoid traffic. Drivers will find **alternative routes** to avoid the congestion. For drivers headed South, the alternative appears to be taking Del Mar Heights Road up to Mango Drive and turning left by Portofino Drive and getting onto I-5 further south. Another alternative is Del Mar Heights Road to Coastal Route 101.

In the DEIR, Appendix C, Part -2 on page 3-16, is a map that include Portofino Drive. This map indicates that by the final One Paseo phase of the 4,853 Average Daily trips (ADT) on Portofino Drive. This amounts to an **18.6% increase in traffic**. Currently, Portofino Drive is rated at a Capacity of 50,000 vehicles with a volume to capacity (V/C) of 0.72, and ADT of 36,086 and a Level of Service (LOS) of C (Table 5.2-18, page 5.2-24). Long-Term cumulative (Year 2030), Table 5.2-34 on page 5.2-55, indicates ADT will rise to **42,815**, V/C 0.86 and a LOS of **D**. Mitigation Measures are proposed but can do **no good** if they **never happen** or if they occur so far in the distant future to not really provide any congestion relief.

Questions:

- Was a traffic study done on Portofino Drive to determine when the maximum number of ADT would occur?
- Would it be fair to say that the highest traffic volume would occur during evening and morning rush hours?
- If this study was done what were the results? If no details were available, would you agree that this information is required under CEQA guidelines 15151? Why not?
- Were the I-5/SR-56 Connector project impacts taken into consideration in determining the LOS, ADT's and V/C on Portofino Drive? If not, why not?
- What mitigation measures were studied if any to return Portofino Drive back to a LOS of C?
- What would be the impact of reducing posted speed from 30 mph to 25 mph?
- What would be the impact of installation of 'Calming Devices' on Portofino Drive?

c. Mango Drive to Portofino Drive

The increased traffic volume at the ramp meter at Del Mar Height Road/I-5 SB on-ramp (WB) will have similar impacts on the Mango Drive to Portofino Drive. Current existing conditions indicate ADT's are 21,314, V/C 0.47 and LOS of B. The Long-term Cumulative (Year 2030) with Project are ADT's 41,639, V/C 0.93 and LOS D.

Questions:

- Was a traffic study done on Mango Drive to Portofino Drive to determine when the maximum number of ADT would occur?
- Would it be fair to say that the highest traffic volume would occur during evening and morning rush hours?
- If this study was done what were the results? If no details are available, would you agree that this information is required under CEQA guidelines 15151? If you disagree about the need for the study, why?
- Were the I-5/SR-56 Connector project impacts taken into consideration in determining the LOS, ADT's and V/C on Mango Drive? If not, why not?
- What mitigation measures were studied if any to return Mango Drive to Portofino Drive back to a LOS of B?
- Was the future 7-Eleven relocation closer to Del Mar Heights Road taken into consideration along with the possible inclusion of another 'fast food' store in the same parking lot?

3. Grading

Section 3.3.2 Grading and Construction states that 30,400 cubic yards of fill and 528,800 cy of cut will result in a net export of 498,000 cy. "An export soil disposal site has not been identified." "It is estimated that **2,100 cy of soil** could be exported daily." Haul trucks will **likely access site from** El Camino Real. "If the export site is not within the community", then the proposed haul would be I-5 (north or south) by way of Del Mar Heights Road.

If the cut material is sand-like, a cubic yard equals 1.3 tons. A heavy-duty triple-axle can carry 15 tons and is side-dump semi-trailer hauls 30 tons. The project estimate of 528,000 cy's would be approximately 687,440 tons. The daily estimate is 2,100 cy or 2,730 tons. Estimate daily number of trucks at triple-axle rate of 15 tons is **182 daily trips**. If the semi-trailer hauler is used then trips would be **91 daily trips**. Development Services has verified that Del Mar Heights Road is rated for a 10-ton truck.

The TPCPB asserts that the degree of details is **lacking in order to ascertain** what the cumulative traffic impacts would be on Del Mar Heights Road, El Camino Real, I-5 and SR-56. Development Services needs to answer the following questions, which under CEQA Guidelines 15151, a "good faith effort at full disclosure" must be made. "An EIR should be prepared with a sufficient degree of analysis to provide decision makers with information which enables them to make a decision which **intelligently takes account of environmental consequences.**"

Baseline details requiring answers

What is the density and consistency of cut material ?

What is the estimated per ton weight of a cubic yard?

What type of hauling trucks will be used?

What is the capacity in tons of trucks proposed to haul cut material?

Based upon the above answers, how many daily truck trips could we expect to see during each phase of construction?

Baseline details on traffic and roadway construction standards

What is the local street restrictions on truck size and allowable tons be load?

Are the 15 and 30-ton trucks even allowed to access or travel on Del Mar Heights Road or El Camino Real?

Is there an estimate of how much street damage will occur from the construction site traffic?

Who is responsible for local road replacement? and have adequate funds been set aside if this is the City's responsibility?

What is the applicant's 'fair-share 'of street repair/resurfacing?

Has this construction site traffic including soil removable, construction material delivery and construction crew travel to and from the site been included in ADT?

4. Emergency Services

a. Fire Protection and Emergency Medical Services

Section 2.0, page 2.5, states "for the initial response of fire suppression recourse within **four** minutes an effective fire force within **eight minutes.**" The General Plan calls for a response time of

five minutes (one min Ute chute + four minute travel) **90 percent of the time** for the first-in engine or emergency vehicle, and a response time of 9 minutes (one minute chute + eight minute travel) **90 percent of the time** for full alarm and advanced life-support services. A paramedic is on each engine of truck at all times. The City's ambulance standard is 12 minutes.

Section 5.12.1, Existing Conditions – **Fire and Emergency Medical Services**, is mostly a rehash of data from 2.5. Due to the very poor organization of the One Paseo DEIR, the TPCPB was not able to find comments on the direct or cumulative impact of the One Paseo project on **Fire Protection and Emergency Medical Services**.

Questions:

- Would you agree that the One Paseo DEIR is in **noncompliance** with the information-disclosure provisions of CEQA and that relevant information has not been provided to the public, which constitutes an abuse of **discretion under PRC 21005**? Would you please explain in detail why, you believe the One Paseo DEIR complies with PRC 21005?
- Would you agree that Development Services and the applicant has not prepared a legally sufficient DEIR for the One Paseo project, which may have a significant environmental impact (PRC 21151)?
- Have the direct and indirect impacts of traffic congestion at each Phase of the project, been studied to determine the critical fire protection and emergency medical response time?
- If studied, why has this critical response time information not been included in the One Paseo DEIR?
- Has Development Services and the applicant ascertained, if civil or criminal actions could be brought forth by injured parties if response times for **Fire Protection and Emergency Medical Services** do not comply with published standards and are due to unmitigated traffic congestion?
- Have you determined what the return trip response time would be to Fire Station 24 would be from the extreme corners of the Fire District?
- Will the Applicant or the City of San Diego build a new Fire Station (in the vacant city lot) on Del Mar Heights Road(WB) to provide Emergency fire and Para-medical protection until such time as the traffic mitigation measures are installed? In other words, are no longer considered 'outside the control of the City'.

5. **Asthma linkage to Freeway Pollution** (ultrafine particles)

A July 5, 2010 article (UPI), states that "brief exposure to ultrafine pollution particles near a Los Angeles freeway can boost the allergic inflammation that makes asthma worse." Dr. Andre Nel, of the David Geffen School of Medicine at the University of California, Los Angeles said, "ultrafine particles are primarily from vehicular emissions and are found in highest concentration along freeways." This study was published in the American Journal of Physiology – Lung Cellular and Molecular Physiology. This study showed that "ultrafine pollution particles may play an important role in triggering additional pathways of inflammation that heighten the disease" (asthma).

Environmental health researchers from University of Southern California and the California Air Resources Board have found during hours before sunrise, freeway air pollution extends as far as **1.5 miles from the freeway**. This June 10, 2009 article by Sarah Anderson, entitled Air

pollution from freeway extends further than previously thought, highlights a joint research study along Interstate 10 in Santa Monica. **“This distance is 10 times greater than previously measured”** and “has significant exposure implications”.

Caltrans has recognized for years that areas located near I-5 and other major freeways are considered more sensitive to adverse effects from air pollution. These locations are commonly term **sensitive receptors** and they include hospitals, schools, day care centers, nursing homes, and parks/playgrounds. Sensitive receptors in proximity to localized CO sources, toxic air contaminants, or odors are of particular concern. Sensitive Receptors, indicates 32 schools and 40 Preschools within the envelope of the I-5 NCC project. The Del Mar Hills Elementary is listed as 431 feet from I-5. The Del Mar Hills playground and play fields are next to the Caltrans sound wall and may be even closer.

The TPCPB asserts that the DEIR has not adequately researched or considered the long-term impact to school children’s health regarding asthma and ultrafine particles due to this project. The know increase in traffic delays at the I-5 ramps will expose the school children to more of the ultrafine particles. Medical and scientific research clearly indicates a causal relationship between freeway air pollution and childhood diseases such as asthma.

Questions:

- What are the health implications of increased air pollution at the Del Mar Hill Academy and its playing field during the various Phases of the project?
- Does Development Services and the Applicant agree with these medical and scientific findings? If not, why?
- Is Applicant willing to establish a baseline medical study of the Del Mar Hills Academy school population?
- Is the Applicant willing to located sensitive receptor equipment to monitor scientific data collected by this monitors? If not, why not?

III. CONCLUSION

The Torrey Pines Community Planning Board requests that Development Services and the Applicant respond to the comments contained in this document as required by CEQA. At this point-in-time, the Torrey Pines Commuity Planning Board cannot support any of the Build Alternatives as proposed by Development Services and Kilroy, the applicant. The TPCPB **has voted to only support the ‘No Project/Development under Existing Alternative’ option**. Per these plans, the site would be developed with Employment Center uses. Buildout under the existing zoning would allow for approximately 510,000 sf of corporate uses. It is our belief that for the City of San Diego to remain a world class city, we all need to learn that it takes more than cars to effectively take advantage of what the city offers its residents throughout our metropolitan region and county. San Diego will not remain world class if the City and developers fail to provide preferential funding for Rapid mass transit over supporting projects that only support single ridership.

Under CEQA Guidelines 15151, a “good faith effort at full disclosure” must be made. “An EIR should be prepared with a sufficient degree of analysis to provide decision makers with information which enables them to make a decision which intelligently takes account of environmental consequences.” Development Services and the applicant have failed to exercise “careful judgement” based on available “scientific and factual data” as required by CEQA Guideline 15064(b). Furthermore, the applicant has a legal duty to consider alternatives and is not conditioned upon project opponents demonstrating that other feasible alternatives exist (Practice Under CEQA 15.40).

The TPCPB is optimistic that even a cursory review by Development Services and the applicant of the countless concerns raised by the TPCPB and other regional agencies will prompt a halt to this DEIR. Development Services and the applicant should consider revising its DEIR and re-issue this document. Development Services and the applicant have not provided **sufficient information to allow meaningful evaluation and analysis** by the public which is a requirement under CEQA.

Thank you for your consideration of these comments and concerns.

Best regards,

Dennis E. Ridz, Chair TPCPB

A special thanks to Co-authors and Editors
Co-authors Dee Rich, Bob Shopes, Michael Yanicelli, Richard Canterina
Editors Patti Ashton, Nancy Moon