



June 11, 2012

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**Re: Review of the Draft Environmental Impact Report (DEIR) and
Transportation Impact Analysis for the Terraces of Lafayette**

The purpose of this letter is to summarize the results of our overall review and traffic analysis conducted on the Terraces of Lafayette Environmental Impact Report (EIR).¹ Please note that this review also included the supporting Traffic Impact Study (Traffic Study) prepared by TJKM Transportation Consultants for the EIR.² Other portions of the EIR have also been reviewed such as the project description and traffic data included in the appendices.

The Traffic Study conducted by TJKM and the Transportation and Traffic Section of the DEIR are riddled with inaccuracies related to the technical analysis of traffic operations of all kinds and the inaccurate applications of objective standards used as a matter of custom and practice by traffic engineers. The problems of analysis have led to erroneous conclusions regarding Project-related traffic impacts and the environment. The balance of this letter report identifies the specific problems which exist with respect to each of the alleged significant environmental impacts the DEIR claims to exist due to the planned development and construction of the The Terraces of Lafayette Project.

Traffic and Circulation Issues

- (1) *Impact TRAF-1 specifies that under Existing plus Project conditions, the project would have a significant unavoidable impact at the Deer Hill Road – Stanley Blvd/Pleasant Hill Road Intersection. This conclusion is incorrect and is based on a flawed analysis of the traffic operations.* The EIR's level-of-service traffic analysis at this intersection includes numerous serious flaws that

¹ The Terraces of Lafayette Environmental Impact Report, The Planning Center/DC&E, Berkeley, CA., May 8, 2012.

² Traffic and Circulation Impact Analysis for the Proposed Terraces of Lafayette Project, TJKM Transportation Consultants, Inc., Pleasanton, CA, April 18, 2012.

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result in significant overestimation of the traffic congestion at this location. The primary flaws are the erroneous traffic volumes, the incorrect use of peak hour factors (PHF), and the incorrect signal timing assumptions.

Erroneous Traffic Volumes Were Used in the EIR's Analysis – Page 20 of the Traffic Study specifies that the existing conditions analysis was based on traffic counts conducted December 1, 2011 (see Table II - *Dates of Peak Period Intersection Counts*). It is quite clear that the analysis of this critical intersection should not have been based on counts from a single day when other counts were readily available. This is especially true given the fact that this one set of counts was taken on a day that clearly had unusual traffic patterns.

Additional traffic counts were available to TJKM from the recent traffic study of the project and the DEIR should have used the average of multiple traffic counts as the basis for the LOS calculations.³ The single day of traffic counts that were used to make conclusions about project impacts at this locations were not at all representative of normal conditions.

The date the EIR's traffic counts were taken for the intersection in question was Thursday, December 1, 2011. Thanksgiving Day was exactly one week prior to this day (Thursday, November 24, 2011). The use of this traffic count raises many concerns given that it was taken less than a week after Black Friday, which is well known to be the busiest shopping day of the year (at least it has been since 2005).⁴ In addition, it is a well-known fact that December traffic counts (on roads such as those in the study area) can be as much as 5% to 10% higher than average. This is well documented by the Federal Highway Administration and is supported by data in various standard traffic engineering references.⁵

What is also a concern is that fact that there were special events at the high school (Acalanes High School) that is directly adjacent to the intersection in question. The events on the day of the counts apparently affected the resulting volumes but this was not reported in the traffic study or EIR. The Acalanes High School website (<http://www.acalanes.k12.ca.us/ahs>) has an easily accessible event calendar and athletics calendar available to check the events on any given day. As seen on this calendar, On December 1, 2011 at 6:30 PM there was a Boys

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³ *Terraces of Lafayette Traffic Impact Study*, Abrams Associates Traffic Engineering, Walnut Creek, CA, June 30, 2011.

⁴ *Holiday Watch: Media Guide 2006 Holiday Facts and Figures*, International Council of Shopping Centers, New York, NY, December, 2006. *Press Release: ShopperTrak Reports Positive Response to Early Holiday Promotions Boosts Projections for 2010 Holiday Season*, ShopperTrak, Chicago, IL, Nov. 16, 2010.

⁵ *Transportation Planning Handbook, Second Edition, Table 4-18*, Institute of Transportation Engineers, Washington D.C., 1999.

Soccer tournament at the school against Antioch High School. There was also a Parents Education Night Program called “*Start Smart Driving*” that evening that started at 5:45 PM. In summary, there is an abundance of available traffic count data and other evidence that proves the December 1, 2011 counts used in the traffic study were abnormally high and resulted in the incorrect identification of significant project impacts in the EIR.

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Erroneous Peak Hour Factors Were Used in the EIR’s Analysis – The peak hour factors (PHF) are variables that are built into the Synchro LOS calculations used as the basis for the EIR’s analysis of impacts to traffic operations (i.e. LOS). The default value in Synchro is 0.92 but the program does give the analyst the ability to adjust these factors (which can cause significant changes to the results). In the traffic study for the EIR the analyst elected to manually substitute some very unusual peak hour factors for the default values.

The PHF is used to adjust the traffic count volumes based on how the peak 15 minutes of traffic compares to the total peak hour. In other words, it increases the hourly volumes used in the analysis to represent the characteristics of the peak 15 minutes of traffic. The Synchro 7 User’s Guide specifies that the hourly counts are adjusted by dividing them by the PHF.⁶ The Synchro User’s Guide specifies a suggested range of suggested PHF values and the absolute lowest is 0.78. Some of the PHF’s used in the EIR’s Synchro were set to as low as 0.54 and the analyst appeared to selectively choose PHF factors for different approaches (when typically just one PHF is used for the entire intersection.) Again, all of these unusual PHF adjustments were made on the basis of just one traffic count of questionable value (as described previously).

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The EIR’s analysis of intersection traffic impacts (using Synchro software) is based on the methodology set forth in the 2000 Highway Capacity Manual (HCM). The HCM states “*For congested conditions 0.92 is a reasonable approximation for PHF.*” and that if “*a recognizable peak does occur, 0.88 is a reasonable estimate for the PHF.*” As per the above mentioned methodology for applying the PHF (i.e. dividing the hourly volumes by the PHF) a PHF of 0.92 or 0.88 would result in increases to the analysis traffic volumes of 8% or 14%, respectively. The LOS analysis used to justify the conclusions in the EIR used peak hour factors as low as 0.54 (which equates to an increase of over 85% to the volumes used in the EIR’s LOS analysis). This clearly has a dramatic effect on the analysis volumes and results of the study and is not supported by the facts. During multiple recent traffic counts Abrams Associates has conducted at the intersection there all the peak hour factors recorded have been significantly higher

⁶ *Synchro Studio 7 User Guide*, Trafficware, Sugar Land, TX, November, 2006.

than those used in the EIR. Clearly multiple traffic counts showing these same factors would be required before there would be sufficient justification (from statistical accuracy standpoint) for the use of such extreme peak hour factors.

It must be acknowledged that local data can be used to adjust the PHF factors. However, the use of assumptions so far outside of standard traffic engineering practice would need to be based on statistically significant results. In addition, it is completely erroneous for these same peak hour factors to be applied to project traffic in the planning analysis conducted for existing plus project LOS analysis. The EIR presents no evidence to indicate the project traffic would have such extreme peaking characteristics and it clearly should be closer to the HCM methodology's default value of 0.92. In other words, the project traffic volumes should only have been increased by 8% due to the peak hour factor instead of being *increased by 85%* (which was the increase applied to project traffic on certain movements in the EIR analysis).

Erroneous Traffic Signal Timing Assumptions Were Used in the EIR's Analysis – With respect to traffic signal timing, it should first be noted that we would request the traffic consultant provide the Synchro files that were used in the analysis. Without these files there is no way to examine and review the traffic signal timing assumptions used in the analysis. However, by replicating the Synchro analysis (using the same assumptions as the EIR) we were able to determine that the existing plus project analysis was generally based on the intersection's existing traffic signal timing.

While on the surface this might seem appropriate it is extremely important to point out that this existing signal timing is *specifically designed to restrict capacity* (i.e. cause congestion) on Pleasant Hill Road. In other words, the intersection could operate much more efficiently at a better LOS (and with less overall delay) by simply making some adjustments to the traffic signal timing. However, the City of Lafayette and the CCTA openly elect not to allow any optimization and purposely set the signal timing to create congestion and constrain the capacity on Pleasant Hill Road. Therefore, the artificially created congestion that results from the poor signal timing at this intersection is, by definition, already using up the remaining capacity at this location. The Lamorinda Action Plan Update clearly describes the constraint mechanisms that currently exist as a result of the City's adopted "*Gateway Constraint Policy*".⁷ Since the traffic signal timing used in the EIR is clearly based on a policy *intended to increase congestion*, this same constrained signal timing cannot be used as a basis to conclude the exact same result as the City's policy (increased

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⁷ Lamorinda Action Plan Update, DKS Associates, Oakland, CA, December 7, 2009.

congestion) from the project will cause significant congestion (i.e. LOS) impacts. Any significant impacts based on the constrained signal timing must be removed from the EIR due to these conflicting policies.

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(2) *Impact TRAF-1 specifies that under Existing plus Project conditions, the proposed mitigation (a third southbound through lane on Pleasant Hill Road) would conflict with the “Gateway Constraint Policy” resulting in a significant secondary impact. The EIR’s conclusions about problems with the additional lane on Pleasant Hill Road are incorrect and are based on a flawed analysis of traffic operations and the applicable standards.*

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The EIR Included Erroneous Conclusions About Impacts Associated with the Proposed Additional Southbound Through Lane on Pleasant Hill Road Based on a Flawed Analysis – The conclusions about significant secondary operational and weaving impacts were based on a flawed analysis of the LOS (as described in Section 1 of this letter) and a flawed weaving analysis (as described in Section 4 of this letter). As a result, the conclusion that the southbound through lane would have a significant impact on the Gateway Constraint Policy is erroneous and must be removed from the EIR.

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The EIR Includes Erroneous Conclusions About Policy Impacts Associated with the Proposed Additional Southbound Through Lane on Pleasant Hill Road - The policies set forth in the adopted Lamorinda Action Plan Update (Action Plan) clearly prove that the proposed mitigation (an additional southbound through lane on Pleasant Hill Road) would not preclude the use of any of the specified constraint mechanisms that currently exist as a result of the City’s adopted “Gateway Constraint Policy”. This policy is intended to limit the maximum amount of traffic that can use Pleasant Hill Road during peak periods and the Action Plan specifies it is intended to: “Maintain capacity constraints at selected gateways with the intent of preserving and improving mobility on regional routes within Lamorinda.” The Action Plan goes on to state that the “policy sets maximum lane widths for SR 24 inbound gateways, and similarly, identifies limits on the number of lanes for arterials such as Pleasant Hill Road”. The EIR fails to identify the fact that the gateway capacity would still remain two lanes throughout the rest of the area and, in particular, at the primary constraint location on Pleasant Hill Road (the Lafayette City Limits).

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Widening southbound Pleasant Hill Road in the vicinity of the proposed project does absolutely nothing at all that would prevent the City from continuing to implement and enforce the Gateway Constraint Policy. Pleasant Hill Road would

continue to have only two lanes in each direction through three other congested traffic signals directly north of the project area. Nothing associated with the proposed additional southbound lane would preclude or restrict the City from using the traffic signal timing and the two-lane section of Pleasant Hill Road to achieve the desired capacity constraints.

It is important to note that the Lamorinda Action Plan update actually specifies that on Pleasant Hill Road the “*capacity is determined primarily by the timing of signals at the four major intersections and how much green time is given to Pleasant Hill Road.*” This document clearly proves that constructing an additional lane to improve traffic operations near the freeway would in no way preclude the City from using the existing traffic signals to implement the Gateway Constraint Policy. In summary, while the Lamorinda Action Plan does discuss physical characteristics it also clearly states that “*the timing of signals can also act as a metering point.*” As a result, the conclusion that the southbound through lane would have a significant impact on the Gateway Constraint Policy is erroneous and must be removed from the EIR.

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- (3) Impact TRAF-2 specifies that at the intersection of Deer Hill Road with Brown Avenue conditions a traffic signal will be warranted under both Existing and Existing plus Project conditions and required as a project mitigation. This conclusion is incorrect and is based on a flawed review of the applicable traffic signal warrants.**

The EIR Includes Erroneous Conclusions About The Traffic Signal Warrants at the Intersection of Deer Hill Road with Brown Avenue - The analysis of the traffic signal warrants was improperly conducted and clearly failed to follow the guidance established by Caltrans for situations exactly like the one at the intersection of Deer Hill Road with Brown Avenue. At this intersection the majority of the side street traffic turns right with very little delay. This must be accounted for in the analysis of the peak hour traffic signal warrant as specified in the California Manual of Uniform Traffic Control Devices (MUTCD) 2012 Edition.⁸ This document is standard practice in California and specifies the following: “*Engineering judgment should also be used in applying various traffic signal warrants to cases where approaches consist of one lane plus one left-turn or right-turn lane.*” It then goes on to specify exactly how a situation such as the one at the Brown Avenue intersection should be handled: “*Engineering judgment and rationale should be applied to a street approach with one through/left-turn*

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⁸ California Manual of Uniform Traffic Control Devices, Caltrans, Sacramento, CA, January 13, 2012.

lane plus a right-turn lane. In this case, the degree of conflict of minor-street right-turn traffic with traffic on the major street should be considered. Thus, right-turn traffic should not be included in the minor-street volume if the movement enters the major street with minimal conflict.” It has been confirmed during field observations and traffic counts that the right turn traffic on the minor approaches definitely does enter Deer Hill Road with “*minimal conflict*”. Once the right turn volume is properly deducted from the warrant calculations the intersection clearly doesn’t meet the established MUTCD warrants and therefore the project would not have any significant impacts at this location. As a result, this impact and the resulting traffic signal mitigation must be removed from the EIR.

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- (4) *Impact TRAF-3 specifies that the project would reduce the average PM peak hour speed on northbound Pleasant Hill Road by less than one mile per hour and then erroneously concludes this is a significant impact. This conclusion is incorrect and is based on a flawed weaving analysis and incorrect application of undocumented significance criteria.*

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The EIR Includes Erroneous Conclusions On Weaving Impacts Due to the Inappropriate Application of a CORSIM model - The use of a CORSIM simulation to conduct a weaving analysis is not justified and clearly holds this project to a higher standard than any other projects in Lafayette. For the EIR to use a CORSIM analysis to conclude that an *increase of 0.8 mph* is a significant impact misrepresents what a CORSIM model can be used for and ignores its limitations (as far as accuracy goes).

The CORSIM User’s Guide makes it clear that there significant limitations to the accuracy of a CORSIM model and specifies that: “*CORSIM is a stochastic model, which means that random numbers are assigned to driver and vehicle characteristics and to decision making processes. The MOEs that are obtained from a simulation are the result of a specific set of random number seeds.*”⁹ In other words, CORSIM is a program where the user conducts multiple simulations until desired accuracy is achieved for existing conditions.

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In this case, the EIR does not include any of the technical reports that must accompany any CORSIM evaluations used as the basis for environmental review. This technical report would specify the desired or “*tolerable*” error as well as the actual “*sampling error*” associated with the simulation. However, it is important

⁹ *CORSIM User’s Guide, Version 6.0*, ITT Industries, Inc., Colorado Springs, CA, December, 2006.

to note that small variations in the volumes can result in even larger variations in the output speeds. CORSIM evaluations are considered “calibrated” if the simulation output volumes are within 10% of existing volumes but the output speeds are considered “calibrated” if they are merely within 20% of the existing speeds. According to the CORSIM training manual: “When the simulated speed are within 20% of the estimated detector station speeds, the speeds are considered acceptable.”¹⁰ In other words, using a CORSIM simulation to make conclusions about impacts due to speed changes of less than one mile per hour is an inappropriate use of the model is clearly well beyond the level of accuracy that a CORSIM model can be expected to provide.

It is also important to note page 4.13-108 of the EIR notes that: “These increases are within the range of typical daily fluctuations in traffic volumes, which can vary by 5 to 10 percent from day-to-day.” In addition, the *Traffic Analysis Toolbox Volume IV: Guidelines for Applying CORSIM Microsimulation Modeling Software* includes a similar statement noting that the “counts typically vary by 10 percent or more on a daily basis”.¹¹ In summary, all available evidence clearly indicates that the use of a CORSIM model to measure changes in speeds of less than one mile per hour ignores the limitations of a CORSIM model and the traffic counts it is based on. Clearly the traffic counts can easily vary by as much as 10 percent and the CORSIM simulation speeds and volumes are normally considered “acceptable” and calibrated if they are merely within 10 to 20 percent of the existing conditions. In addition, the Caltrans Highway Design Manual states that only the “Leisch” and “LOS D” methods are to be used to analyze weaving capacity. The manual is very clear in stating that: “Weaving Capacity analyses other than those described above should not be used” and that other methods “may not always produce accurate results”.¹²

The EIR Includes Erroneous Conclusions About Impacts Based on Undocumented Significance Criteria for Travel Speeds in Weaving Areas - The use of a CORSIM simulation to conduct a weaving analysis is not justified and clearly holds this project to The other problem with the analysis of weaving impact is the lack of documentation or a source for the unusual criteria that on page 4.13-25 of the EIR it states that an impact is considered significant if it causes “unacceptable weaving conditions such as decreasing average speed by 10 percent or more on the weaving segment.” This appears to be an arbitrary

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¹⁰ *Advanced CORSIM Training Manual*, Federal Highway Administration, Washington D.C., February 4, 2008.

¹¹ *Traffic Analysis Toolbox Volume IV: Guidelines for Applying CORSIM Microsimulation Modeling Software*, Federal Highway Administration, Washington D.C., January, 2007.

¹² *Highway Design Manual*, Caltrans, Sacramento, CA, May 7, 2012.

standard and, to the best of our knowledge, it has not been adopted by the City of Lafayette, Contra Costa County, or Caltrans. In addition, this arbitrary standard clearly doesn't make any sense when applied to the volatile, heavily congested conditions on Pleasant Hill Road. On this roadway a 10 percent increase to the low travel speeds can mean that a project increase of *less than a one mile per hour* would be considered a significant impact.

For all of the above reasons it is clear that the level of accuracy provided by a CORSIM analysis cannot be used to make conclusions about project impacts involving project changes to the travel speeds of as little as 0.8 miles per hour. As a result, Impact TRAF-3 must be removed from the EIR. In addition, the resulting conclusion that the northbound left-turn movement into the project must be prohibited (and the resulting secondary impacts) must also be deleted from EIR.

- (5) *Impact TRAF-4 specifies that the Project design features would increase traffic hazards because the proposed location of the west Project driveway on Deer Hill Road would have inadequate sight-distance. This conclusion is incorrect and is based on a flawed sight distance analysis.*

The EIR Includes Erroneous Conclusions About Sight Distance Due to a Flawed Analysis of Sight Distance

- The methodology for determining the sight distance at an unsignalized private road intersections are set forth in Caltrans' Highway Design Manual and the Traffic Study specifies that these standards were used in the analysis.¹² However, Figure 6 indicates that there some significant errors made in the analysis of sight distance used to conclude there would be significant project impacts at the western driveway on Deer Hill Road. The three main errors that appear to have been made in the analysis are as follows:

1) The sight distance was erroneously measured to a driver's eye at 3.5 feet when it was supposed to be measured to a 4.25 foot object. Section 405.1 of Caltrans' Highway Design Manual specifies that "*Corner sight distance is to be measured from a 3.5-foot height at the location of the driver on the minor road to a 4.25-foot object height in the center of the approaching lane of the major road.*"

Figure 6 indicates that a 3.25 foot height was erroneously used in the sight distance analysis.

2) The sight distance was erroneously measured from what appears to be less than a 10 foot set back from Deer Hill Road when it should have been at least 15 feet. Section 405.1 of Caltrans' Highway Design Manual specifies that "*Set back for the driver on the crossroad shall be a minimum of 10 feet plus the shoulder width of the major road but not less than 15 feet.*" Figure 6 indicates that a setback of

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about 8 feet was erroneously used in the sight distance analysis.

3) The sight distance appears to have been erroneously measured from the driver's eye to the oncoming vehicle instead of the stopping distance for the oncoming vehicle. The correct distance is actually the stopping distance which is measured from the approaching vehicle along the path of the roadway to where the vehicle on the side street would pull out of the driveway. Figure 6 appears to specify that the wrong distance measurement was used. Based on our review (using the correct application of the sight distance standards) the project would not have any significant sight distance impacts and all related impacts should be removed from the EIR.

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- (6) *Impact TRAF-5 specifies that because westbound Deer Hill Road speeds increase (as vehicles descend the hill east of the west Project driveway) the west Project driveway would present potential safety issues. This conclusion is incorrect and is based on a flawed application of the applicable standards.*

The EIR Includes Erroneous Conclusions About The Need for A Separate Westbound Left Turn Lane at the West Entrance on Deer Hill Road - The EIR exaggerates the potential for safety problems at this driveway and provides no supporting evidence. There are two factors that could potentially require a left-turn pocket and they are 1) capacity and 2) safety. The EIR makes no attempt to claim a left-turn pocket is needed for capacity reasons. Based on the turning movement volumes presented in the EIR it is clear that the volumes turning left (at the location in question) would not even be approaching the volumes needed to warrant installation of a separate left turn pocket.

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The only other factor that could warrant a left turn pocket would be safety. However, the EIR provides no evidence to support the claim there would be "potential safety issues" and all evidence indicates the contrary. For example, Section 201.3 specifies the required stopping distance required for vehicles on a down grade. The manual states that: "*The stopping sight distances in Table 201.1 should be increased by 20 percent on sustained downgrades steeper than 3 percent and longer than one mile.*" On the westbound approach to the western driveway there is, in fact, no "sustained" downgrade. The downgrade in advance of the driveway is less than a tenth of a mile long, far less than the one mile downgrade required for the increased sight distance requirements. Based on our review (using the correct application of the sight distance standards) the project would not have any significant sight distance impacts or safety impacts without a left turn pocket and all related impacts should be removed from the EIR.

- (7) *Impact TRAF-6 specifies that the Project's significant impact on PM peak hour traffic speeds for northbound Pleasant Hill Road would result in inadequate emergency access to other areas of Lafayette. This conclusion is incorrect and is based on a flawed analysis of traffic operations and weaving.*

The EIR Includes Erroneous Conclusions About The Need for Emergency Vehicle Access Mitigations - The EIR analysis of weaving was seriously flawed. Please refer to Section 4 of this letter for the discussion on the problems with the flawed CORSIM weaving analysis that was used to make the conclusions about emergency vehicle access impacts. In addition, the "Gateway Constraint Policy" described in Section 2 of this letter make it clear that this policy would be clearly responsible for any emergency vehicle access impacts that occur in the future. Based on our review the project traffic (or any design features associated with the project) would not be responsible for any significant emergency vehicle access impacts and all related impacts should be removed from the EIR.

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- (8) *Impact TRAF-10 specifies that Under the Cumulative Year 2030 plus Project scenario, the Brown Avenue/Deer Hill Road intersection would have significant impacts and require a traffic signal as a mitigation. This conclusion is incorrect and is based on a flawed analysis of traffic signal warrants.*

The EIR Includes Erroneous Conclusions About The Need for a Traffic Signal Under Cumulative Conditions at this intersection - The EIR analysis of the traffic signal warrants was seriously flawed. Please refer to Section 3 of this letter for the discussion on the problems with the flawed traffic signal warrant analysis that was used to make the conclusions about the project's impacts at this location. Based on our review the project traffic would not require installation of a traffic signal at this location and all related impacts should be removed from the EIR.

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- (9) *Impact TRAF-11 specifies that Project traffic exiting the west Project driveway on Deer Hill Road would have some difficulty finding an acceptable gap in traffic because prevailing speeds are relatively high. This conclusion is incorrect and not supported by evidence.*

The EIR Includes Erroneous Conclusions About The Need for a Median Refuge Lane at the West Driveway on Deer Hill Road – There is no evidence presented to support the conclusions used as the basis for this impact. The EIR actually states that "LOS E is acceptable at a one-way stop control intersection such as the driveway". However, instead of accepting the established standards

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the EIR instead concludes (without evidence) that the forecast delay “*suggests that drivers turning left out of the driveway would have some difficulty finding an acceptable gap in traffic*”. However, the EIR provides no evidence to support this finding and merely concludes that it is required because the “*speeds are relatively high.*”

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Please refer to Section 3 of this letter for the discussion on the problems with the flawed sight distance analysis that was used to make related conclusions about the need for a separate left-turn pocket at this location. Based on our review the project traffic would not require installation of a median refuge at this location and all related impacts and mitigations should be removed from the EIR.

- (10) ***Impact TRAF-12 specifies that under the Cumulative Year 2030 plus Project scenario, the left-turn queue length for northbound traffic on Pleasant Hill Road at Deer Hill Road would exceed the capacity of the existing storage lane. This conclusion is incorrect and based on flawed traffic forecasts and a flawed analysis of traffic operations.***

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The EIR Includes Erroneous Conclusions About Queuing Impacts Based on Exaggerated Traffic Volume Forecasts – The Traffic Study states that the 2030 traffic forecasts were based on the latest approved version of the Contra Costa Transportation Authority’s travel demand model and that a growth rate of “*approximately 2 percent growth per year*” was used to estimate the EIR’s future traffic volumes. Based on Figure 8 of the traffic study this equates to an assumed future segment volume on southbound Pleasant Hill Road (north of Deer Hill Road) of over 2,500 vehicles per hour. These forecasts are erroneous and far exceed what the model actual estimates. They also directly conflict with the Lamorinda Action Plan Update. The Action Plan clearly specifies (based on the CCTA model) that there would be 30% growth in the peak hour volumes on Pleasant Hill Road at Deer Hill Road. According the data presented in Table 5 of the Action Plan (and our review of the model forecasts) this equates to a growth rate of about 1 percent per year (half of what is the EIR’s analysis is based on).

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In addition, Table 2 of the Action Plan clearly specifies the 2030 traffic demand (as well as the target segment capacity) for Pleasant Hill Road north of Deer Hill Road. The Action Plan specifies that the 2030 demand would be about 2,400 vehicles in the peak direction with a “*Target Segment Capacity*” of 2,300 vehicles per hour established as part of the “*Gateway Constraint Policy*”. As mentioned above, the erroneous use of a growth rate of 2% per year results in peak hour directional volumes that exceed 2,500 vehicles per hour which is substantially

higher than what would be allowed under the “Gateway Constraint Policy”. In other words, the EIR’s traffic forecasts directly conflict with this policy and, by definition, these forecasts could not occur unless the policy was rescinded.

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The EIR Includes Erroneous Conclusions About Queuing Impacts Based on a Flawed Analysis of Traffic Operations and Weaving – Please refer to Section 1 of this letter for the discussion on the problems with the constrained traffic signal timing that was used to calculate the LOS at this location. In addition, please refer to Section 4 of this letter for the discussion on the problems with the flawed weaving analysis that was used to conclude that the northbound left-turn into the project could not be accommodated. Based on our review the project traffic would not result in any significant queuing problems at the left turn pocket in question and all related impacts and mitigations should be removed from the EIR.

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- (11) *Impact TRAF-13 specifies that under the Cumulative Year 2030 plus Project scenario, the left-turn queue length for northbound traffic on Pleasant Hill Road at the proposed project entrance would exceed the capacity of the proposed storage lane. This conclusion is incorrect and based on flawed traffic forecasts and a flawed analysis of traffic operations.*

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The EIR Includes Erroneous Conclusions About Queuing Impacts at the Project Entrance on Pleasant Hill Road Based on Exaggerated Traffic Volume Forecasts – Please refer to Section 10 of this letter for the discussion on the erroneous use of a growth rate of 2% per year and the City’s “Gateway Constraint Policy”. As described previously, the EIR’s traffic forecasts directly conflict with this policy and, by definition, the EIR’s traffic forecasts for Pleasant Hill Road could not occur unless the policy was rescinded.

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The EIR Includes Erroneous Conclusions About Queuing Impacts at the Project Entrance on Pleasant Hill Road Based on a Flawed Analysis of Traffic Operations and Weaving – Please refer to Section 4 of this letter for the discussion on the problems with the flawed weaving analysis that was used to conclude that the northbound left-turn into the project could not be accommodated. Based on our review the project traffic would not result in any significant queuing problems at the left turn pocket at the project entrance and all related impacts and mitigations should be removed from the EIR.

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- (12) *Impact TRAF-14 specifies that under the Cumulative Year 2030 plus Project scenario, the project would reduce the average speed on northbound Pleasant*

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Hill Road during the PM peak hour from 2.7 miles per hour (mph) to 2.4 mph. This speed reduction was assumed to result in an unacceptable weaving condition. This conclusion is incorrect and based on flawed traffic forecasts and a flawed analysis of traffic operations.

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The EIR Includes Erroneous Conclusions About Weaving Impacts on Pleasant Hill Road Based on Exaggerated Traffic Volume Forecasts – Please refer to Section 10 of this letter for the discussion on the erroneous use of a growth rate of 2% per year and the City’s “Gateway Constraint Policy”. As described previously, the EIR’s traffic forecasts directly conflict with this policy and, by definition, the EIR’s traffic forecasts for Pleasant Hill Road could not occur unless the policy was rescinded.

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The EIR Includes Erroneous Conclusions About Weaving Impacts on Pleasant Hill Road Based on a Flawed Analysis of Traffic Operations and Weaving – Please refer to Section 4 of this letter for the discussion on the problems with the flawed weaving analysis that was used to conclude that the northbound left-turn into the project could not be accommodated. Based on our review the project traffic would not result in any significant weaving impacts on Pleasant Hill Road and all related impacts and mitigations should be removed from the EIR.

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(13) ***Impact TRAF-15 specifies that under the Cumulative Year 2030 plus Project scenario, the project would increase the peak hour peak direction Delay Index by approximately 0.41 for southbound traffic in the AM peak hour and northbound traffic in the PM peak hour. The EIR concludes the Delay Index would increase by more than 0.05 where it already exceeds 2.0 on Pleasant Hill Road. This conclusion is incorrect and based on flawed traffic forecasts, a flawed analysis of traffic operations, and analysis of an incorrect segment of Pleasant Hill Road.***

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The EIR Includes Erroneous Conclusions About Delay Index Impacts on Pleasant Hill Road Based on Exaggerated Traffic Volume Forecasts – Please refer to Section 10 of this letter for the discussion on the erroneous use of a growth rate of 2% per year and the City’s “Gateway Constraint Policy”. As described previously, the EIR’s traffic forecasts (used to calculate the Delay Index) directly conflict with this policy and, by definition, the EIR’s traffic forecasts for Pleasant Hill Road could not occur unless the policy was rescinded.

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The EIR Includes Erroneous Conclusions Regarding the Delay Index on Pleasant Hill Road Based on a Flawed Analysis of Traffic Operations – Please

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refer to Sections 1 and 4 of this letter for the discussion on the problems with the Synchro analysis that was used to calculate the delay index for the EIR. Based on our review the project traffic would not result in any significant delay index impacts on Pleasant Hill Road.

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The EIR Includes Erroneous Conclusions Regarding the Delay Index on Pleasant Hill Road Based on Analysis of the Incorrect Segment of Pleasant Hill Road – The Lamorinda Action Plan makes it clear that any evaluation of the primary service objective on Pleasant Hill Road (a delay index of 2.0) should not include the effects of the capacity constraints (such as the uncoordinated signal timing used to constrain traffic at the Deer Hill Road – Stanley Blvd/Pleasant Hill Road intersection. The plan states that “*modeling of Delay Index should be for the portion of a corridor inside any points of a capacity constraint imposed by either a gateway constraint policies or traffic management strategies designed to limit the flow of vehicles in to the corridor*”.

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In other words, since the Lamorinda Action Plan’s capacity constraints (including the constrained signal timing) purposely push this intersection into unstable, over capacity conditions this result cannot then be used as a basis for making conclusions about project impacts. Without the erroneous use of this signal timing constraint in the LOS analysis (which results from the Gateway Constraint Policy), there would have been no significant impacts identified at this intersection. Based on our review the project traffic would not result in any significant delay index impacts on Pleasant Hill Road and all related impacts and mitigations should be removed from the EIR.

- (14) ***Impact TRAF-16 specifies that the project would generate an additional weekday parking demand for up to 50 spaces at the Lafayette BART station, which represents approximately 3 percent of the 1,526 spaces in the lot. The parking lot demand already exceeds capacity on weekdays. The EIR concludes this would be a significant impact. This conclusion is incorrect and based on flawed application of the City’s Standards.***

The EIR Includes Erroneous Conclusions About Impacts to BART Parking Based on an Incorrect and Inconsistent Application of City Standards – It is important to note that the Downtown Lafayette Specific Plan EIR (DSP EIR) used the exact same criteria but concluded that a project with a much larger increase in BART ridership would not result in a significant impact. The DSP EIR concluded that a project with a more than three times larger increase in ridership (73 versus 23 peak hour trips) would not have significant impacts on BART parking. Unless

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justification can be provided for why this project should be held to a higher standard than the Downtown Specific Plan then the City needs to be consistent in its treatment of transit impacts.

It is recommended that the EIR use the same language used in the DSP EIR to explain why the impacts on BART would be less than significant. The DSP EIR stated the following: *“The 2008 BART Station Profile Study estimates that all parking spaces at the Lafayette Station typically fill up by 7:00 a.m. on weekdays. Walking or bicycling between the BART station and the Specific Plan areas will be relatively convenient, especially in comparison to the walking distance between the station entrance and the most likely available parking spaces given the high parking occupancy. Therefore, the BART parking demand from additional transit riders generated by the Plan would be negligible, and the impact to BART parking at the station would be less than significant.”*

It is clear that walking and bicycling from the project site would be relatively convenient (a little over a mile) in comparison to the walking distance to the most likely available parking spaces given the high parking occupancy at BART. Please note that the EIR significance criteria (and the DSP EIR) make no mention of any standards based on increasing the parking demand by 3% (the criteria only specifies that a 3% increase in *ridership* could potentially be significant). Based on our review the project increase in BART ridership a maximum of 23 trips during the peak hours) the project would not result in any significant impacts on BART facilities and all related impacts and mitigations should be removed from the EIR.

- (15) *Impact TRAF-17 specifies that the project site plan does not include a loading and unloading area for school bus service, and peak hour traffic congestion on Pleasant Hill Road and Deer Hill Road would be exacerbated if all traffic would be required to stop for a school bus in the traffic lane. The EIR concludes this would be a significant impact. This conclusion is incorrect and based on flawed application of the City’s Standards.*

The EIR Includes Erroneous Conclusions About Impacts to school bus service in the area based on an Incorrect and Inconsistent Application of City Standards – It is again important to note that the Downtown Lafayette Specific Plan EIR (DSP EIR) used the exact same criteria but concluded that a project with a much larger impacts on the school bus system would not result in a significant impact. The EIR for the proposed project actually acknowledges that service would not be available for Springhill Elementary because it is within walking

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distance of the site and then concludes that Stanley Middle School students would be the only potential riders. The EIR concluded the project could generate “*approximately 13 additional riders on the bus program’s Stanley Routes.*” Unless justification can be provided for why this project should be held to a higher standard than the Downtown Specific Plan then the City should be consistent in its treatment of transit impacts.

Given the EIR acknowledges the project only has the potential to generate about 13 riders it is recommended that the EIR use the same language used in the DSP EIR to explain why the impacts on the Lamorinda School Bus Program would be less than significant. The DSP EIR stated the following: “*The proposed project has the potential to add to the rider demand for the Lamorinda School Bus Program. The program includes service to Stanley Middle School and Springhill and Burton Valley Elementary Schools. Participation in the program requires Lamorinda parents to submit an application for their children to be added to the school bus service and to prepay for that service for the school year. Additionally, Stanley Middle School and Lafayette Elementary School are located within convenient walking or bicycling distance of a significant portion of the Specific Plan areas. As a result, the additional schoolchildren from the Plan are expected to have minimal effects to the program because they will walk or bike to school or their parents would pay for the service if they choose to use it. Therefore, impacts would be less than significant.*” Based on our review there are many available options, including an on-site stop or no direct school bus stop at the site. Given all the available options, the EIR’s conclusion that the addition of approximately 13 school bus riders would result in significant impacts is not supported by evidence. All related impacts and mitigations should be removed from the EIR.

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- (16) ***Impact TRAF-20 specifies that the proposed widening of southbound Pleasant Hill Road to add a vehicle traffic lane would force bikes to shift to the left side of the additional southbound traffic lane that would become a right-turn-only lane for the on-ramp to westbound State Highway 24. This configuration would cause unacceptable weaving conflicts. This conclusion is incorrect and based on flawed assumptions about the difference between existing and project conditions.***

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The EIR Includes Erroneous Conclusions About Impacts to bicycles based on an incorrect analysis of bicycle conditions – This impact exaggerated the difference between existing and project conditions. The reality is that bicycles will have the exact same challenges with crossing/merging with the on-ramp traffic headed for westbound SR 24. Whether the on-ramp traffic is in its own

lane (as proposed) or not doesn't change the fact that bicyclists will still have to negotiate past the traffic entering the on-ramp. Based on our review there is not significant difference in weaving conflicts or bicycle safety *with or without* the project and all bicycle related impacts and mitigations should be removed from the EIR.

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(17) Impact TRAF-23 specifies that the proposed elimination of the existing designated spaces on the west curb of Pleasant Hill Road that are currently used for school passenger loading would result in additional hazardous passenger loading activity at unsuitable locations. The EIR concludes the loss of these designated curb spaces used for passenger loading would substantially increase hazards for school pedestrians and vehicle traffic in the area. This conclusion is incorrect and based on flawed assumptions about the difference between existing and project conditions.

The EIR Includes Erroneous Conclusions About Impacts resulting from the elimination of the passenger loading zone on the site – This impact is greatly exaggerated. The EIR claims (without supporting evidence) that elimination of the pedestrian loading zone along the project's frontage would result in significant impacts. This is not true for the following reasons: 1) the passenger loading zone in question only accommodates three vehicles at a time and is mainly used by students/parents who want to avoid congestion created by the City's Gateway Constraint Policy, 2) the passenger loading zone in question is actually less safe than using the established school's established on-site loading zone because children must cross Pleasant Hill Road to access the school from the loading zone in question, and 3) the area in the vicinity of the passenger loading zone is currently unimproved with vegetation and no available sidewalk or loading area.

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The reality is that removing the passenger loading zone would be likely to improve pedestrian safety and result in more passenger loading activities taking place at more suitable locations (like at the established loading area in the school's parking lot). Based on our review there is no significant impacts that would result from the removal of the three passenger loading spaces (currently adjacent to a vacant lot) and all related impacts and mitigations should be removed from the EIR.

In summary, there are numerous transportation and circulation issues, omissions, and inadequacies associated with the May, 2012 EIR (and the Traffic Study) for the Terraces of Lafayette Project. The EIR must be revised to address the unmitigated significant

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impacts and recirculated for public review and comment. Please call me if you have any questions about these comments

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cont.

Sincerely,



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Principal, Abrams Associates

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June 28, 2012

Review of Chapter 4-11, Housing and Population

Under the applicable CEQA Guidelines, the purpose of Chapter 4-11 of the DEIR should be the determination of the significance of conflicts between The Terraces project and any applicable land use plan, policy or regulation of an agency with jurisdiction over the project, including but not limited to City documents such as the General Plan, specific plan, or Zoning Ordinance, as well as regional and state agencies. Because the DEIR's stated intent is to use the document for environmental evaluation of The Terraces project, in addition to using it for the environmental assessment of the City's intended rezoning of the property to the LR-5 District, the conflicts of the downzoning with adopted city, regional and State policies should also be assessed.

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Instead, Chapter 4-11 largely limits itself to the impacts of the proposed housing project relative to a selected grouping of housing policies contained in the Lafayette Housing Element. The DEIR does not find that the impacts of the subject project would have a significant impact on those selected housing and population policies, and consequently, no mitigation measures are proposed. It may be largely true that The Terraces project would not have a significant adverse impact on only those identified city policies. However, what is more significant, if the subject project were not approved, or substantially reduced in density, or the property rezoned to LR-5, there would be a significant adverse effect on the implementation of numerous adopted Lafayette Housing Element policies, as well as on regional and state goals regarding infill, compact development, the provision of workforce housing, and Greenhouse Gas reduction.

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In addition to failing to assess the project relative to the required array of city, regional and State goals, the DEIR inaccurately describes Lafayette's existing Housing Element compliance situation. The DEIR fails to point out the various ways that this apartment project furthers Lafayette's adopted housing goals, as well as furthering the goals of California's law regarding climate change and the goals of regional agencies, such as ABAG, MTC and the Contra Costa Transportation Authority (CCTA) that deal with halting sprawl, promoting infill development and reducing cumulative traffic impacts. Consistency with adopted policies as well as conflicts, are appropriate to discuss in an adequate EIR document.

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Inaccurate Description of Lafayette's Housing Compliance:

On Page 4.11-6 of the DEIR, Lafayette is described as having been "fairly successful" in complying with regional housing needs. This description is not correct. Lafayette's Housing Element failed to be certified by the California HCD for the 1992-1999 RHNA cycle. So no compliance with State Housing law was achieved, and no affordable housing was provided. Nor was any affordable housing provided in the

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previous 1985-1991 cycle. While the 1999-2006 Housing Element was certified, the level of affordable housing production that occurred could not be termed "fairly successful". In 2007 ABAG compiled and published the inventory of affordable housing production for the Bay Area's local jurisdictions for the 1996-2006 cycle. ABAG found that Lafayette's success for the affordable categories was substantially worse than average. The ABAG document shows the following results for Lafayette:

Very Low			Low			Moderate			Above Moderate		
RHNA	Permits	%	RHNA	Permits	%	RHNA	Permits	%	RHNA	Permits	%
30	15	50	17	2	12	42	0	0	105	186	177

This 19% achievement of the RHNA for the three affordability categories should not be characterized in the DEIR as being "fairly successful." However, the DEIR's Table 4.11-3 shows a different rate of housing production for Lafayette than ABAG's determination. It states that there were 78 Moderate Income housing units produced in that cycle, rather than the *zero* described by ABAG. In that there was only one large multi-family housing project produced during that period, it appears that Lafayette is claiming that the market-rate apartment units in the Town Center apartment project are rent-restricted so that rents cannot exceed the Moderate Income cap based on family size and number of bedrooms. If this is correct, then the City should provide evidence of such *binding* rent and income restrictions. Rather, we believe this project to be market rate and unrestricted as does ABAG. Thus, the DEIR's "fairly successful" description and inaccurate data should be removed and replaced with an accurate description.

Regarding the current RHNA cycle, on page 4.11-6, Lafayette has arbitrarily reduced the actual RHNA from 361 units to 258. There is no professionally recognized reason to shrink the actual allocation because some number of the years of the cycle have passed. ABAG assigns an allocation to a jurisdiction for the total number of years of the cycle. By using a 28% smaller RHNA, the comparison of the few multi-family projects that have been approved relative to the ABAG allocation, produces a false impression of a higher degree of success than actually occurred. Furthermore, the DEIR is stating that units within the approved market-rate projects can fill affordable unit RHNA allocations ("This (approval rate) represents 85 percent of the City's goals"). The correct percentage of affordable units in approved projects versus the RHNA is approximately 29%. Nevertheless, such maneuvers are legally irrelevant because the use of *approvals* is not the legally required standard for meeting the RHNA. State law on reporting Housing Element compliance in meeting RHNA goals requires the use of *building permits issued*, not mere project approvals (Government Code 65400). It is well known that many project approvals never translate into housing. That is both because of the changing economic climate, and in Lafayette, because the approvals are so burdened with extra expenses, and the fact that projects frequently have their unit yield significantly cut down to the extent that the project is no longer economically viable. For example the, 18-unit project in Table 4.1 on Mt. Diablo Ct. began as a 34-unit project, but was reduced over the many years it took to achieve project approval. That project was approved in 2008, yet remains unbuilt. The Branagh Development project at Risa Rd. was approved in 2007 and also remains unbuilt after five years.

Lafayette has used a downtown-only scheme to meet the RHNA goals through four Housing Element cycles, all with little or no success. That is because the downtown is small (less than 3% of the City) and largely built out, and generally commercial uses have been able to outbid multi-family residential for available properties. According to Table 8 of the current Lafayette Housing Element, only 182 multi-family units have been built *in total* in the last 32 years, and none since 2004. And of the 182 units, only approximately 20 have been subject to affordability restrictions. Compare the 20 units over 32 years

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with the 270 unit goal for affordable units for just one single RHNA cycle alone. Then contrast this low collective result with the “fairly successful” description of meeting housing goals contained in the DEIR on page 4.11-6. If the DEIR provided an accurate description of Lafayette’s long-term failure to meet housing goals, that would demonstrate that the subject project is needed for Lafayette to meet its own adopted goals, as well as regional and State housing goals, because Lafayette’s current policies have not achieved the goals. Downzoning the property to LR-5 would severely exacerbate the housing deficiency by removing the best available, and appropriately zoned, infill site.

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Failure to Show the Consistency of the Terraces Project with Adopted Policies:

Table 4.11-1 on Page 4.11-3 presents a disproportionately negative listing of General Plan goals which could lead a reader to conclude that there may be a preponderance of conflicts between the project and the City’s General Plan goals. For example, goals are listed that are not relevant to the project. Policy LU-13.1 is listed, but that policy is only applicable to lands north of Deer Hill Road. Goal LU-14 appears to say multi-family housing is not allowed north of Highway 24, but that particular goal relates only to lands west of Elizabeth Street. The most pertinent General Plan directive relative to The Terraces project is not even mentioned here: The site is actually designated for multi-family housing at densities of up to 35 du/acre, and that is what is proposed.

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Among the otherwise primarily negative goals on the list in the table on Page 4.11-3 & 4 are three pertinent goals that are supportive of the project.

Policy H-2 states: *Facilitate and encourage the development of diverse housing types and additional affordable housing units to accommodate a diversity of Lafayette citizens in terms of age and socio-economic background and to meet regional housing needs as quantified in this Chapter.*

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By emphasizing much of the negative impacts, and omitting or downplaying the positive and most pertinent goals that are furthered by the project, the DEIR fails to facilitate and encourage the development of diverse housing types and additional affordable housing units to accommodate a diversity of Lafayette citizens in terms of age and socio-economic background. And since Lafayette has never come close to meeting its regional housing needs in any past RHNA cycles, supporting the subject project will allow Lafayette to come much closer to meeting its regional housing needs. The intended downzoning to LR-5 conflicts with this goal.

Policy H-2.4: Provide for additional housing by encouraging the construction of multi-family housing to meet the City’s regional housing needs.

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The Terraces project is clearly consistent with this policy, particularly because Lafayette has never come close to meeting its regional housing needs in any Housing Element cycle. The tone and bias of the DEIR are not supportive of “encouraging the construction of multi-family housing”. The intended downzoning to LR-5 conflicts with this goal.

Policy H-3.5 deals with providing for the needs of large families. Lafayette has been especially unsuccessful in its limited production of affordable housing in meeting needs of larger families because the restricted units are generally small apartments, or restricted to seniors. The Terraces would provide 140 two-bedroom units and 35 three-bedroom units, all consistent with the Moderate Income limitations. No other project, approved or pending, has been as supportive of providing for the needs of

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large families, yet this point goes unnoted in the DEIR. The intended downzoning to LR-5 conflicts with this goal.

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It appears significant, relative to any hoped for impartiality of the DEIR as an informational document, that some of the most pertinent Housing Element policies were purposefully left out. Policy H-2.7 states:

Infill Housing: Encourage private housing development on existing infill sites in order to efficiently utilize existing infrastructure (emphasis added).

The Terraces project sits on the largest existing and undeveloped infill site in the City of Lafayette, yet that is not mentioned. This site is closer to BART and to downtown grocery stores than are sites on the City's approved list of available sites in the Housing Element. The use of infill sites such as this is encouraged by all applicable planning and land use principles at the city, regional and State levels, as well as by respected environmental organizations such as the Greenbelt Alliance and TRANSFORM, SPUR, etc. That irrelevant General Plan policies of a negative nature have been included, while the most relevant positive policies are excluded, indicates the intended direction of the DEIR. The City Council's intended downzoning to LR-5 conflicts with this goal.

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Another existing adopted Housing Element policy does not appear to read correctly in the DEIR. According to the reference on Page 4.11-4, the version of the Housing Element cited is the updated Housing Element. This was adopted by the Lafayette City Council in 2011, but is stated as the 2009 Housing Element on Page 4.11-4, presumably representing when it was created. However, in this updated version, Policy H-2.4 correctly reads as follows: *Regional Housing Needs: Provide for additional housing by encouraging the construction of multifamily housing in areas where there is appropriate zoning for this use.* The DEIR apparently cited the superseded 2002 version.

However, the DEIR, on Page 4.11-4, Policy H-2.4 has different language which reads: *"Provide for additional housing by encouraging the construction of multi-family housing ~~by encouraging the construction of multifamily housing in areas where there is appropriate zoning for this use~~ to meet the City's regional housing needs."*

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Since Lafayette's current Housing Element purports to meet the regional housing needs without calling on this best available infill site, the use of this language alters the intent to make it appear that the Terraces site is not needed. Yet the correct language calls for the construction of additional housing *where there is appropriate zoning*, which is clearly the case for the Terraces located in the APO zone. When combined with Policy H-2, above, which calls for *additional affordable housing*, it is clear that City policies do not limit affordable housing to the limited sites shown in the Housing Element. Downzoning the property to LR-5, would be directly in conflict with Goal H-2.4.

D. Impact Discussion, Page 4.11-10. It is stated that the project would result in a "substantial and unplanned level of growth". Here the DEIR does not recognize that the project is planned, and has been included in the plans for the City of Lafayette since the 1968 incorporation, and before that in the County. It is planned for Administrative/Professional/Multi-Family Residential in the 2002 General Plan and the prior 1973 General Plan also allowed such uses. It is noteworthy that the subject property was presented to HCD in the 1999-2006 Housing Element as suitable and available for multi-family housing. Table 23 of that document assigned 140 residential units to the office zones. The subject property constitutes over 80% of the vacant sites within all the office-zoned properties in the City.

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The Land-Use Element Map of the Lafayette General Plan designates the subject property for Administrative/Professional Office/ Multi-family Residential use. Additionally, on Page I-15 this designation is defined as follows:

Administrative/Professional Office/Multifamily Residential: This designation provides for a mixture of professional office and multifamily residential uses *adjacent to Downtown* that are *close to public transit, shopping, and public facilities*. The height limit in the Multifamily Residential/Office designation is 35 feet. The maximum density for multi-family residential uses is 35 units per acre. The maximum floor area ratio (FAR) for commercial uses shall not exceed 0.4.

This is the current General Plan description of this property. As is too often the case in the DEIR, this explicit, threshold description of the planned uses for the subject property goes unnoted. This General Plan definition also accurately describes the site as adjacent to downtown, close to public transit, shopping and public facilities. The development standards of the project are fully compliant with the General Plan's development standards as well as with the APO zoning district. Downzoning the property to LR-5, would be directly in conflict with the basic and explicit General Plan Land Use designation of this property.

Work-force Housing:

Regional and State Policies place great importance on a jurisdiction providing work-force housing. These policies are contained in several CCTA policies mentioned below as well as in Government Code 65589.5 (a) (3). The DEIR fails to note that Lafayette does not provide sufficient work-force housing for the approximately 11,480 people who work in Lafayette. The average resale house in Lafayette costs more than \$1,200,000, and more than \$690,000 for condominiums (Page V-32 of Housing Element). In the General Plan, Page I-4 it states that most employed Lafayette residents work *outside the city*, and on Page V-16 of the Housing Element, it is shown that the average income in Lafayette is about 70% higher than the county average. Therefore, one must conclude that most employed Lafayette residents commute to professional and managerial jobs outside the City of Lafayette. Meanwhile, many thousands of employees of the offices, banks, stores, restaurants and schools commute *into* Lafayette for work, from many distant locations. Most of these jobs are service jobs that would not pay enough to buy most housing in Lafayette. The subject affordable project would be well suited to make a significant contribution to providing workforce housing for many of those who cannot afford to buy in Lafayette. The largest employer in Lafayette is the Acalanes High School/District Offices complex located within easy walking distance of the project. Downzoning the subject property to LR-5 would be directly in conflict with these goals.

Consistency with regional policies:

The DEIR in Chapter 4-11 does not bring up the project's consistency with policies of the Metropolitan Transportation Commission (MTC) or the Association of Bay Area Governments (ABAG). While the Plan Bay Area Regional Plan (also called One Bay Area) is undergoing review to implement SB 375 and reduce Greenhouse Gases (GHGs), there are existing policies and clear evidence of agreed upon direction by ABAG and MTC as to what housing policies are favored. The currently agreed upon documents contain goals of minimizing regional sprawl by promoting higher density infill in the closer-in areas of the region. The Jobs-Housing Connection Strategy Report, adopted by the ABAG & MTC Boards, lays out various policies that include an increased proportion of multi-family housing construction relative to single family residences.

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While Lafayette chose not to include the subject property, which is its best available infill property, into its Priority Development Area (PDA) submitted to the Plan Bay Area program, that was a deliberate City action consistent with the City's intention to downzone the property to LR-5. According to Plan Bay Area, Priority Development Areas, (or PDAs for short), are areas within existing communities that have been identified and approved by city or county governments to take on larger shares of future growth. These areas typically are easily accessible to transit, jobs, shopping and other services. It should again be emphasized that the PDA selected by Lafayette is inconsistent with Plan Bay Area's intent. For example, the subject property is closer to BART and grocery stores than sites within Lafayette's self-selected PDA. Yet properties north of Deer Hill Road, even if directly across Deer Hill Road from the BART Station, are prohibited from multi-family development by the zoning and the Hillside Development Regulations.

Nevertheless, the Plan Bay Area plan's policies encourage additional infill and multi-family housing, and do not limit such housing to those areas selected as Priority Development Areas. In fact, 56,000 new homes are anticipated to be built *outside of the PDAs* for the Bay Area by 2040. For Contra Costa County, the One Bay Area plan calls for only 65% of the new residences to be built within PDAs, but the remainder are expected to occur outside of the PDA, such as the subject property. Development of the subject property, in a regional context, is clearly consistent with the Plan Bay Area plan as it currently stands. The preferred scenario was approved by the combined MTC and ABAG Boards on May 17, 2012, but was available when the DEIR was written. Downzoning the property to LR-5, would be directly in conflict with the GHG reduction goals of MTC and ABAG. While the policies of the Plan Bay Area plan do not have direct jurisdiction over the project, compliance is necessary as a pre-condition of Lafayette receiving future transportation funding.

Contra Costa Transportation Authority Policies: Lafayette is a recipient of the half-cent sales tax for transportation passed by voters in 2004 (Measure J). Therefore Lafayette is obligated to conform to Measure J and be in compliance with CCTA policies. The DEIR fails to mention this obligation, and fails to point out the *inconsistencies* with CCTA policies of Lafayette's intended action to downzone the property to LR-5. Likewise, the DEIR fails to mention the *consistency* of the subject project with CCTA policies. Examples demonstrating the consistency of project approval with the June 16, 2010 adopted CCTA Implementation Guide are numerous and include, but are not limited to, the following:

Page 8.(of CCTA Implementation Guide) "Overall the Measure J Growth Management Plan focuses on :

3. Support land use patterns within Contra Costa County that make more efficient use of the transportation system, consistent with the General Plans of the local jurisdictions.

The project, by its proximity to highways, major routes, shopping, employment and BART makes efficient use of the transportation system, and the project is consistent with the General Plan as well as the applicable APO zoning. A downzoning would be inconsistent with CCTA policies.

4. Support infill and redevelopment in existing urban and brownfield areas.

The subject project is undoubtedly an infill project relative to the City of Lafayette, because of its relatively central location, adjacent to the downtown commercial areas, transportation, employment, and the only public high school in the city. The site has been already graded for development in the 1960s with applicable permits, and as such, the site is a highly disturbed and terraced property that can also be considered a brownfield site.

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Page 10. (of CCTA Implementation Guide) *Addressing Housing Options, In its General Plan each city must demonstrate reasonable progress in achieving the objectives of its Housing Element. The jurisdiction must complete a report that illustrates this progress.*

Under California Housing Element law progress towards achieving Housing Element compliance is measured by building permits issued, not by mere approvals of projects that may not be built. Lafayette has only produced 182 multi-family units in the last 32 years, and none since 2004. Regardless of whatever progress report Lafayette may have submitted to CCTA, it is clear that Lafayette has *not ever* made reasonable progress toward meeting its RHNA. The subject project can help Lafayette make substantial progress toward achieving the objectives of its Housing Element, and would be consistent with CCTA policies. For the current RHNA cycle, the allocation is: 270 Affordable Units Required, consisting of 113 Very Low, 77 Low, and 80 Moderate units. It is our understanding that the current number of building permits *issued* for the above affordability categories is *zero for all categories*.

Pages 41-43, (of CCTA Implementation Guide) *Evaluate Impacts of Proposed New Development.*

The DEIR does make a minimal mention of the Growth Management Plan required by the CCTA on Page 4.11-2, but only in the context of implying that there may be a conflict between the subject project and available infrastructure so as to diminish the community's quality of life and identity. There is no mention of the current position and intention of the CCTA and the City's adopted Growth Management Plan which is to encourage and accommodate projects such as the Terraces of Lafayette infill project. The Growth Management Plan repeats and emphasizes policies from the General Plan and Housing Element cited above such as Policy H-2 dealing with providing housing for a more diverse socio-economic make up for Lafayette, and Policy H-2-7 promoting the use of infill sites. Downzoning the property to LR-5, would be directly in conflict with Lafayette's Growth Management Plan and the preceding CCTA goals.

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Other Adopted CCTA Policies:

The following program description and goals are from the adopted Contra Costa Sales Tax Expenditure Plan of which Lafayette is a constituent jurisdiction:

As a component of the Sales Tax Expenditure Plan, the Contra Costa Transportation for Livable Communities (CC-TLC) Program would fund transportation enhancement projects in urban, suburban and rural communities, would support a balanced transportation system, would foster the creation of affordable housing, and would help make Contra Costa's communities more pedestrian-, bicycle-, and transit friendly. The CC-TLC program is intended to support local efforts to achieve more compact, mixed-use development, and development that is pedestrian friendly or integrated into transit networks. This type of development provides residents with a broad range of housing choices, easy access to public facilities, and alternatives to the use of the automobile for commuting, shopping or recreation. Finally, the CCTLC program can strengthen existing communities through infill development and discourage the loss of open space and agricultural land on the urban fringe. These principles can be applied throughout Contra Costa, not only in existing urban areas, but also in suburban and rural parts of the county.

CC-TLC Goals

The goals of the CC-TLC Program are to support transportation enhancement projects and planning that will:

- § Help create walkable, pedestrian-friendly neighborhoods and business districts;
- § Promote innovative solutions, including compact building design and context-sensitive site planning that is integrated with the transportation system;
- § Help create walkable, pedestrian-friendly access linking housing and job centers to transit;
- § Help create affordable housing;
- § Encourage a mixture of land uses and support a community's development or redevelopment activities; and
- § Provide for a variety of transportation choices to enhance a community's mobility, identity, and quality of life.

The CC-TLC Incentive Program can aid proponents of affordable or workforce housing projects that may need specific transportation improvements as a condition of project approval and would be expected to be a catalyst that might assist communities with infill and transit-oriented development (emphasis added).

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cont.

Response: As stated above, the DEIR has concentrated on presenting only selected goals which would tend to portray the subject project as being in conflict with adopted city and regional goals. Consistent with that direction, the DEIR contains no mention of the preceding adopted CCTA goals from the Transportation Expenditure Plan. The Terraces project would be consistent with all the above goals, but would be especially supportive of the goals of creating affordable housing, providing workforce housing, and assisting communities with infill development. Additionally, the project would cause the completion of much needed sidewalks, as well as bike lanes along the extensive frontages of the abutting streets. The project would have a complete internal walkway system linking residences to project amenities, and adjacent uses. The largest employer in Lafayette, the Acalanes High School and District offices, are within easy walking distance. In support of the transit goal, the project sponsor would be supportive of making a fair-share contribution towards a shuttle that runs a continuous loop from Terraces/Acalanes High School to BART with stops along Mount Diablo Blvd on its way back to Terraces/Acalanes High School, or a comparable route until improved CCCTA bus service is available. Downzoning the property to LR-5, would be directly in conflict with the preceding CCTA goals.

State of California Policies:

California housing law is replete with policy statements as to the need for housing and in particular, affordable housing. A few examples include the following:

Government Code 65580. The Legislature finds and declares as follows:

- (a) The availability of housing is of vital statewide importance, and the early attainment of decent housing and a suitable living environment for every Californian, including farmworkers, is a priority of the highest order.
- (b) The early attainment of this goal requires the cooperative participation of government and the private sector in an effort to expand housing opportunities and accommodate the housing needs of Californians of all economic levels.
- (c) The provision of housing affordable to low- and moderate-income households requires the cooperation of all levels of

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government.

(d) Local and state governments have a responsibility to use the powers vested in them to facilitate the improvement and development of housing to make adequate provision for the housing needs of all economic segments of the community.

Government Code 65589.5. (a) The Legislature finds and declares all of the following:

(1) The lack of housing, including emergency shelters, is a critical problem that threatens the economic, environmental, and social quality of life in California.

(2) California housing has become the most expensive in the nation. The excessive cost of the state's housing supply is partially caused by activities and policies of many local governments that limit the approval of housing, increase the cost of land for housing, and require that high fees and exactions be paid by producers of housing.

(3) Among the consequences of those actions are discrimination against low-income and minority households, lack of housing to support employment growth, imbalance in jobs and housing, reduced mobility, urban sprawl, excessive commuting, and air quality deterioration.

(4) Many local governments do not give adequate attention to the economic, environmental, and social costs of decisions that result in disapproval of housing projects, reduction in density of housing projects, and excessive standards for housing projects.

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cont.**

As an all-affordable project, the City is directly subject to Government Code 65589.5. The DEIR makes no mention of the State-identified vital statewide importance of additional housing, and affordable housing in particular. There should be a discussion of how the state goals can be achieved, and in this particular case, how a denial or reduction in density would conflict with adopted California goals. Downzoning the property to LR-5, would be directly in conflict with the preceding State goals.

The California Environmental Quality Act including its adopted Guidelines contains policies to discourage the denial or reduction in density of a residential project. Guidelines Section 15092 (c) states:

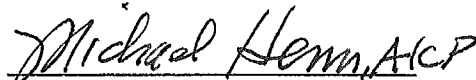
With respect to a project which includes housing development, the public agency shall not reduce the proposed number of housing units as a mitigation measure if it determines that there is another feasible specific mitigation measure available that will provide a comparable level of mitigation.

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The DEIR makes no mention of this directive from the CEQA Guidelines. In regards to the housing policies reviewed in Chapter 4-11, there are suitable mitigations to reduce any identified impacts. Similarly, in regard to the impacts identified in the other chapters such as aesthetics, biology, traffic, and air quality, there are mitigations available to reduce the impact to Less Than Significant.

Conclusion: Chapter 4-11 fails to meet the CEQA requirement of providing a fair and balanced determination of the significance of conflicts between The Terraces project and applicable land use plans, policies or regulations of an agency with jurisdiction over the project, including but not limited to the City documents such as the General Plan and Zoning Ordinance, as well as regional and state agencies. Rather, a disproportionately negative selection of Lafayette goals are presented which falsely creates the impression of conflicts between the subject project and adopted goals. Downzoning the property to LR-5, would directly conflict with the majority of the goals identified above.

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cont.


Michael Henn, AICP



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June 28, 2012

Allan Moore
 Gagen McCoy
 279 Front Street
 Danville, CA 94526

Re: Objections to Mitigations
 The Terraces of Lafayette DEIR

Dear Allan:

In addition to the several comments we have provided on the DIER below is a list of mitigations we believe are not supported by the analysis and are therefore not necessary.

- 1) GHG-1b – Subsidized shuttle service. See DEIR comments by Abrams Associates and Environ.
- 2) HYDRO-2 – Downstream drainage study. See memo by BKF Engineers, attached.
- 3) NOISE-2 – Requirement specifying location of stationary equipment and loading/unloading. Construction noise impacts can be managed with standard day and hour of operation controls.
- 4) PS-1 – Police impact fee. There is no evidence that this project will require additional police services and will likely require less due to typical tight management policies.

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Please register the applicant's protest to these mitigations.

Sincerely:

Norm Dyer, Architect
 Associate
 LCA Architects



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MEMORANDUM

Date: June 27, 2012 **BKF No.:** 20115003
Deliver To: Allan Moore – Gagen McCoy
From: **BKF Engineers**
Christopher Mills, PE
Subject: **Comments on The Terraces of Lafayette Environmental Impact Report for the City of Lafayette, SCH #2011072055**

BKF Engineers has the following comments on the referenced Environmental Impact Report:

1. Section 4.8. Mitigation Measure Hydro-1a, Second Bullet Point directs the project proponent to develop analyses that shall include “comparison of post-development peak flow rates and volumes to pre-development conditions.”

BKF Comment: It is customary to compare peak flow rates between pre-development and post-development conditions. It is not customary to analyze or mitigate increases in run-off volume. The mitigation measure should be re-written to remove the reference to volumes.

2. Section 4.8. Mitigation Measure Hydro-2 directs the project to provide to the City an analysis that shows that the 10-year and 100-year storms can be safely conveyed through the existing off-site storm drain system, and that the condition of the downstream conveyance system shall be investigated to confirm that the capacity of the existing system is sufficient to meet existing and Project-related demands.

BKF Comment: Investigation and/or evaluation of capacity and/or condition of a “downstream conveyance system” are typically only required if a project is increasing the peak flow run-off. The project proposes to follow City of Lafayette and Contra Costa County design standards for flood attenuation on-site, so no evaluation of downstream capacity or condition should be required.

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