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(213) 978-1300

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200 N. SPRING STREET, ROOM 525
LOS ANGELES, CA 90012-4801
(213) 978-1271

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November 1, 2023

Los Angeles City Council
c/o Office of the City Clerk
City Hall, Room 395
Los Angeles, California 90012

Attention: PLUM Committee

Dear Honorable Members:

**APPEAL RESPONSE FOR THE HARVARD-WESTLAKE RIVER PARK PROJECT AND
CORRECTIONS TO THE PROJECT DETERMINATION LETTER; 4047-4155 NORTH
WHITSETT AVENUE, 12506-12630 WEST VALLEY SPRING LANE, AND A PORTION OF APN
2375-018-903; CF 23-1101**

On August 24, 2023, the City Planning Commission certified the Harvard-Westlake River Park Project Environmental Impact Report (ENV-2020-1512-EIR) and approved a Vesting Conditional Use Permit and Site Plan Review (CPC-2020-1511-VCU-SPR) for the redevelopment of a 17.2 acres site for use as an athletic and recreational facility for the Harvard-Westlake School (a private school for grades 7-12) and for shared public use. The Project proposes the removal of an existing golf course, driving range, and tennis facility, to develop the following facilities: two athletic fields with bleacher seating, an 80,249 square feet, two-story gymnasium with a maximum height of 30 feet, a 52-meter swimming pool with seating, eight tennis courts with seating, one level of below-grade parking and a surface parking lot. The Project would include ancillary field buildings, three security kiosks, exterior light poles, walls/fencing, and retention of the existing clubhouse structure, putting green, low brick retaining wall with weeping mortar, and golf ball-shaped light standards. The Project would remove 215 existing trees and plant 368 new trees, include a 350,000-gallon stormwater capture and reuse system, provide 5.4 acres (235,224 square feet) of publicly accessible open space and landscaped pathways connecting to the adjacent Zev Greenway, and provide on-site landscaped areas and recreational facilities. The Project involves off-site improvements to the Valleyheart Drive public right-of-way and portions of the adjacent Zev Greenway. Project development would require excavation and grading to a maximum depth of 21 feet below grade and a net cut/fill volume of 197,000 cubic yards.

On September 26, 2023, and September 27, 2023, the City Planning Commission's actions were appealed in a timely manner by two parties: 1) the Studio City Residents Association (SCRA) and Save LA River Open Space (SLAROS), represented by Amy C. Minter of Carstens, Black, & Minter, LLP; and 2) Save Weddington Inc. (Save Weddington), represented by Jamie T. Hall of

Channel Law Group, LLP. This report serves to respond to the points raised in these appeals. Additional details and technical analyses in response to the appeals is further provided Attachment 1: ESA Memorandum of Responses to Appeal Letters.

The Appellants primarily restate and reference previous comment letters provided during the Draft EIR comment period. The City has already adequately provided detailed and full responses to the appeal points discussed in the February 21, 2022 Draft EIR comment letter submitted by Appellant 1 and the City has already adequately provided detailed and full responses and/or previous discussions pertaining to the appeal points discussed in the May 13, 2022 Appeal Justification submitted by Appellant 2. Responses are provided in the Final EIR, dated June 23, 2022. City responses are incorporated herein by reference.

SCRA and SLAROS appealed the entirety of the CPC's decision and provided the following justifications for the appeal: that the Project violates CEQA, fails to comply with the Surplus Land Act, approval of the Vesting Conditional Use Permit should be reversed, Site Plan Review was improperly approved, and that the Applicant submitted an incomplete application. Save Weddington also appealed the entirety of the CPC's decision and the appeal primarily argued that: the Conditional Use and Site Plan Review Findings are unsubstantiated and not supported by substantial evidence, and that the EIR failed to comply with the California Environmental Quality Act (CEQA).

The ESA Memorandum, attached as Attachment A and incorporated by reference in this letter, dated October 24, 2023, is provided in response to both appeals and includes two technical CEQA memos which further address lighting from scoreboards proposed at the Project Site and PFAS, and documents that there will not be any new or increased environmental impacts, and that impacts would be the same or further reduced from the Project as analyzed in the EIR.

APPELLANT 1: SCRA and SLAROS

Appeal Point 1-1

The Appellant states that they have concerns regarding the density and intensity of the project, as well as limited public access to the recreational facilities, and that the Project Site is the wrong site for a school athletic facility.

The Appellant claims that the density of development and intensity of uses are excessive, the Project would prevent ecologically superior uses at the 16-acres site along the Los Angeles River, the Project provides very limited public use with significant financial and organizational burdens, concerns regarding the use of artificial turf, and the use of the site for large special events would adversely impact the environment.

Staff Response 1-1

Regarding the density of development, the allowable Floor Area Ratio (FAR) at the Project Site is 3:1 for the A1 zone, however, the FAR approved for the Project and as conditioned under Condition of Approval No. 3 is 0.15:1, which is well below the allowable FAR for the Project Site. Condition of Approval No. 3 ensures that the density of use at the Project Site remains extremely low. Additionally, a school use within the A1 zone is an allowable use with a conditional use permit. The Conditional Use approved for the school by the City Planning Commission includes conditions of approval which further limit the operation and intensity of use of the site, and includes findings which demonstrate how the project will enhance the built environment, will perform a function or provide a service which will be beneficial to the community, will be compatible with the surrounding neighborhood, and conforms with applicable plans.

The Appellant also states that the project would prevent an ecologically superior use of the site. The designated land use and zoning for the site and the Conditional Use allow for the school athletic facility use on the site. As analyzed in the EIR (Draft EIR Section V and Final EIR Chapter 3, Revisions, Clarifications, and Corrections to the Final EIR) a reasonable range of feasible alternatives to the Project was described and considered under CEQA. Pursuant to CEQA Guidelines Section 15126.6 (a) “[a]n EIR shall describe a range of reasonable alternatives to the project, or to the location of the project, which would feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the project, and evaluate the comparative merits of the alternatives. An EIR need not consider every conceivable alternative to a project. Rather it must consider a reasonable range of potentially feasible alternatives that will foster informed decision making and public participation. An EIR is not required to consider alternatives which are infeasible. ...” The Alternatives analyzed in the EIR were designed to reduce the Project’s significant noise and vibration impacts while still feasibly attaining most of the objectives of the Project. Utilization of the Project Site wholly for an ecological use would not meet the basic objectives of the Project.

Regarding the public use and access of a portion of the site, the EIR (Draft EIR Section II and Final EIR Chapter 2, Responses to Comments) analyzed operational activities regarding public use for the evaluation of the environmental impacts under CEQA, and clearly addresses that public use and access to the Project Site is an integral component of the Project. Additionally, as conditioned in Condition of Approval Nos. 18 and 20, public access and use of the Project Site and much of its athletic facilities are generally available from 7:00 a.m. to 9:00 p.m. when not in use by the school. While a reservation system will be implemented for public use of recreational facilities on the Project Site to accommodate those who wish to use the facilities, there would not be a fee required for public use and access.

The Appellant further contends that there would be adverse environmental impacts associated with the use of artificial turf and special events at the site. As analyzed in the EIR (Draft EIR Section IV.H and Final EIR Chapter 2, Responses to Comments) the Project would not adversely affect public health or welfare through the use of artificial turf for the two athletic fields. Furthermore, as conditioned in Condition of Approval No. 31, artificial turf shall only be used at the Project Site if the artificial turf complies with California Assembly Bill 1423 (Schiavo, 2023), and utilize temperature reducing coatings. If at any point the artificial turf is not in compliance with future state and local legislation, the artificial turf shall be replaced with a suitable and compliant alternative, with the artificial turf responsibly recycled. Regarding special events at the Project Site, the impact analysis in the EIR adequately addresses operational activities for special events and that use of the Project Site for special events would not result in an environmental impact.

The Appellant has failed to demonstrate how the Project’s density and intensity are inappropriate for the site or how the Project would be a source of adverse environmental impacts, and therefore the appeal point should be denied.

Appeal Point 1-2

The Appellant alleges that the Project violates CEQA.

The Appellant alleges that the EIR lacks an adequate Project Description; fails to assess future use of existing school facilities; improperly relies on Project Design Features (PDFs); fails to consider the School’s history of violating conditions; fails to adequately analyze project impacts (aesthetics, air quality, biological resources, climate change, hydrology and water quality, land

use, tribal cultural resources, noise, transportation and traffic, recreation, public health, cumulative impacts, and alternatives); and that the City lacks support for the overriding benefits of the Project.

Staff Response 1-2

Regarding the EIR's project description, the EIR includes both text and figures describing the entirety of the Project's physical and operational features, including the public use and accessibility of the site and athletic facilities. The Project Description and impact analysis sections of the EIR adequately covers operational activities regarding public use and accessibility, therefore the Project Description is adequate for the evaluation of the environmental impacts under CEQA. Please see Staff Response 1-1 regarding public use and access of the Project Site.

As discussed in the Technical Modification to the Staff Recommendation Report, and incorporated into the City Planning Commission's determination, Council District 4 provided a discrete set of 25 proposed conditions addressing public access and use, sustainability and open space, streetscape improvements, events, and construction phase, which resulted in minor modifications to Conditions of Approval. Of these conditions the most notable include: (1) Removal of the proposed three-foot high fence along Valley Spring Lane and Bellaire Avenue; (2) Reduced fence heights, with a maximum height of eight-feet, except for fencing around the tennis courts and the east side of Field A; (3) No build out of the Coldwater Canyon River ramp, leading from Coldwater Canyon Avenue to the Zev Greenway; (4) Replacement of the decomposed granite in the outdoor open courtyard adjacent to the Clubhouse building and the tennis courts, with landscape and plants to create a pocket park as publicly accessible open green space; (5) Construction of all electric/carbon-free buildings; (6) Recommendation for using natural grass turf for Fields A and B, instead of artificial turf; however, if artificial turf would be used, it would need to comply with pending state and local legislation; (7) Installation of a new controlled pedestrian crosswalk at the intersection of Whitsett Avenue and Valleyheart Drive; and (8) A decrease in the number of events at the Project Site. As a result of these minor modifications to the Project's Conditions of Approval, the construction of the Coldwater Canyon ADA-compliant ramp was removed from the Project Description, with this change incorporated into the City Planning Commission's determination. The additional technical CEQA memos attached to the Technical Modification as Attachment G documented that the requested conditions from Council District 4 would not result in any new or increased environmental impacts as a result of these minor modifications to the Project, and that impacts would be the same or further reduced from the Project analyzed in the EIR. Therefore, the Project Description is adequate for the evaluation of the environmental impacts under CEQA.

The Appellant's claim that the EIR is required to assess future use of the existing school athletic facilities on its Upper School campus is unsubstantiated and falls outside the scope of the proposed project. The Project does not include any existing or future changes to the athletic facilities at the Upper School campus located on Coldwater Canyon Avenue nor is there any evidence in the record that suggest otherwise. The EIR (Draft EIR and Final EIR Chapter 2, Responses to Comments) adequately addressed the need for the Project and specified that the Project is intended to supplement the existing athletic facilities at the Upper School campus, not replace them.

The Appellant's claim that the EIR improperly relies on PDFs is unjustified. The Project's PDFs are all appropriate components of the Project, as analyzed as part of the Project in the Draft EIR, and are not relied upon to reduce impacts to less than significant. The EIR (Draft EIR; Final EIR Chapter 2, Responses to Comments; and Final EIR Chapter 3, Revisions, Clarifications, and Corrections to the Draft EIR) adequately analyzed the impacts of the Project with the PDFs as Project components incorporated into the Project. The Project PDFs are clearly integral to the Project and were clearly identified as such in the EIR. The EIR adequately discusses the Project

PDFs and potential impacts and did not utilize PDFs to avoid or omit discussion of the Project's potentially significant impacts.

The Appellant's claim that the EIR failed to address the school's history of violating conditions is similarly unsubstantiated. The Upper School campus does not have a Conditional Use Permit and does not have an EIR or any mitigation measures. The Appellant has failed to identify any conditions of approval or mitigation measures that it believes the Harvard-Westlake School will not comply with based on the school's prior environmental record. Further, pursuant to LAMC Section 12.24 F, the City has the ability to revoke the Conditional Use Permit if the Harvard-Westlake School does not comply with the Conditional Use Permit and any conditions of approval, which include the Mitigation Monitoring Program.

Contrary to the Appellant's statements, the Initial Study and the EIR (Draft EIR Impact Analysis Sections IV.A through IV.O.3, Section V, Section VI, Final EIR Chapter 2, Responses to Comments, and Final EIR Chapter 3, Revisions, Clarification, and Corrections to the Draft EIR) adequately analyzed impacts to aesthetics, air quality, biological resources, greenhouse gasses, hydrology and water quality, land use, tribal cultural resources, transportation, recreation, public health, cumulative impacts, and alternatives, concluding a less than significant impact or less than significant with mitigation. Additionally, the EIR (Draft EIR Section IV.K and Final EIR Chapter 2, Responses to Comments) adequately analyzed noise and vibration related impacts, concluding temporarily significant and unavoidable impacted related to Project-level on- and off-site construction, cumulative off-site construction, and Project-level and cumulative off-site vibration for human annoyance. However, as discussed in the Technical Modification to the Staff Recommendation Report, and incorporated into the City Planning Commission's determination, the off-site improvements at Coldwater Canyon Avenue to construct an ADA-compliant ramp leading from Coldwater Canyon Avenue to the Zev Greenway river trail will no longer be built out, thereby eliminating the temporary significant and unavoidable impacts for Project-level and cumulative off-site vibration for human annoyance. Therefore, the Initial Study and the impact analyses in the EIR adequately identified any impacts related to aesthetics, air quality, biological resources, greenhouse gasses, hydrology and water quality, land use, tribal cultural resources, noise, transportation and traffic, recreation, public health, cumulative impacts, and alternatives. Furthermore, traffic impacts related to vehicle delay are not considered to be impacts under CEQA. The Appellant is referred to Staff Response 1-1 regarding the Project's use of artificial turf.

Pursuant to CEQA Guidelines Section 15126.6 (a) "[a]n EIR shall describe a range of reasonable alternatives to the project, or to the location of the project, which would feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the project, and evaluate the comparative merits of the alternatives. An EIR need not consider every conceivable alternative to a project. Rather it must consider a reasonable range of potentially feasible alternatives that will foster informed decision making and public participation. An EIR is not required to consider alternatives which are infeasible. ..." As analyzed in the EIR (Draft EIR Section V and Final EIR Chapter 3, Revisions, Clarifications, and Corrections to the Final EIR) a reasonable range of feasible alternatives was described and considered under CEQA.

The Appellant's claim that the statement of overriding consideration lacks support and that the project description as an overriding benefit is misleading is unsubstantiated. All required findings were included in the City Planning Commission's decision to certify and adopt the EIR, including CEQA Findings and a Statement of Overriding Consideration (Pages F-32 through F-136). As discussed in the CEQA Findings and the EIR, the Project would result in significant and unavoidable impacts to noise and vibration. Nevertheless, the Project would enhance public

access to open space and recreational facilities as an overriding benefit of the Project. Therefore, substantial evidence supports the City Planning Commission's adoption of the Statement of Overriding Consideration. The Appellant is referred to Response to Comment 1-1 regarding public use and access to the Project Site.

The Appellant has failed to demonstrate how the Project fails to comply with CEQA and the inadequacy of the City's findings and therefore, the appeal point should be denied.

Appeal Point 1-3

The Appellant alleges that the Project does not comply with the Surplus Land Act.

The Appellant alleges that the Project is partially on County land, that the County does not have documentation showing land having been offered to a public recreational agency prior to the lease or sale of the land to a private entity.

Staff Response 1-3

A portion of the Project Site (approximately 1.1 acres) is land owned by the County of Los Angeles Flood Control District. The City notes that the 1.1 acres of land to which the comment refers has been leased by the former and current owners of the Project Site for many decades, and that three of the existing golf course holes as well as portions of three existing tennis courts rely on such land. The Appellant's claim that the Project does not comply with the Surplus Land Act is a matter for the County of Los Angeles Flood Control District to consider and address. Accordingly, the Draft EIR identified the County of Los Angeles Flood Control District as a Responsible Agency. The Appellant has failed to demonstrate that the decision-maker has erred or abused its discretion in approving the project, therefore the appeal point should be denied.

Appeal Point 1-4

The Appellant alleges that the approval of the Vesting Conditional Use should be reversed.

The Appellant alleges that the required Vesting Conditional Use Findings are not supported by substantial evidence and therefore, cannot be made. The Appellant further alleges that the Project cannot be approved as proposed because additional conditions must be imposed on the Project that may allow for a legally adequate approval. The Appellant provides a list of revisions to the Project for consideration by the City.

Staff Response 1-4

The Appellant's claim that Vesting Conditional Use Findings are not supported by substantial evidence and therefore, cannot be made is unsubstantiated. All required findings were included in the City Planning Commission's determination, including Findings 1a and 1b which require the City to demonstrate how "The project will enhance the built environment in the surrounding neighborhood or will perform a function or provide a service that is essential or beneficial to the community, city, or region" and how "The Project's location size, height, operations and other significant features will be compatible with and not adversely affect or further degrade adjacent properties, the surrounding neighborhood, or the public health, welfare, and safety" (Pages F-1 through F-5), as well as Finding 1c which requires the City to demonstrate how "The Project substantially conforms with the purpose, intent and provisions of the General Plan, the applicable community plan, and any applicable specific plan" (Pages F-5 through F-18). As discussed in the City Planning Commission's determination's findings, the Project would provide a wide range of athletic and recreational uses and programs for the School's students, the public/community, the City, and the region as a whole, while also providing direct access from the Project Site to the Zev Greenway river trail. The allowable Floor Area Ratio (FAR) at the Project Site is 3:1 for the A1 zone, however, the FAR approved for the Project and as conditioned under Condition of Approval

No. 3 is 0.15:1, which is well below the allowable FAR for the Project Site. Condition of Approval No. 3 ensures that the density and intensity of use at the Project Site remains extremely low. The operation and intensity of use of the Project Site is further limited through the conditions of approval for the project. Additionally, the A1 zone allows for a school use at the Project Site with a conditional use permit.

The EIR (Draft EIR Section II and Final EIR Chapter 2, Responses to Comments) analyzed operational activities regarding public use for the evaluation of the environmental impacts under CEQA, and clearly addresses that public use and access to the Project Site is an integral component of the Project. Additionally, as conditioned in Condition of Approval Nos. 18 and 20, public access and use of the Project Site and much of its athletic facilities are generally available from 7:00 a.m. to 9:00 p.m. when not in use by the School. While a reservation system will be implemented for public use of recreational facilities on the Project Site to accommodate those who wish to use the facilities, there would not be a fee required for public use and access.

The Appellant claims that the Project requires additional conditions to be imposed and revisions to strengthen and better define the Conditions of Approval and on-going mitigation, including proposals to reduce the physical and operational components of the project, prohibiting the removal of any old-growth trees, ensuring the entire complex is open to the public, maintaining other components of the site that the Appellant deems as “historic” or “native land”, requiring additional water reclamation, and additional traffic and parking mitigation. The Conditions of Approval in the City Planning Commission’s determination letter, issued on September 12, 2012, adequately address the use, size, seating, artificial turf, special events, wall/fence heights, lighting, landscaping and pathways, clubhouse and putting green, trees, public access and hours of operation, historic cultural resources, parking and vehicular access, shuttles, Parking and Transportation Management Program, and water reclamation and stormwater capture components of the Project. These Conditions of Approval, which include compliance with the Mitigation Monitoring Program, were deemed appropriate by the City Planning Commission, and are supported by substantial evidence and Findings in the determination letter. With respect to compliance with the Conditions of Approval, Harvard-Westlake will be required to provide documentation to demonstrate compliance with the mitigation measures, PDFs, and Conditions of Approval prior to permits being issued by the City. As such, as with mitigation measures and PDFs, Conditions of Approval are fully enforceable.

The Appellant has failed to demonstrate the inadequacy of the City’s findings or the need for additional or revised conditions and therefore, the appeal point should be denied.

Appeal Point 1-5

The Appellant alleges that the Site Plan Review was improperly approved.

The Appellant alleges that the required Site Plan Review was improperly approved and should be revoked because the Project would result in impacts that have not been evaluated, impacts to public safety, and that there is inadequate mitigation.

Staff Response 1-5

The Appellant’s claim that the Site Plan Review for the Project was improperly approved and should be revoked is unsubstantiated and no substantial evidence has been provided to support the claim. All required findings were included in the City Planning Commission’s determination, including Finding 2a and 2b which required the City to demonstrate how “The project is in substantial conformance with the purposes, intent and provisions of the General Plan, applicable community plan, and any applicable specific plan” (Pages F-18 through F-31) and how “The project consists of an arrangement of buildings and structures (including height, bulk and

setbacks), off street parking facilities, loading areas, lighting, landscaping, trash collection, and other such pertinent improvements, that is or will be compatible with existing and future development on adjacent properties and neighboring properties” (Page F-31 through F-32). Contrary to the Appellant’s statements, the Initial Study and the EIR (Draft EIR and Final EIR) adequately analyzed all environmental impacts, included all feasible mitigation measures to mitigate all environmental impacts to the extent feasible, and concluded that the Project would not result in any impacts to public safety.

The Appellant has failed to demonstrate how the Site Plan Review was improperly approved and therefore the appeal point should be denied.

Appeal Point 1-6

The Appellant alleges that the Applicant submitted an incomplete application.

The Appellant alleges that the Department of City Planning Application (previously referred to as the Master Land Use Application) submitted by the Applicant was incomplete because it did not include information for special events at the Project Site and all approvals of the Project should be revoked pending submission of a complete and accurate application and analysis of the Project’s impacts based on a complete disclosure of the Project uses.

Staff Response 1-6

The Appellant’s claim that the Applicant did not disclose special events on the submitted application forms is unjustified as the Applicant submitted the Environmental Assessment Form in conjunction with the Department of City Planning Application (submitted in March 2020) adequately disclosing that Project would include special events at the Project Site throughout the year. The EIR (Draft EIR and Final EIR Chapter 2, Responses to Comments, Response ORG 7C-1) included both text and figures describing the whole of the Project and the special events that would take place at the Project Site. Additionally, as conditioned in Condition of Approval No. 19, special events at the Project Site would be further limited from what was analyzed in the EIR. Nevertheless, the impact analysis in the EIR adequately covers operational activities regarding special events is adequate for the evaluation of the environmental impacts under CEQA. The Appellant has failed to demonstrate how the submitted application materials are incomplete and therefore the appeal point should be denied.

Attachments 1 through 12

The Appellant submitted 12 attachments to their appeal justification, which included: 1) Comments on Draft Environmental Impact Report for Harvard-Westlake River Park Project, ENV-2020-1512-EIR, dated May 10, 2022; 2) Comments on the Final Environmental Impact Report for the Harvard-Westlake River Park Project, ENV-2020-1512-EIR, dated July 11, 2023; 3) Land Protection Partners’ report regarding Impacts of *Light Pollution from the Harvard-Westlake River Park Project*, dated August 21, 2023; 4) Review of the Draft Environmental Impact Report’s Noise Analysis from Steve Rodgers Acoustics, *Harvard-Westlake Project Further Information/Analysis Required to Support the DEIR Noise Analysis*, dated August 12, 2022; 5) Review and comments of the Draft Environmental Impact Report Noise Analysis from Menlo Scientific Acoustics, Inc., *Harvard-Westlake River Park Project Acoustic Review*, dated July 18, 2023; 6) Public Employees for Environmental Responsibility (PEER) analysis of artificial turf, *Summary of PFAS leaching test done on blades and backing for artificial turf Field Turf Sample*; 7) Comments on the Final Environmental Impact Report from Aperture, *FEIR Report Review – Commentary*, dated July 11, 2023; 8) Comments on the Environmental Impact Report from Angelenos For Trees; 9) Comments on the Final Environmental Impact Report from Autumn Winds Associates, *Comments for Submittal to the Los Angeles City Planning Department Regarding Treatment of Valley Fever in the Harvard-Westlake River Park Project FEIR*; State Clearinghouse Number 2020090536,

dated July 10, 2023; 10) The Environmental Protection Agency appendix to Municipal Separate Storm Sewer System permit and an article regarding the use of artificial turf, *The dark side of artificial greening: Plastic turfs as widespread pollutants of aquatic environments*; 11) *Summary of Violations by Harvard-Westlake School, 3700 Coldwater Canyon Avenue*; and 12) PEER's *Summary of PFAS and Other Chemicals of Concern in Harvard-Westlake's Proposed Field Turf Vertex Core 2.5* and Eurofin's Analytical Report on Harvard-Westlake – Field Turf Vertex Core.

Attachment 1 was responded to in the Harvard-Westlake River Park Project Final EIR, Chapter 2 Responses to Comments, Response Nos. ORG 7A-1 through ORG 7A-201. Attachments 2, 4, 5, 7, 8, and 9 were responded to in staff's Technical Modification to the City Planning Commission, *Exhibit H - Supplemental Responses to Comments CPC-2020-1511-VCU-SPR*, dated August 23, 2023. Attachments 3, 6, 10, 11, and 12 have been responded to in Attachment A to this letter, *Memorandum from ESA of Responses to Appeal Letters*, dated October 24, 2023.

APPELLANT 2: SAVE WEDDINGTON

Appeal Point 2-1

The Appellant alleges that the City Planning Commission's approval of the Vesting Conditional Use is unsubstantiated and that the Findings are not supported by substantial evidence.

The Appellant alleges that there is no substantial evidence in the record that the Project will be compatible with adjacent properties, the surrounding neighborhood, or the public health, welfare, and safety, and that the removal/replacement of trees and grass with buildings and paved surfaces will exacerbate the urban heat island effect. Additionally, the Appellant alleges that the Project is not consistent with the Sherman Oaks – Studio City – Toluca Lake – Cahuenga Pass Specific Plan because the Project would replace the existing golf course with a high-intensity school sports facility.

Staff Response 2-1

The Appellant's claim that the Project's significant features (including replacement of trees and grass with structures, artificial turf, and concrete) will not be compatible with the adjacent properties, surrounding neighborhood, or the public health and welfare, and will exacerbate the urban heat island effect and that the Project is not consistent with the Sherman Oaks – Studio City – Toluca Lake – Cahuenga Pass Community Plan is unjustified as Harvard-Westlake has requested a Conditional Use Permit and Height Determinations to allow for the construction and operation of the athletic facilities. All required findings were included in the City Planning Commission's determination, including Findings 1a and 1b, which require the City to demonstrate how "The project will enhance the built environment in the surrounding neighborhood or will perform a function or provide a service that is essential or beneficial to the community, city, or region" and how "The Project's location size, height, operations and other significant features will be compatible with and not adversely affect or further degrade adjacent properties, the surrounding neighborhood, or the public health, welfare, and safety" (Pages F-1 through F-5), as well as Finding 1c which requires the City to demonstrate how "The Project substantially conforms with the purpose, intent and provisions of the General Plan, the applicable community plan, and any applicable specific plan" (Pages F-5 through F-18).

Contrary to the Appellant's statements, as analyzed in the EIR (Draft EIR Section IV.G and Final EIR Chapter 2, Responses to Comments), the Project would be compatible with the adjacent properties and surrounding neighborhood, would not adversely affect or further degrade the public health and welfare, would not exacerbate the urban heat island effect, and would be compatible

with the not consistent with the Sherman Oaks – Studio City – Toluca Lake – Cahuenga Pass Community Plan. The Community Plan is implemented by the zoning of the site, and the proposed school and athletic facility use is permitted through the Conditional Use permit. The Project's new buildings on the site would not exceed the allowable 30 foot height, and the Floor Area Ratio of the development on site would be 0.15:1, less than the allowable 3:1 FAR and less than surrounding development, ensuring that all buildings would be compatible with the adjacent properties and surrounding neighborhood. Further, the Project's wall and fence heights are intended as a barrier to protect the neighborhood from noise and lighting impacts, while allowing for additional passive and visual open space to be retained as part of the Project. The Project would result in an overall increase of 153 more trees on site, which would help to offset the urban heat island effect and would minimize the amount of concrete and hardscape materials used throughout the site. As further analyzed in the EIR (Draft EIR Section IV.H and Final EIR Chapter 2, Responses to Comments) the Project would not adversely affect public health or welfare through the use of artificial turf for the two athletic fields.

The Appellant has failed to demonstrate inadequacy of the City's findings and therefore, the appeal should be denied.

Appeal Point 2-2

The Appellant alleges that the City Planning Commission's approval of the Site Plan Review is unsubstantiated and that the Findings are not supported by substantial evidence.

The Appellant alleges that there is no substantial evidence in the record that the Project is consistent with the Sherman Oaks – Studio City – Toluca Lake – Cahuenga Pass Specific Plan because it does not retain existing open space, would be an incompatible high-intensity use. The Appellant also alleges that the Project is not compatible with existing and future development on adjacent properties and neighborhood properties because the Project would replace open space with school sports facilities, remove green space that reduces the urban heat island effect, destroy visible trees, and install visible fences along the Site's street frontages.

Staff Response 2-2

The Appellant's claim that the Project is not consistent with the Sherman Oaks – Studio City – Toluca Lake – Cahuenga Pass Community Plan and will directly degrade neighboring properties, reduce effective access to open space, remove essential green space that reduces the urban heat island effect, and destroys visible trees is unsubstantiated and no substantial evidence has been provided to support the claim. All required findings were included in the City Planning Commission's determination, including Finding 2a and 2b, which required the City to demonstrate how "The project is in substantial conformance with the purposes, intent and provisions of the General Plan, applicable community plan, and any applicable specific plan" (Pages F-18 through F-31) and how "The project consists of an arrangement of buildings and structures (including height, bulk and setbacks), off street parking facilities, loading areas, lighting, landscaping, trash collection, and other such pertinent improvements, that is or will be compatible with existing and future development on adjacent properties and neighboring properties" (Page F-31 through F-32). The Appellant is referred to Staff Response 2-1 regarding consistency with the Sherman Oaks – Studio City – Toluca Lake – Cahuenga Pass Community Plan, the Project's effect on neighboring properties, the urban heat island effect, and trees.

The Project will provide 5.4 acres of publicly accessible open space, landscaped pathways connecting to the Zev Greenway river trail, on-site landscaped areas, and recreational facilities available for public use, and will increase the amount of publicly accessible open space on the

site as compared to existing conditions. The Appellant has failed to demonstrate inadequacy of the City's findings and therefore, the appeal should be denied.

Appeal Point 2-3

The Appellant alleges that the Project fails to comply with CEQA.

The Appellant alleges that the DEIR does not set forth a proper Project Description; incorporates mitigation measures into the scope of the Project; the Project Description does not describe the extended authorization for special events and public use or include mitigation to limit annual events; under-identifies impacts for biological resources, cultural resources, greenhouse gases, hazardous materials, noise and vibration, police services, transportation, and utility systems; and that TRAF-PDF-3 is unenforceable. Additionally, the Appellant states that the EIR must clarify the extent and limitations of public use of the Site; that the EIR included deficient analyses for cumulative impacts, hazardous materials, greenhouse gasses, traffic, air quality, biological resources, and historic resources; the EIR failed to consider adequate alternatives or alternative sites and relied on an improperly limited related projects list.

Staff Response 2-3

Regarding the adequacy of the Project Description in the EIR, the EIR includes both text and figures describing the whole of the Project, special events, and public use of the site and athletic facilities. In addition, as conditioned in Condition of Approval No. 19, special events at the Project Site would be further limited from what was analyzed in the EIR. The impact analysis in the EIR adequately covers operational activities regarding special events and public use, and the Project Description is adequate for the evaluation of the environmental impacts under CEQA and properly utilizes feasible mitigation measures to reduce the impacts of the Project.

Contrary to the Appellant's statements, the EIR (Draft EIR Sections IV.C, IV.D, IV.G, IV.H, IV.L.2, IV.M, IV.O.1, IV.O.2, and IV.O.3, and Final EIR Chapter 2, Responses to Comments) adequately analyzed impacts to air quality, biological resources, cultural and historic resources, greenhouse gasses, hazardous materials, police services, transportation, utility and service systems, and cumulative impacts, concluding a less than significant impact or less than significant with mitigation. Additionally, the EIR (Draft EIR Section IV.K and Final EIR Chapter 2, Responses to Comments) adequately analyzed noise and vibration related impacts, concluding temporarily significant and unavoidable impacted related to Project-level on- and off-site construction, cumulative off-site construction, and Project-level and cumulative off-site vibration for human annoyance. However, as discussed in the Technical Modification to the Staff Recommendation Report, and incorporated into the City Planning Commission's determination, the off-site improvements at Coldwater Canyon Avenue to construct an ADA-compliant ramp leading from Coldwater Canyon Avenue to the Zev Greenway river trail will no longer be built out, thereby eliminating the temporary significant and unavoidable impacts for Project-level and cumulative off-site vibration for human annoyance. Therefore, the impact analyses in the EIR adequately identified any impacts related to air quality, biological resources, cultural and historic resources, greenhouse gasses, hazardous materials, noise and vibration, police services, transportation, utility and service systems, and cumulative impacts. Furthermore, traffic related to vehicle delay is not considered to be an impact under CEQA.

Contradictory to the Appellant's claim, TRAF-PDF-3 is enforceable through the requirement of tickets and parking passes for spectators to park at the Project Site during an event and through review and approval of a Parking and Transportation Management Plan. With respect to the enforceability of PDFs, PDFs, like mitigation measures, are included in a project's Mitigation Monitoring Program (see Chapter 4, Mitigation Monitoring Program, of the Final EIR). Harvard-Westlake will be required to provide documentation to demonstrate compliance mitigation

measures, PDFs, and Conditions of Approval prior to permits being issued by the City. As such, as with mitigation measures, PDFs are fully enforceable.

Pursuant to CEQA Guidelines Section 15126.6 (a) “[a]n EIR shall describe a range of reasonable alternatives to the project, or to the location of the project, which would feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the project, and evaluate the comparative merits of the alternatives. An EIR need not consider every conceivable alternative to a project. Rather it must consider a reasonable range of potentially feasible alternatives that will foster informed decision making and public participation. An EIR is not required to consider alternatives which are infeasible. ...” As analyzed in the EIR (Draft EIR Section V and Final EIR Chapter 3, Revisions, Clarifications, and Corrections to the Final EIR) a reasonable range of feasible alternatives was described and considered under CEQA.

As analyzed and discussed in the EIR, a one-half mile radius of the Project Site plus one-quarter mile from the farthest outlying intersection was used to determine the list of related projects that could affect conditions in the Project area. The Appellant does not provide substantial evidence to support the claim that the list of related projects was improperly limited or that the cumulative analysis was inadequate.

The Appellant has failed to demonstrate how the Project fails to comply with CEQA and therefore the appeal point should be denied.

Corrections to Conditions of Approval

A subsequent review of the determination letter issued with the City Planning Commission’s actions warrants corrections to address typographical errors.

The following are modifications to Conditions of Approval Nos. 15a and 19a.i of the Vesting Conditional Use Conditions and Condition of Approval No. 31c of the Site Plan Review Conditions from the City Planning Commission determination dated September 12, 2023 for Case No. CPC-2020-1511-VCU-SPR. Deleted text is shown in ~~strikethrough~~ and added text is shown in underline.

Vesting Conditional Use Condition 15.a, Page C-5

15. Parking and Transportation Management Program.

- a. The School shall develop and implement a Parking and Transportation Management Program that will be employed by the School for all athletic competitions or Special Events that are expected to draw more than 300 attendees. The Program shall include additional measures such as a left-turn prohibition on Special Event days, ~~for~~ for off-site parking at the Upper School campus, attendant-assisted parking, temporary increases in traffic management and parking personnel as needed, use of security personnel, signage, and/or other measures. The School shall submit the Program to the Department of Transportation prior to the issuance of the first Certificate of Occupancy. The Program may be modified to incorporate new technologies or techniques in parking and transportation management.

Vesting Conditional Use Condition 19.a.i.2, Page C-7

19. Special Events.

- a. **School Related Special Events.** The Project Site may be used to host up to 20 School-related Special Events per calendar year, including both weekday and weekend events. Special Events are defined as any non-athletic, non-recreational, or non-regular academic activity involving more than 100 persons.
 - i. Of the 20 Special Events:
 - 1) 12 may have up to 250 people, six may have up to 500 people and two may have up to 2,000 people;
 - 2) **No more than** 15 can occur on a weekday, 10 on a Saturday, and five on a Sunday;

Site Plan Review Condition 31.c, Page C-11

31. Parking and Transportation Management Program.

- c. Decomposed granite in the outdoor courtyard area, located adjacent to the Clubhouse building and tennis courts, and north of the northern driveway shall ~~not~~ only be utilized for pathways, and the outdoor area shall be improved with new landscaping and plants for a pocket park and as publicly accessible green space on the Project Site.

CONCLUSION

Upon careful consideration of the appeals, staff has determined the Appellants' objections lack merit and do not demonstrate that the City erred or abused its discretion in certifying the EIR and approving the Project. In addition, no new substantial evidence was presented that the City has erred in its actions relative to the EIR and the associated entitlements; nor was any new information presented to dispute the Findings of the EIR or the City Planning Commission's actions on this matter.

Therefore, staff recommends that the appeals be denied and that the actions of the City Planning Commission to certify the EIR and approve Case No. CPC-2020-1511-VCU-SPR be sustained, and that the corrections recommended in this report be incorporated as modified Conditions of Approval.

Sincerely,

VINCENT P. BERTONI, AICP
Director of Planning



Kimberly Henry
City Planner

VPB:MZ:MN:kh

Enclosures

Attachment A: Memorandum from ESA of Responses to Appeal Letters, dated October 24, 2023

- c: Andrea Conant, Chief of Staff, Council District 4 – Raman
 Mashael Majid, Planning & Community Development Director, Council District 4 – Raman
 Karo Torossian, Chief of Staff, Council District 2 – Krekorian
 Craig Bullock, Planning Deputy, Council District 2 - Krekorian

ATTACHMENT A

Memorandum from ESA of
Responses to Appeal Letters
CPC-2020-1511-VCU-SPR-1A
Council File No. 23-1101



626 Wilshire Boulevard
Suite 1100
Los Angeles, CA 90017
213.599.4300 **phone**
213.599.4301 **fax**

esassoc.com

MEMORANDUM

date October 24, 2023

to Kimberly Henry, City of Los Angeles

from Mike Harden and Alan Sako, Environmental Science Associates (ESA)

subject Responses to Appeal Letters, Harvard-Westlake River Park Project, Los Angeles, California

BACKGROUND

The City of Los Angeles (City), as Lead Agency, prepared an Environmental Impact Report (EIR) in accordance with the California Environmental Quality Act (CEQA), to evaluate the potential environmental effects associated with the proposed Harvard-Westlake River Park Project (Project). At the onset of the environmental review process and pursuant to the provisions of CEQA Guidelines Section 15082, the City prepared an Initial Study and circulated a Notice of Preparation (NOP) of a Draft Environmental Impact Report (Draft EIR) for public comment to the State Clearinghouse, Office of Planning and Research, responsible agencies, and other interested parties on September 30, 2020 for a 30-day public review period. Following the circulation of the NOP, the City prepared technical studies and a Draft EIR to identify and evaluate the potential environmental effects of the Project, indicate whether any significant effects could be mitigated or avoided, and analyze potentially feasible alternatives to the Project. The City published a Notice of Completion and Availability (NOCA) of a Draft EIR, with the Draft EIR being made available for public review from March 10, 2022 through May 10, 2022. The original review period was increased to 47 days because the end of the 45-day public review fell on the weekend. While the City met all applicable CEQA requirements during the initial 47-day public review period, the City, in response to public interest in extending the Draft EIR's review and comment period, extended the public review period for an additional 15 days for a total of 62 calendar days. On May 24, 2023, the City made available a Final EIR, which included responses to all public comments received during the Draft EIR public review period.

The City Planning Commission's August 24, 2023 approval of the Project (the "Entitlements") and certification of the EIR was appealed. The appeal letters are from Jamie Hall with Channel Law Group, LLP, on behalf of Save Weddington, dated September 26, 2023 (referred herein as "Letter 1"); and Amy C. Minter with Carstens, Black & Minter, LLP, on behalf of Studio City Residents Association (SCRA) and Save LA River Open Space (SLAROS), dated September 26, 2023 (referred herein as "Letter 2"). ESA has provided responses below to address the comments provided in both appeal letters.

APPEAL RESPONSES

LETTER 1

Comment 1-1

This office represents Appellant Save Weddington in its appeal of the City Planning Commission's August 24, 2023 approval of the Harvard-Westlake Project, which expands Harvard Westlake School's sports facilities at steep environmental cost. The Project proposes the destruction of 240 mature, healthy trees and unimproved grassy area and its replacement with an 80,249 square-foot gymnasium, astroturf, a parking lot and a sea of concrete punctuated by immature replacement trees providing negligible habitat or shade value. Appellant hereby appeals the Vesting Conditional Use, height determination, and Site Plan Review approvals (the "Entitlements") and the certification of the Environmental Impact Report ("EIR") for the Project.

Response to Comment 1-1

This comment introduces the Appellant who is appealing the Vesting Conditional Use, height determination, and Site Plan Review approvals (the "Entitlements") and the certification of the EIR for the Project. Based on the responses below and those included in the Final EIR addressing the Appellant's comments, the Appellant has provided no substantial evidence of significant new information that the City's findings related to the Project's Vesting Conditional Use, height determination, Site Plan Review approvals (the i.e., the "Entitlements") and the certification of the EIR for the Project are inadequate, nor is there any evidence that the Draft EIR is fundamentally flawed to support a contention that the Draft EIR is required to be recirculated pursuant to CEQA Guidelines Section 15088.5. As such, the revision and recirculation of the Draft EIR is not necessary.

Comment 1-2

I. THE COMMISSION FAILED TO SUBSTANTIATE THE VESTING CONDITIONAL USE FINDINGS

The following findings are not supported by substantial evidence:

The project's location, size, height, operations and other significant features will be compatible with and will not adversely affect or further degrade adjacent properties, the surrounding neighborhood, or the public health, welfare, and safety.

There is no substantial evidence in the record that the Project's significant features – including its replacement of trees and grass with structures, artificial turn [sic] and concrete – will be compatible with adjacent properties, the surrounding neighborhood, or public health welfare. The loss of trees and the replacement of grass with buildings and paved surfaces will exacerbate the urban heat island effect significantly. The Commission's findings do not address these features or their impacts on the surrounding properties.

Response to Comment 1-2

The City Planning Commission's findings approving the vesting conditional use (CUP) findings are supported by substantial evidence, and clearly include facts supporting the City Planning Commission's unanimous decision to approve the CUP. Furthermore, Appellant provides no facts or evidence questioning the City Planning Commission's approval. The Project Site, located along the Los Angeles River and less than 500 feet from Ventura Boulevard, a major thoroughfare in the area, is currently developed with a private golf course, 16 tennis courts and a café. Generally, the Project will replace the existing uses with two athletic fields with bleacher seating, an 80,249 square foot, two-story gymnasium with a maximum, conforming height of 30 feet, a 52-meter swimming pool with seating, eight tennis courts with seating, one level of below-grade parking and a small surface parking lot. The Project will also provide 5.4 acres (235,224 square feet) of publicly accessible open space and landscaped pathways connecting the adjacent Zev Greenway to the Project Site, and provide on-site landscaped areas and recreational facilities. Unlike the existing conditions, members of the community will have access to portions of the Project Site. In essence, the Project would redevelop and modernize a private golf and recreational facility with a variety of athletic and recreational activities for school and public use that will provide a service that will benefit the School and will allow regular access to recreational uses for the community, the City, and the region as a whole.

But for a limited number of light poles and walls/fences, all of the proposed buildings and walls/fences are at or below the maximum height requirement of the zoning of the site. In fact, the multi-family buildings directly across the street from the Project Site along Whitsett Avenue are taller than the proposed gymnasium. A small section of walls and fences around the tennis courts and the north and east side of Field A will reach a maximum height of 10 feet, in as much the same manner that existing tennis courts are surrounding by fences with non-conforming heights. The Project's fences/walls, which will be landscaped, exceed the height limitation to reduce noise impacts to nearby uses as well as to keep tennis balls within the tennis courts. By designing the Project with taller light poles and fences/walls, the Project would further benefit the students and community by allowing greater public access and reducing the number of light poles, therefore enhancing the built environment in the surrounding neighborhood and would perform a function and provide a service that is essential and beneficial to the community, City, and region.

The Project removes 215 existing trees and plants 368 new trees, resulting in a net increase of at least 153 trees. Note that the Draft EIR evaluated the removal of 240 trees and planting 393 trees. At the request of Council District 4, 25 fan palms in the public right-of-way along Valley Spring Lane would be preserved by the Project. Thus, the current number of trees to be removed and planted has decreased by 25 trees compared to the Draft EIR. The City Planning Commission's approval requires non-native trees removed as part of the Project be replaced with two 24-inch box trees (at a minimum) that shall be of native species that comply with the RIO District and Los Angeles County Master Plan Landscaping Guidelines. Furthermore, the School is conditioned to remove all invasive palms (e.g., Mexican fan palms are monocots, closer in taxonomy to reeds or grasses than trees) on the Project Site and replace them at a 1:1 ratio with RIO compliant trees. Moreover, as discussed in Topical Response No. 5 – Biological Resources/Trees of the Final EIR and in the Carbon Sequestration and Tree Canopy Study included in Appendix C of the Final EIR, the Project would provide more canopy coverage and greater carbon sequestration than under current conditions in part because: while the Project Site currently has a canopy coverage of approximately 20 percent, the Project's canopy coverage would reach approximately 15 percent by year five and approximately 28 percent by year 10 of Project operation, thereby reaching similar coverage within five to ten years and thereafter exceeding current coverage; at year 25 of Project operation, 53 percent of the Project Site would be under canopy

coverage, or approximately 2.5 times more coverage than existing conditions, largely as a result of the relatively poor biological characteristics of the existing tree mix including the prevalence of Mexican fan palms on the Project Site; rates of annual carbon sequestration (measured as pounds of CO₂) during year two of Project operation would be approximately equivalent to existing sequestration rates while after the second year of Project operation, the replacement trees would sequester CO₂ at increasingly greater rates than existing trees; and, over the lifetime of the replacement trees, Project trees would result in approximately 8.7 million pounds of CO₂ sequestration compared to 2.6 million pounds that would be sequestered under existing conditions, again due to the relatively poor biological characteristics of the existing tree mix including the prevalence of Mexican fan palms.

Finally, the Project also includes the use of artificial turf at the two fields and a stormwater capture and reuse system. As conditioned, the artificial turf must be compliant with California Assembly Bill 1423 (Schiavo, 2023), as amended July 3, 2023, even though the Governor vetoed AB 1423 on October 8, 2023. Furthermore, while AB 1423 would not have required compliance until 2026, the School voluntarily agreed to be immediately bound by AB 1423, and if the State, County, or City adopt future regulations prohibiting the use of artificial turf, the School has agreed to replace its artificial turf to comply with the law, in essence giving up all grandfathering rights.

The use of artificial turf at the two fields would reduce the overall quantity of water used at the Project Site for maintaining the fields. It would also eliminate the need for fertilizers, pesticides, and herbicide at the Project Site, which is a significant benefit for the surrounding community. Reducing the Project's water usage and the use of fertilizers, pesticides, and herbicide at the Project Site would enhance the overall built environment at the Project Site and for the surrounding neighborhood. The Project would include an approximately 350,000-gallon stormwater capture and reuse system to collect and treat water from the Project Site. The treated water would then be reused at the Project Site for irrigation of the native landscaping. When the stormwater capture and reuse system reaches capacity, it will continue to collect and treat water, but would release the treated water into the Los Angeles River, which would also help to enhance the built environment.

Therefore, the record is clear that the Project's location, size, height, operations and other significant features will be compatible with and will not adversely affect or further degrade adjacent properties, the surrounding neighborhood, or the public health, welfare, and safety. In fact, the Project will enhance the surrounding neighborhood and the public health, welfare, and safety.

Comment 1-3

The project substantially conforms with the purpose, intent and provisions of the General Plan, the applicable community plan, and any applicable specific plan.

The Project site is designated as open space according to the Sherman Oaks-Studio City- Toluca Lake-Cahuenga Pass Community Plan. Community Plan Policy 5-1.1 provides for the preservation of open space from incompatible encroachments by encouraging "the retention of passive and visual open space which provides a balance to the urban development of the Plan Area." The Project eliminates the golf course and results in encroachment of high-intensity school sports facilities into open space areas. There is simply no substantial evidence supporting a finding of consistency with the Community Plan.

Response to Comment 1-3

The City Planning Commission's findings approving the CUP included substantial evidence and facts to support their decision that the Project substantially conforms with the purpose, intent and provisions of the General Plan, the applicable community plan, and any applicable specific plan. Furthermore, Appellant provides no facts or evidence questioning the City Planning Commission's approval.

A general rule for consistency determinations can be stated as follows: An action, program, or project is consistent with the general plan if, considering all its aspects, it will further the objectives and policies of the general plan and will not inhibit or obstruct their attainment. Any given project need not be in perfect conformity with each and every policy of the general plan if those policies are not relevant or leave the city or county room for interpretation.

Below is the entire General Plan Goal that the Appellant cites.

Goal 5 A Community with Sufficient Open Space in Balance with Development to Serve the Recreational, Environmental and Health Needs of the Community and to Protect Environmental and Aesthetic Resources

Objective 5-1: To preserve existing open space resources and where possible develop new open space.

Policy 5-1.1: Encourage the retention of passive and visual open space which provides a balance to the urban development of the Plan Area.

Policy 5-1.2: Accommodate active parklands, and other open space uses.

Policy 5-1.3: Require development in major opportunity sites to provide public open space.

The Project Site, which is a privately owned and operated golf course with tennis courts and a café, is identified in the Sherman Oaks - Studio City - Toluca Lake - Cahuenga Pass Community Plan as a major development opportunity site. As it currently exists, unless an individual pays to enter the Project Site to play golf or tennis or to eat at the cafe, the public is prohibited from entering the Project Site. While the Project would continue to be privately owned and operated, it would provide 5.4 acres of publicly accessible landscaped pedestrian pathways and open space that circumnavigate the site, an ADA-compliant ramp providing direct access to the Zev Greenway river trail, two fields, eight tennis courts, a pool, and gymnasium facilities that will be accessible to the public when not in use by the School. In addition, the Project would retain the majority of the existing mature trees along Bellaire Avenue and Valley Spring Lane, including the Mexican fan palms within the public right-of-way along Valley Spring Lane, and plant new native trees and plants to visually screen the on-site athletic and recreational uses and provide a balance to the surrounding urban development.

The Project Site currently provides the community with no open space – the Project Site is a golf course with tennis courts. The Project, however, provides the community 5.4 acres of publicly accessible space, including a pocket park along Whitsett Avenue and a three-quarter of a mile pedestrian pathway and open space that will circumnavigate

the Project Site. In fact, the City's River Revitalization Plan encourages the construction of "Neighborhood Walking Loops", and specifically provides that "[n]eighborhood Walking Loops will be routes that individuals and families can follow along the River. Walking Loops are important for promoting fitness and can also define the local character of the River's diverse neighborhoods and communities." Therefore, the Project would promote active parkland and open space uses by accommodating for public use of the athletic and recreational facilities.

Comment 1-4

II. THE COMMISSION FAILED TO SUBSTANTIATE THE SITE PLAN REVIEW FINDINGS

The following findings are not supported by substantial evidence:

The project is in substantial conformance with the purposes, intent and provisions of the General Plan, applicable community plan, and any applicable specific plan.

The Project is not consistent with the applicable Community Plan because it does not provide for the retention of the golf course's open space and instead approves an incompatible high-intensity encroachment inconsistent with Community Plan Policy 5-1.1. Therefore, substantial evidence cannot support this finding.

Response to Comment 1-4

The City Planning Commission's findings approving the site plan review included substantial evidence and facts to support their decision that the Project substantially conforms with the purpose, intent and provisions of the General Plan, the applicable community plan, and any applicable specific plan. Furthermore, not only does the Appellant provide no facts or evidence questioning the City Planning Commission's approval, it incorrectly infers that the applicable Community Plan Policy requires the preservation of the existing golf course, and that any other potential uses are therefore "incompatible".

As discussed in Response to Comment 1-3, above, the Project is consistent with Community Plan Policy 5-1.1, which simply does not require the retention of the private golf course.

Comment 1-5

The project consists of an arrangement of buildings and structures (including height, bulk and setbacks), off-street parking facilities, loading areas, lighting, landscaping, trash collection, and other such pertinent improvements, that is or will be compatible with existing and future development on adjacent properties and neighboring properties.

This finding lacks substantial evidence. The Project's extensive expansion of school sports facilities into open space facilities will directly degrade neighboring properties, reducing effective access to open space, removing essential green space reducing the urban heat island effect and destroying countless trees visible from the nearby community. Over-height fences on Whitsett Avenue and Valley Spring Lane will degrade the neighborhood along its two primary frontages as visible from neighborhoods to the north and east of the Property. Therefore, there is no substantial evidence in the record to support this finding.

Response to Comment 1-5

The City Planning Commission's findings approving the site plan review included substantial evidence and facts to support their decision that the Project consists of an arrangement of buildings and structures (including height, bulk and setbacks), off-street parking facilities, loading areas, lighting, landscaping, trash collection, and other such pertinent improvements, that is or will be compatible with existing and future development on adjacent properties and neighboring properties. Furthermore, the Appellant provides no facts or evidence questioning the City Planning Commission's approval.

Furthermore, the Project Site, which is and has been for decades, privately owned, is operated as a private golf course with tennis courts and a café. As discussed in Response to Comment 1-2, above, the Project will provide 5.4 acres (235,224 square feet) of publicly accessible open space and landscaped pathways connecting the adjacent Zev Greenway to the Project Site, and provides on-site landscaped areas and recreational facilities. Unlike the existing conditions, members of the community will have free access to significant portions of the Project Site. In essence, the Project would redevelop and modernize a private golf and recreational facility with a variety of athletic and recreational activities for school and public use that will provide a service that will benefit the School and will allow regular access to recreational uses for the community, the City, and the region as a whole. Therefore, not only is it unsubstantiated to claim that the Project will reduce "effective" access to open space, as it will actually increase access to open space for community members.

The Project removes 215 existing trees and plants 368 new trees, resulting in a net increase of at least 153 trees. Note that the Draft EIR evaluated the removal of 240 trees and planting 393 trees. At the request of Council District 4, 25 fan palms in the public right-of-way along Valley Spring Lane would be preserved by the Project. Thus, the current number of trees to be removed and planted has decreased by 25 trees compared to the Draft EIR. The City Planning Commission's approval requires non-native trees removed as part of the Project be replaced with two 24-inch box trees (at a minimum) that shall be of native species that comply with the RIO District and Los Angeles County Master Plan Landscaping Guidelines. Furthermore, the School is conditioned to remove all invasive palms (e.g., Mexican fan palm are monocots, closer in taxonomy to reeds or grasses than trees) on the Project Site and replace them at a 1:1 ratio with RIO compliant trees. Furthermore, and as thoroughly discussed on pages IV.G-72 through IV.G-77 in Section IV.G, *GHG Emissions*, of the Draft EIR, the Project would not have a significant impact with respect to an urban heat island effect due in part to its increase in trees, deflection of solar radiation, and evapotranspiration compared to existing conditions.

As discussed in the draft EIR, "[u]nder existing conditions, in order to maintain an appropriate, manicured playing field for golf, the Project Site has limited understory landscaping and ornamental vegetation, non-diverse and non-native trees (whose primary function is to delineate one golf hole from another) and non-native turf grass. The Project would replace the existing golf uses with new athletic and recreational facilities, including outdoor athletic fields utilizing artificial grass as a sustainable alternative to turf grass, thereby reducing irrigation water demand, which would reduce the Project's GHG emissions associated with water conveyance and wastewater treatment, and avoiding the use of pesticides." (Draft EIR pg. IV-G-73) Furthermore, and "[a]ccording to the USEPA, trees help reduce urban heat island effects by shading building and ground surfaces, deflecting radiation from the sun, and releasing moisture into the atmosphere, which results in cooling through evapotranspiration. (U.S. Environmental

Protection Agency, Reduce Urban Heat Island Effect, November 2, 2020, <https://www.epa.gov/green-infrastructure/reduce-urban-heat-island-effect>, accessed December 1, 2020.) The increase in trees would help offset some of the highly-localized surface temperature warming effects from the proposed outdoor athletic fields utilizing artificial grass through increased Site-wide tree shading, deflection of solar radiation, and evapotranspiration compared to existing conditions.” (Draft EIR pg. IV-G-74)

But for a limited number of light poles and walls/fences, all of the proposed buildings and walls/fences are at or below the maximum height requirement. Existing development near the Project Site includes multi-family buildings directly across the street from the Project Site along Whitsett Avenue, and the existing multi-family buildings significantly exceed the height of the proposed walls and fences. A small section of walls and fences around the tennis courts and the north and east side of Field A will reach a maximum height of 10 feet, in much the same manner that existing tennis courts are surrounded by fences with non-conforming heights. The Project’s fences/walls, which will be landscaped, slightly exceed the height limitation to reduce noise impacts to nearby uses as well as to keep tennis balls within the tennis courts. By designing the Project with the proposed fences/walls, the Project will be compatible with existing and future development on adjacent properties and neighboring properties.

Therefore, the record contains substantial evidence that the Project consists of an arrangement of buildings and structures (including height, bulk and setbacks), off-street parking facilities, loading areas, lighting, landscaping, trash collection, and other such pertinent improvements, that is or will be compatible with existing and future development on adjacent properties and neighboring properties.

Comment 1-6

III. THE PROJECT FAILS TO COMPLY WITH CEQA

As articulated in Appellant’s May 10, 2022 letter, the Environmental Impact Report (“EIR”) for the proposed Project is deficient. The DEIR fails to set forth a proper project description because it incorporates mitigation measures into the scope of the project itself, under-identifying impacts for biological resources, cultural resources, greenhouse gas impacts, hazardous materials impacts, noise and vibration impacts, police service impacts, transportation impacts and utility systems impacts.

Response to Comment 1-6

This comment references comments provided in the Appellant’s May 10, 2022 letter. Specifically, the comment states the DEIR did not include a proper project description because it incorporates mitigation measures into the scope of the project itself. This issue is thoroughly addressed in the Final EIR for the Project. As discussed in Response No. ORG 1B-8, the Project’s projects design features (PDFs) are all appropriate components of the Project and not mitigation measures. The Draft EIR analyzed the impacts of the Project with the PDFs as Project components incorporated into the Project. Pursuant to CEQA, mitigation measures are not part of the original project design, but instead are actions taken by the lead agency to reduce impacts to the environment resulting from the original project design. (CEQA Guidelines Sections 15126.4(a) and 15370.) Mitigation measures are identified by the lead agency while a project is undergoing environmental review, and not finalized until the end of the environmental review process, and are above-and-beyond existing laws, regulations, and requirements that would reduce environmental

impacts. Moreover, CEQA encourages the incorporation of project elements that would reduce or avoid any potential significant impacts. Accordingly, most projects include avoidance and minimization measures or environmental commitments into the project design as part of the project description. The CEQA Guidelines also reference these types of features in Section 15064(f)(2) and Section 15126.4(a)(1)(A). Examples of PDFs that may address environmental impacts include construction traffic management plans, transportation demand plans, use of energy efficient lighting, use of solar panels, and building standards in excess of the requirements of Title 24 of the California Building Code. These are not considered mitigation measures because they are part of the project that is undergoing environmental review. The Project's PDFs are clearly integral to the Project even when they are incorporated in order to ensure that the Project is environmentally sensitive or to show the manner in which a regulatory requirement would be carried out.

Moreover, case law is clear that use of PDFs that do have the effect of avoiding or lessening a potential impact are not prohibited by CEQA so long as the characterization of the measure does not improperly interfere with identification of the potential environmental impact.

The Draft EIR adequately discusses the PDFs and potential impacts and at no time utilizes PDFs to avoid discussion of the Project's potential impacts or appropriate mitigation measures. Rather than hiding the impacts, the purpose of the PDFs, or the mitigation measures, the Draft EIR sets them out in several places. Table ES-1, *Summary of Project Impacts, Project Design Features, and Mitigation Measures*, specifically lists the project's environmental impacts and lists which PDFs and mitigation measures are used to determine the Project's impacts (Draft EIR pages ES-15 through ES-25). Additionally, for ease of reference to all the PDFs and mitigation measures without having to go through each environmental topic discussion, pages ES-26 through ES-31 sets forth each PDF while pages ES-31 through ES-35 sets forth each mitigation measure. These entries are followed by a full analysis of the Project's impacts and the incorporated PDFs and mitigation measures in Chapter IV, *Environmental Impact Analysis*, of the Draft EIR. The City further ensures that PDFs are enforceable components of the Project by including all the PDFs in the Mitigation Monitoring Program (MMP) (see Final EIR Chapter 4.0, *Mitigation Monitoring Program*).

See also, Response Nos. ORG 1B-24 through ORG 1B-35 in the Final EIR for responses to specifically questioned PDFs.

Comment 1-7

The Project Description is also inadequate because it fails to describe the extended authorization for special events and public use, or to mitigate or Project impacts by including a mitigation measure limiting use to 27 annual events up to 500 people and 3 annual events up to 2,000 people per year.

Response to Comment 1-7

The comment asserts that the Project Description is faulty because there are no mitigation measures to ensure that Harvard-Westlake does not have more large events than described in the Draft EIR. This issue is thoroughly addressed in the Final EIR for the Project. As discussed in Response No. ORG 1B-13, the Draft EIR clearly states that the events discussed in the comment are "up to 30 school-related special events per year". (Draft EIR at page

II-50.) Further, the following PDF was added to Chapter 3, *Revisions, Clarifications, and Corrections to the Draft EIR*, and Chapter 4, *Mitigation Monitoring Program*, of the Final EIR.

NOI-PDF-4: Special Events. Harvard-Westlake will have no more than 30 school-related special events with the following limitations on attendance: no more than 27 special events per year of up to 500 people and no more than three (3) special events per year of up to 2,000 people.

To further reduce the number of events, the following condition of approval (part of Condition No. 19) was required for special events hosted by the School consistent with a conditioned letter of project support from Councilmember Nithya Raman dated August 14, 2023 and at the direction of the City Planning Commission at its meeting on August 24, 2023:

19. Special Events.

- a. School Related Special Events. The Project Site may be used to host up to 20 School-related Special Events per calendar year, including both weekday and weekend events. Special Events are defined as any non-athletic, non-recreational, or non-regular academic activity involving more than 100 persons.

- i. Of the 20 Special Events:

- 1) 12 may have up to 250 people, six may have up to 500 people and two may have up to 2,000 people;
 - 2) 15 can occur on a weekday, 10 on a Saturday, and five on a Sunday;

- ii. Special Events held outdoors shall end by 9:00 p.m. and Special Events held indoors shall end by 10:00 p.m.

However, even without the added PDF (or the condition of approval), the comment does not provide facts to support the contention that the Project Description is inadequate. The discussion of the types of school athletic, recreational and special events and non-school use of the Project Site is clearly set forth in Chapter II, *Project Description*, of the Draft EIR. The Project Description need only contain a general description and should not supply extensive detail beyond that needed for evaluation and review of the environmental impacts (CEQA Guidelines Section 15124).

Chapter IV, *Environmental Impact Analysis*, of the Draft EIR evaluated the thirteen environmental subjects identified in the Initial Study, as supported by technical reports provided in the appendices to the Draft EIR. In order to reflect the most conservative potential environmental conditions, the evaluations are based on “worst case scenario” assumptions, as applicable. An example of the “worst case scenario” is the Draft EIR evaluation of operational noise impacts including a 2,000-person “special event” (maximum public event) along with concurrent athletic activities, traffic, mechanical, and parking noise, and the assumption that all “special event” attendees are simultaneously talking in a loud voice and clapping at the same time. Please see Section IV.K, *Noise*, pages IV.K-56 and IV.K-57 and Table IV.K-20, *Composite Noise Impacts*, of the Draft EIR, which shows that noise impacts

under this “worst case scenario,” supported by detailed modeling as substantial evidence, were determined to be less than significant. Note that modifications to the Project would change the noise levels from on-site activities, however the composite noise levels would be the same or less as analyzed in the Draft EIR. See Topical Response No. 2 – Modifications to the Project Design, Topical Response No. 8: Noise Construction and Operation, and Chapter 3, *Revisions, Clarifications, and Corrections to the Draft EIR*, of the Final EIR, which discuss the noise with the Project modifications.

This conservative approach for all applicable subjects was used to encompass the full extent of the Project’s potential environmental effects. However, from a transportation perspective, as discussed in Topical Response No. 9 - Transportation and Parking During Construction and Operations, of the Final EIR, the 500-attendee event is considered the worst-case special event from a traffic perspective because it would have an assumed average vehicle occupancy (AVO) of 1.0 and result in 500 vehicles, whereas attendees to the 2,000-attendee event would be required to arrive via shuttles or buses with an assumed AVO of 40, resulting in 50 vehicles. In addition, as discussed in the Final EIR, the Project’s design modifications discussed in Topical Response No. 2 - Modifications to the Project Design, would reduce the number of parking spaces from 532 to 403 spaces. As the Project with the design modifications would reduce the outbound trips to 403 or below, there would be a proportionate reduction in Project trips during the 5:00 to 6:00 P.M. peak hour Special Event scenario in Year 2025. Thus, related traffic impacts would be reduced due to the Project’s design modifications compared to those analyzed as part of the Transportation Assessment for the Project included in the Draft EIR.

Therefore, the comment provides no substantial evidence that the Project Description in the Draft EIR was inadequate and further, that the likely number of special events described in the Draft EIR would create a significant impact or a significant cumulative impact, or that the Draft EIR underestimates Project and cumulative impacts.

Comment 1-8

Project Design Feature TRAF-PDF-3 is entirely unenforceable for non-school events and would not reduce impacts. The EIR must clarify the extent and limitations of public use of the site.

Response to Comment 1-8

This comments states that Project Design Feature TRAF-PDF-3 is entirely unenforceable for non-school events and would not reduce impacts. The comment does not provide substantial evidence or facts to support the contention. Project Design Feature TRAF-PDF-3 is shown below, in its entirety, as revised in the Final EIR.

TRAF-PDF-3: On days in which event attendance is expected to surpass 300 spectators, including parents and other spectators, students will not be permitted to drive to the Project Site and will be required to use the Harvard-Westlake School’s shuttle service. Shuttles will follow a prescribed driving route, travelling northbound on Coldwater Canyon Avenue, turning right at Moorpark Street, and turning right onto Whitsett Avenue. Spectators will park on the Project Site, and tickets and parking passes will be required to enter the Project Site. Spectators without a parking pass will be directed to park on Harvard-Westlake’s Upper School campus and ride the Harvard-Westlake School-provided shuttles to the Project Site. Parking in the neighborhood will not be permitted and will be enforced by security personnel.

A Parking and Transportation Management Plan will be employed by Harvard-Westlake School for all athletic competitions or Special Events that are expected to draw more than 300 attendees. The Parking and Transportation Management Plan will include appropriate tools to manage and control traffic and parking for competitions or events so that impacts to the surrounding areas are minimized. Potential measures will include, but are not limited to, left-turn prohibition on Special Event days, a parking reservation system to manage attendance, off-site parking at the Harvard-Westlake Upper School campus, attendant-assisted parking, temporary increases in traffic management and parking personnel as needed, use of security personnel, signage, and other measures. This Plan will be submitted to LADOT for review and approval prior to the issuance of a Certificate of Occupancy for the Project. The Plan will be monitored for a minimum of three (3) years with annual monitoring reports submitted by the Harvard-Westlake School to LADOT for review.

Non-School related special events would include the use of the gymnasium building and Field A for up to five public special events (i.e., non-School related events) per calendar year. Non-School special events are defined as any non-athletic activity involving more than 100 persons. These events would be limited to Field A or the gymnasium and would end by 10:00 p.m. Non-School special events attendance would not exceed 400 persons. The Project's provided on-site parking would include 403 parking spaces. The number of parking spaces would accommodate all public visitors during the maximum non-school event if no concurrent School uses take place, such that no off-site parking would be necessary. If School athletic activities were to occur concurrently with a public special event, such that combined attendance is expected to exceed 300 persons, Project Design Feature TRAF-PDF-3 requires a Parking and Transportation Management Plan, including but not limited to off-site parking at the Upper School campus. In addition, it is acknowledged that the method of enforcement for TRAF-PDF-3 (i.e., security guards not permitting a person to enter private property) is a common measure for CUPs, and specifically for schools.

Furthermore, regarding the ability of security personnel to enforce the on-street parking restriction, it is acknowledged that Harvard-Westlake has no authority to tell people what they can or cannot do in public places. Nevertheless, the Project Site is privately-owned and Harvard-Westlake can control access to its private property. If someone attempts to enter the Project Site for an athletic competition or special event, they would be stopped by security personnel. Security personnel would determine where the visitor parked, and if the visitor parked in the neighborhood, they would be denied entrance to the Project Site. Such action is within the School's legal rights.

The comment further states that the EIR must clarify the extent and limitations of public use of the site. The Draft and Final EIR thoroughly describe public use of the site. The Draft EIR is clear that public access to the Project Site is an integral part of the Project. As described in Chapter II, *Project Description*, of the Draft EIR on pages II-2 and II-33 through II-35 (subsection titled, "Public Use of the Project Site"), the Project has been designed to provide daily, 7:00 a.m. to 9:00 p.m., public access to an approximately 0.75-mile landscaped pathway and other landscaped areas totaling 5.4 acres, and continued all day public use of the putting green and clubhouse/café. In addition, as shown in Table II-3, *Public Use Days and Hours*, on page II-34 of the Draft EIR, the public would have use of the tennis courts when courts are available, even if some of the courts are in use by the School. Public use of the tennis courts could be through walk-on play or through advanced reservations. Table II-3 also describes the hours of public use for all of the Project's on-site facilities (i.e., park areas, gymnasium community room, gymnasium courts, swimming pool, athletic fields, clubhouse, café, and putting green). Furthermore, the Final EIR provides a 7-page Topical Response No. 3 – Enforcement of Public Access, dedicated to a discussion of the School's commitment to

providing public access to the community on the Project Site, including describing how the School will be required to provide public access and how the School or City will guarantee the public access. As such, the EIR thoroughly described the extent and limitations of public use of the site.

Comment 1-9

The EIR also included deficient cumulative analysis, deficient analysis of hazardous materials, greenhouse gas impacts and traffic and deficient analysis of impacts to air quality resources, biological resources and historic resource impacts. The EIR failed to consider adequate alternatives or alternative sites. The EIR relied on an improperly limited related projects list, tainting cumulative analysis.

Response to Comment 1-9

This comment provides general statements that the EIR provided deficient cumulative analysis, deficient analysis of hazardous materials, greenhouse gas impacts and traffic and deficient analysis of impacts to air quality resources, biological resources and historic resource impacts. The comment does not provide substantial evidence or facts to support these contentions. To the contrary, the Draft EIR included substantial evidence that supported the appropriate conclusions that the Project's impacts were adequately evaluated based on the State's CEQA Guidelines and applicable City of Los Angeles policies and procedures.

The comment also states that the EIR did not consider adequate alternatives. The comment contains no facts to support this contention. Chapter II, *Project Description*, pages II-13 through II-14 of the Draft EIR contain a list of nine Project Objectives in addition to the underlying purpose of supplementing the School's existing recreational facilities. The scope of the Objectives range from fulfilling school needs to providing for public recreational opportunity to incorporating environmentally sustainable features. As such, the Project Objectives are reasonable, provide the public with access and recreational opportunities to private property, and do not limit the range of alternatives for the decisionmakers to consider. CEQA Guidelines 15126.6(a) only requires an EIR to evaluate a reasonable range of alternatives. There is no requirement that all possible alternatives be considered. In determining which alternatives to evaluate, the lead agency is governed by a "rule of reason"; needing "only those alternatives necessary to permit a reasoned choice" (CEQA Guidelines Section 15126.6(f)). The selection of alternatives is consistent with CEQA Guidelines because the alternatives evaluated in the Draft EIR would reduce the Project's construction noise and vibration impacts (albeit impacts would remain significant and unavoidable), reduce many of the Project's less than significant impacts (acknowledging a few impacts may be greater than the Project's) while largely achieving most of the Project's basic objectives either fully, substantially or partially. Also, as explained on page V-6 of the Draft EIR, no alternative sites are available which would meet the Project objectives and result in lessened impacts. Moreover, Harvard-Westlake owns the Project Site and cannot acquire an existing public school site. Please also refer to Response Nos. 1B-104 through 1B-106 of the Final EIR.

This comment states that the EIR relied on an improperly limited related projects list, tainting cumulative analysis. The comment contains no evidence that any relevant projects were omitted nor facts to show that the radius determined to be appropriate by Los Angeles Department of Transportation (LADOT) and the City of Los Angeles Department of City Planning was insufficient. Contrary to the implication in the comment, the Draft EIR does

explain how it determined the appropriate geographic area. As explained on page III-5 in Chapter III, *Environmental Setting*, of the Draft EIR, “[a] list of proposed development projects in the area of the Project that could affect conditions in the Project area (e.g., by generating population increases requiring public services) was prepared based on information obtained primarily from LADOT and the City of Los Angeles Department of City Planning. According to the LADOT Transportation Assessment Guidelines (TAG), related projects are new development within a one-half mile radius of the Project Site plus one-quarter mile from the farthest outlying intersection.” The methodology used to establish the related projects radius is consistent with guidelines and EIRs regularly evaluated for other projects throughout the City. The comment provides no facts to show that this standard City radius for determining the appropriate list of related projects is not adequate.

Furthermore, the list of related projects is based on the City’s standard practice of including any known new projects within the area established by the TAG to be the area where cumulative impacts may occur. As stated in the Draft EIR, for some of the environmental topic analysis the potential for a cumulative impact goes beyond the immediate area of the Project and, therefore, the analysis for that topic goes beyond the listed related projects (Page III-4 in Chapter III, *Environmental Setting*, of the Draft EIR at). There is no restriction on type of use of related projects in the Draft EIR analysis. Finally, the EIR analyses conservatively included Related Project No. 1 (The Shops at Sportsmen’s Landing) even though construction for that project was at or nearing completion during the Draft EIRs circulation.

Based on the above, the comment does not provide substantial evidence that there is an increase in the severity of a cumulative impact or that the Draft EIR is fundamentally flawed to support a contention that the Draft EIR’s cumulative analyses were inadequate.

Comment 1-10

IV. CONCLUSION

On behalf of Appellant, we respectfully request that you grant the appeal, deny the Entitlements or require recirculation of the EIR. I may be reached at 310-982-1760 or jamie.hall@channellawgroup.com.

Response to Comment 1-10

Based on the responses above and those included in the Final EIR addressing the Appellant’s comments, the Appellant has provided no substantial evidence of significant new information that the City’s findings related to the Project’s Vesting Conditional Use, height determination, Site Plan Review approvals (i.e., the Entitlements) and the certification of the EIR for the Project are inadequate, nor is there any evidence that the EIR is fundamentally flawed to support a contention that the EIR is required to be recirculated pursuant to CEQA Guidelines Section 15088.5. As such, the revision and recirculation of the Draft EIR is not necessary.

LETTER 2

Comment 2-1

On behalf of the Studio City Residents Association (“SCRA”) and Save LA River Open Space (“SLAROS”), we provide this summary of our reasons for appeal of the City Planning Commission’s approval of the Harvard-Westlake athletic facility project at 4047 – 4155 North Whitsett Avenue; 12506 – 12630 West Valley Spring Lane (“Project”).

SCRA is an all-volunteer membership organization that advocates for and enhances the quality of life in Studio City. The SCRA’s volunteers educate our members and create a platform for the interests, concerns and passions regarding the Studio City community. SCRA consists of more than 2,100 members in the community surrounding the proposed Project site on what is now the site of Weddington Golf & Tennis. SLAROS is a non-profit volunteer organization working with SCRA in their commitment to protect the last remaining 16 acres of unprotected open space along the Los Angeles River in the San Fernando Valley.

SCRA and SLAROS have serious concerns regarding the density and intensity of development proposed as part of Harvard-Westlake’s Project, as well as the limited public access to the recreational facilities on the Project site. The Harvard-Westlake School (“School”) has proposed to cram two large sports fields with artificial turf and a 50-meter swimming pool, with hundreds of bleacher seats and 80-foot-tall lighting and LED scoreboards, a two-story, 80,249-square-foot multi-purpose gymnasium and an approximately 400-space subterranean parking garage on the site after eliminating the existing popular golf course and driving range and the hundreds of mature trees located on the Project site.

Large numbers of community members, environmentalists and recreation enthusiasts agree that this is the wrong site for a massive athletic facility. SCRA and SLAROS most significant concerns regarding the proposed Harvard-Westlake athletic facility are:

Response to Comment 2-1

This comment provides a general introduction of the Appellant and to the Appellant’s concerns provided in this letter. This introductory comment does not address the adequacy of the EIR and no further response is necessary.

Comment 2-2

- the excessive density of development and intensity of proposed uses of the site;

Response to Comment 2-2

This comment expresses a general concern about the density of development and intensity of proposed uses of the Project Site. The comment does not provide substantial evidence or facts to support these contentions. The Project Site is zoned A1-1XL-RIO. Furthermore, the Project’s approved density (which is described by the City as the floor area ratio) is 0.15:1, which is not only an extremely low dense/intense project, but also one of the lowest dense/intense projects in the Project Site’s general vicinity. The “A1” zone, which allows one-family dwellings,

parks, golf courses, and farming among other uses, and also permits a school use with a conditional use permit (CUP).¹ LAMC Section 12.24.T.3(b) explicitly permits schools and school-related facilities within an agricultural (A) zone and in all residential (R) zones under a CUP. Most private schools in the City operate under a CUP (public schools are not subject to the City's zoning code). Therefore, the Project's application for a CUP to operate its athletic and recreational facilities is not an unusual circumstance that indicates a conflict with the Project Site's existing zoning or the City's Zoning Code.

Comment 2-3

- this Project would result in an opportunity cost, preventing an ecologically superior use of the last remaining 16 acres of unprotected open space along the Los Angeles River in the San Fernando Valley;

Response to Comment 2-3

This comment provides a stated opinion by the commenter about a potential alternative use of the Project Site, which the City notes is a project concept advocated for by SCRA as part of its opposition to a former proposal for multi-family housing on the Project Site. To clarify the existing property rights and on-site uses, the Project Site is not public open space. The land that currently comprises Weddington Golf & Tennis, which was first purchased by the Weddington/Becker families and then sold to Harvard-Westlake in late 2017, has been privately owned since the late 1800s. No public access to the Project Site is allowed, except for fee-based tennis or golf uses, as well as access to the café. Thus, the ability to use the golf and tennis facilities on the Project Site has been controlled by the private property owners and is not a public facility open to the public as implied by the comment. Further, unlike a public property, the Project Site may be closed at the property owner's sole discretion.

Also, it is noted that the Alternatives evaluated in the Draft EIR, in accordance with CEQA requirements, were designed to reduce the Project's significant construction noise and vibration impacts. It is acknowledged that alternative site locations were evaluated in Chapter V, *Alternatives*, of the Draft EIR. The reasons that alternative sites were considered and rejected is provided in Section V, page V-6, of the Draft EIR. In addition to a site with the size to accommodate the Project Objectives, the other criteria for the Project include proximity to the existing Harvard-Westlake's Upper School campus on Coldwater Canyon Avenue and a site with level topography to allow for the development of the contemplated recreational facilities. Proximity is a criteria factor because of the need for daily commuting from the Upper School campus, as it relates to higher daily vehicle miles. As concluded in Section V, no other location with adequate acreage and topography exists within proximity to the Upper School campus.

Further, the Draft EIR evaluates a reasonable range of alternatives consistent with the requirements of the State CEQA *Guidelines* Section 15126.6(a), which states an EIR need not consider every conceivable alternative to a project. For additional discussion of the Project's adequacy of alternatives in the Draft EIR, refer to Response Nos. ORG 1B-105, ORG 1B-106, and ORG 7A-146 to ORG 7A-176 in the Final EIR.

Comment 2-4

¹ Los Angeles Municipal Code (LAMC) Section 12.05.A (A1 Zone defined uses).

- the Project provides very limited public use, with significant financial and organizational burdens;

Response to Comment 2-4

This comment offers a general opinion that the Project provides limited public use, with significant financial and organizational burdens. The Draft EIR is clear that public access to the Project Site is an integral part of the Project. As described in Chapter II, *Project Description*, of the Draft EIR on pages II-2 and II-33 through II-35 (subsection titled, “Public Use of the Project Site”), the Project has been designed to provide daily, 7:00 a.m. to 9:00 p.m., public access to an approximately 0.75-mile landscaped pathway and other landscaped areas totaling 5.4 acres, and continued all day public use of the putting green and clubhouse/café. In addition, as shown in Table II-3, *Public Use Days and Hours*, on page II-34 of the Draft EIR, the public would have use of the tennis courts when courts are available, even if some of the courts are in use by the School. Public use of the tennis courts could be through walk-on play or through advanced reservations. Table II-3 also describes the hours of public use for all of the Project’s on-site facilities (i.e., park areas, gymnasium community room, gymnasium courts, swimming pool, athletic fields, clubhouse, café, and putting green). Furthermore, the Final EIR provides a 7-page Topical Response No. 3 – Enforcement of Public Access, dedicated to a discussion of the School’s commitment to providing public access to the community on the Project Site, including describing how the School will be required to provide public access and how the School or City will guarantee the public access. Evidencing the degree to which the Project Site could be used by the public, the Draft EIR estimated that approximately 82 percent of annual uses would be by the public (Table IV.O.3.-3 on page IV.O.3-17 in Section IV.O.3, *Utilities and Service Systems – Solid Waste* of the Draft EIR). As such, the EIR thoroughly described the extent and limitations of public use of the site.

Also, the implementation of a reservations program for public use of recreational facilities on the Project Site is to accommodate smoothly those who wish to use the School’s facilities. Specifically, the requirement that groups or organizations be pre-approved ensures that the group or organization is able to provide appropriate supervision of its intended activities and participants, and that the group or organization is familiar with and abides by the conditions for use of the Project Site (including, but not limited to, preferred driving routes and the prohibition on parking in the neighborhood).

Comment 2-5

- the inclusion of artificial turf on the Project’s sports fields;

Response to Comment 2-5

This comment provides a general statement about concerns with artificial turf on the Project’s sports fields. As analyzed and discussed extensively in the Draft and Final EIRs, the use of artificial turf on the Project would not result in any significant environmental impacts. Notably, the Final EIR Topical Response No. 7 – Artificial Turf and Effects on Localized Heat and Health, addressed comments received on the Draft EIR concerning potential Project impacts related to the use of artificial turf and associated impacts on localized heat effects and health. Furthermore, the Project’s conditions of approval (No. 31.d) states that if artificial turf is utilized at Fields A and B, the artificial turf shall only be permitted if the artificial turf complies with California Assembly Bill 1423 (Schiavo, 2023), as amended July 3, 2023 (and even though the Governor vetoed AB 1423 on October 8, 2023), and utilize

temperature reducing coatings. If artificial turf becomes not compliant with future state and local legislation, it shall be replaced with a suitable and compliant alternative, with the artificial turf responsibly recycled.

Comment 2-6

- the use of the Project site for incredibly large school related special events numerous times per year.

Response to Comment 2-6

This comment provided a general concern about school related special events. However, the comment does not provide substantial evidence or facts to support this concern. As discussed in Response to Comment 1-7, above, to further reduce the number of events, a condition of approval (part of Condition No. 19) was required for specials events hosted by the School consistent with a conditioned letter of project support from Councilmember Nithya Raman dated August 14, 2023 and at the direction of the City Planning Commission at its meeting on August 24, 2023. The condition limited the School's special events to 20 per calendar year. As evaluated in the Draft EIR, no significant operational impacts (after mitigation, when applicable) would occur as a result of the School's contemplated special events.

Comment 2-7

These features of the Project are the source of adverse environmental impacts that SCRA, SLAROS, experts and many others have identified in comments on the EIR.

Herein, SCRA and SLAROS summarize the inadequacies of environmental review for the Project under the California Environmental Quality Act ("CEQA"), the violations of the Los Angeles Municipal at issue in the approval of the Project, and violations of the Surplus Land Act. We have also attached our previous detailed comments on these summarized legal violations, as well as the comments of experts.

Response to Comment 2-7

This comment provides a general reference to the Appellant's concerns discussed above and an introduction to more specific comments in the letter. See Responses to Comments 2-9 to 2-54 below, which address the Appellant's specific environmental concerns.

Comment 2-8

I. Approval of the Project Violates CEQA

The environmental impact report ("EIR") for the Project is inadequate for a number of reasons.

A. Inadequate Project Description.

First, the EIR lacks an adequate project description. As detailed in SCRA and SLAROS's previously submitted comments, the EIR fails to provide adequate information regarding the Project's public accessibility. (**Attachment**

1, SCRA and SLAROS May 10, 2022 Comments on Draft EIR pp. 8-10; **Attachment 2**, SCRA and SLAROS July 11, 2023 Comments on Final EIR pp. 3-4.) The final EIR (“FEIR”) identified provided some additional information, but this information disclosed additional barriers to public use of the Project site facilities beyond just the limited and uncertain time of availability. The FEIR disclosed financial and organizational barriers to use of the site due to fees that would be charged, insurance requirements and limits on use to only formal organized entities, but failed to assess the impacts these additional barriers would have on the public’s ability to use this site.

Response to Comment 2-9

This comment states the EIR lacks an adequate Project Description, and that the EIR fails to provide adequate information regarding the Project’s public accessibility. This similar comment was addressed in Response No. ORG 7A-3 on the Final EIR. As summarized herein, CEQA Guidelines Section 15124 specifically states that the project description “should not supply extensive detail beyond that needed for evaluation and review of the environmental impact”. Section 15124(c) states that the project description shall contain “[a] general description of the project’s technical, economic, and environmental characteristics”.

The Project’s public accessibility and intensity of School and special event use of the Project Site are adequately discussed in the Draft EIR. Chapter II, *Project Description*, Subsection 4(a)(2), *Public Use of the Project Site*, pages II-33 through II-35, of the Draft EIR provides a schedule of hours when the Project Site would be available for public use as well as the types of uses available on site to the public. Subsection 4(b)(1), pages II-47 through II-51, *Athletic and Recreational Activity* and *Special Events*, of the Draft EIR discusses the athletic and sports program anticipated by the School, the maximum scenario for the hours of the day throughout the year in which the School would be using athletic facilities, and the frequency and attendance anticipated for special events. As described therein, most of the School’s outdoor events, including those at the athletic fields, would occur in the late afternoons and would end between the hours of 4:45 p.m. to 7:45 p.m., with approximately 50 percent of school days containing no outdoor athletic activities after 5:30 p.m. Public access and use of the specific sports facilities, other than the tennis courts that would support simultaneous School and public uses, would be available prior to late afternoons during school days when not in use by the School. The details contained in Chapter II are more than sufficient to satisfy the requirements of CEQA Guidelines Section 15124 and to allow the commenter to evaluate and review any potential environmental impacts of the Project. However, for further clarification of public access and use of the Project Site, please refer to the cited subsections of the Draft EIR and Topical Response No. 3 – Enforcement of Public Access, in the Final EIR.

As discussed under Response to Comment 2-4, the implementation of a reservations program for public use of recreational facilities on the Project Site is to accommodate those who wish to use the School’s facilities. Specifically, the requirement that groups or organizations be pre-approved ensures that the group or organization is able to provide appropriate supervision of its intended activities and participants, and that the group or organization is familiar with and abides by the conditions for use of the Project Site (including, but not limited to, preferred driving routes and the prohibition on parking in the neighborhood).

The commenter states that the Final EIR disclosed financial and organizational barriers to use of the site due to fees that would be charged, insurance requirements and limits on use to only formal organized entities, but failed to assess

the impacts these additional barriers would have on the public's ability to use this site. The Draft EIR in Table II-3, Public Use Days and Hours, on page II-34 indicates the gymnasium, gymnasium courts, swimming pool and athletic fields would be available for use by pre-approved organizations. If anything, less use of the recreational facilities by the public would result in less operational impacts, which were already analyzed as less than significant according to the relevant CEQA guidelines and thresholds.

Furthermore, the entire Project Site would be available for public use, including 5.4 acres of free, publicly accessible, landscaped open space on a property with no existing free public access.

Comment 2-10

The EIR also fails to provide adequate information regarding the numerous "special events" planned for the Project site. Thus, the impacts of the special events have not been fully evaluated, in violation of CEQA.

Response to Comment 2-10

The commenter states the EIR fails to provide adequate information regarding special events and that the events have not been fully evaluated. The comment does not provide substantial evidence or facts to support this contention. Although the commenter does not provide any specific examples of impacts, issues such as noise, nighttime lighting, traffic and other impacts associated with these events were conservatively evaluated in the EIR. For example, the Draft EIR provides appropriate analyses of special event related to noise (see Draft EIR Table IV.K-14, School Related Special Event Noise Levels, Table IV.K-15, Public Special Event Noise Levels and Table IV.K-20, Composite Noise Impacts, all of which analyze event noise), lighting (would be similar to typical non-event daily lighting levels), traffic (see Draft EIR pages IV.M-22, IV.M-23, IV.M-40 and IV.M-41 which discuss special events as part of the VMT analysis) and other issues based on a worse-case scenario with maximum occupancy at the Project Site. Generally, with regard to noise and traffic impacts, impacts are based on worst-case daily impacts in compliance with applicable CEQA guidelines and thresholds, all of which were determined to be less than significant. Therefore, the EIR appropriately analyzed impacts from special events.

Comment 2-11

B. The EIR Fails to Assess Future Use of Existing School Athletic Facilities.

The School's Coldwater Canyon campus has existing athletic facilities, including a gym, sports field and track, pool and sports performance center. The EIR was required, but failed to assess the future use of these facilities, which would become redundant after Project is installed. (**Attachment 1**, pp. 10-12; **Attachment 2**, p. 4.)

Response to Comment 2-11

The commenter claims the EIR is required to include information on the future use of the School's existing facilities on the Upper School campus. The Project does not include any existing or future changes at the Upper School campus, including the reuse or change in existing recreational facilities at the Upper School campus. Please refer to Topical Response No. 13 – Need for Project (Non-CEQA), of the Final EIR, regarding the use of the Project Site to supplement, not replace, the existing facilities. The whole of the action for the Project is as described in Chapter II,

Project Description, of the Draft EIR and the comment provides no facts to support the contention that it does not. The commenter is referred to Response Nos. ORG 7A-3 and ORG 7A-22 which further addresses this concern.

Comment 2-12

C. The EIR Improperly Relies on Project Design Features.

The EIR improperly relies on “project design features” to claim that Project impacts would be less than significant. (**Attachment 1**, pp. 12-13; **Attachment 2**, pp. 4- 5.) This violates CEQA because it improperly compresses the DEIR’s disclosure and analysis function. (*Lotus v. Department of Transportation* (2014) 223 Cal.App.4th 645, 655-656.)

Response to Comment 2-12

This comment states that the EIR improperly relies on “project design features” to claim that Project impacts would be less than significant. Comment 1-6, above, raises this same concern. Please refer to Response to Comment 1-6, which discusses and confirms the Project’s project design features (PDFs) are all appropriate components of the Project and not mitigation measures per the CEQA Guidelines and applicable case law.

Comment 2-13

D. The School’s History of Violation of Conditions Must be Considered When Evaluating Impacts.

The Harvard-Westlake Coldwater Canyon campus has a long history of repeated violations of conditions of approval and code requirements. These violations included, but are not limited to: exceedance of allowable enrollment; unpermitted demolition, grading and construction in connection with 50 meter pool on the Coldwater Campus; unpermitted construction of the Kutler Center and Mudd Library and modifications to the Seaver Building; provision of inaccurate information regarding valuation of new construction; unpermitted construction of silent study/English classroom permanent building; unpermitted renovation of Chalmers Hall; unpermitted renovation of orchestra room; failure to comply with noise and lighting limits on the campus’s existing athletic fields; and unpermitted construction of parking areas. (**Attachment 11**, detailed description of violations history.)

The EIR has improperly failed to address this long history of violations in considering the impacts and compliance requirements for the proposed Project. “Because an EIR cannot be meaningfully considered in a vacuum devoid of reality, a project proponent's prior environmental record is properly a subject of close consideration in determining the sufficiency of the proponent's promises in an EIR.” (*Laurel Heights Improvement Assn. v. Regents of University of California* (1988) 47 Cal.3d 376, 420.)

Response to Comment 2-13

The Harvard-Westlake Upper School campus does not have a Conditional Use Permit and does not have an EIR or any mitigation measures. The Los Angeles Municipal Code (LAMC) Section 12.24 F already grants the City the

legal ability to revoke a conditional use permit if the School does not comply with the conditional use permit. Therefore, this comment is unrelated to the Project.

While the case is not applicable to the Project, this comment misconstrues the California Supreme Court's holding in *Laurel Heights Improvement Assoc. v. Regents of University of California* (47 Cal.3d 376) 1988). In *Laurel Heights*, the lead agency approved the proposed relocation of the School of Pharmacy at the University of California, San Francisco (UCSF) biomedical research facilities. UCSF's operation of the facility would have involved the handling of radioactive waste. Project opponents objected to the sufficiency of the mitigation measures regarding the handling of such radioactive waste. (Id. at 419). The California Supreme Court analyzed the issue on the basis of whether there was substantial evidence in the entire record to support the lead agency's adoption of the applicable mitigation measures. (Id. at 407-408). In support of its decision, the lead agency offered its commitment, similar to the City, as lead agency with regard to this Project, to monitor the effects of UCSF's activities. (Id. at 412)

In response to the evidence, opponents provided evidence of UCSF's prior difficulties in complying with regulations governing the handling of radioactive waste. (Id. at 419-420). Based on this, the Supreme Court held that "a project proponent's prior environmental record is properly a subject of close consideration in determining the sufficiency of the proponent's promises in an EIR." (Id. at 420). The Supreme Court also stated that "in balancing a proponent's prior shortcomings and its promises for future action, a court should consider..." a number of factors relating to the proponent's prior environmental record. Id. at 420.

Thus, it is clear that the School's prior environmental record is, at most, only relevant to the lead agency's consideration of the sufficiency of the mitigation measures proposed in the EIR. In essence, the Supreme Court in *Laurel Heights* held that when a person raises the issue of whether the proposed mitigation measures are strict enough given the applicant's prior compliance record, the lead agency should consider the applicant's record. The Supreme Court in *Laurel Heights* did not hold, as Appellant incorrectly claims, that the draft EIR must discuss the applicant's prior environmental record. In fact, the facts regarding UCSF's prior environmental record raised by the opponents were apparently not addressed in the draft EIR, but the Supreme Court still upheld the lead agency's decision regarding the sufficiency of the proposed mitigation measures. (Id. at 419-422) The EIR must be fairly read as a commitment by the School to comply with sound practices, which are detailed in the EIR. Here the Appellant has not identified any mitigation measures that it believes the School will not comply with based on the School's prior environmental record.

Please also see Response to Comment 2-51, below.

Comment 2-14

E. The EIR Fails to Adequately Analyze Project Impacts.

1. Aesthetic Impacts

The EIR fails to provide an adequate analysis of the Project's adverse impacts to the scenic quality of the site that would result from removing hundreds of mature trees to install athletic fields with artificial turf and large bleachers, a pool and massive multi-purpose gymnasium. It would take many years for replacement trees to reach the size of

existing trees, and the development of the overwhelming majority of the site would provide only limited availability of areas to plant replacement trees. The EIR also fails to adequately disclose night lighting impacts. (**Attachment 1**, pp. 13-15; **Attachment 2**, pp. 5-7.) As lighting experts found, the EIR does not account for light that is reflected from the site or scattered in the air, thus claims that the angle of the lighting will prevent impacts is unsupported. The EIR also failed to adequately address the lighting associated with the LED scoreboards. (**Attachment 3**, Land Protection Partners expert report on aesthetic and biological impacts of night lighting.)

Response to Comment 2-14

The comment states that the EIR did not adequately analyze the Project's impacts related to aesthetics. The Initial Study for the Draft EIR, attached to the Draft EIR as Appendix A, provided a detailed evaluation of effects of the Project relative to (a) scenic vistas, (b) scenic resources, (c) scenic character, and (d) light and glare. Under the Initial Study, any issue that has the potential to exceed CEQA threshold standards is deferred for further evaluation in the Draft EIR. Based on CEQA threshold standards, the evaluation of the Project's impacts on scenic vistas, scenic resources, and scenic character were determined in the Initial Study to be less than significant. Few panoramic views are available across the Project Site and, as such, further analysis was not deferred to the Draft EIR. The Project Site is not located within the view field of a State Scenic Highway and would not impact scenic resources within a State Scenic Highway. Regarding Aesthetics Threshold (c), scenic quality, CEQA requires that a project located in an urbanized area should not conflict with applicable zoning and other regulations governing scenic quality. Under CEQA, for projects within an urban area, the visual character of a temporary construction site or the compatibility or conflict of a development with the existing setting is not evaluated in an EIR. The Project, which is located within an urban area, would be designed to comply with the requirements of the City's Department of Public Works, Urban Forestry Division, which requires the replacement of street trees (trees within the street right-of-way) on a 2:1 basis and approval by the Board of Public Works. In addition, the Project has been designed to comply with RIO landscaping regulations, including the implementation of the Los Angeles River Master Plan Design Guidelines and Plant Palettes (Guidelines). The Guidelines establish setbacks, plant density, and the use of indigenous plant species. In addition, the Project would not conflict with the individual design and community design and landscaping policies of the Sherman Oaks-Studio City-Toluca Lake-Cahuenga Community Plan (Community Plan). In accordance with Community Plan design policies, the Project's parking structure would be located below grade to blend with the character of the Project Site. Surface parking would be located at the rear of the Project Site. Decorative walls and landscaping would be used to screen the Project's uses from residential uses. No building within the Project Site would exceed 30 feet in height, as permitted at the Project Site, and trash would be located in enclosed areas. The multi-purpose gymnasium would be located in the southern, central area of the Project Site at a significant distance from the residential uses to the west, north, and east. The Project's light poles would be visible; however, as narrow stationary features, these would not block scenic vistas across the Project Site and would be lower than many of the wooden poles that support the existing golf driving range netting that reaches a height of approximately 90 feet. In accordance with the Community Plan Community Design and Landscaping policies, open space available to the public would maximize pedestrian accessibility and circulation; open walkways, benches and trees would maximize solar exposure or protection; and the Project would feature appropriate plant and hardscape materials. As such, because the Project would not conflict with plans and policies adopted to regulate scenic quality, scenic quality impacts were deemed less than significant and excluded from further evaluation in the Draft EIR. The Initial Study,

however, determined that impacts associated with light and glare were potentially significant and, as such, this issue was evaluated in detail in Section IV.A, *Aesthetics*, of the Draft EIR.

With regard to replacement trees and their effect on the visual quality of the site, because the majority of street trees would remain and those that would be removed would be replaced at a 2:1 ratio, the removal of trees would not cause a substantial adverse change to the visual character of the Project Site as viewed from off-site locations. The majority of replacement trees would be in 48-inch boxes with 3 to 7 years of growth prior to installation, with an average height of 12 to 15 feet, and would be located primarily at the interior and south edge of the Project Site. Although the replacement trees would reach maturity quickly, these trees would not be as visible from the surrounding residential neighborhood as the retained mature trees along the street edges. Response No. ORG 7A-29 in the Final EIR provides additional discussion of off-site views of the Project Site.

As discussed in Section IV.A, *Aesthetics*, of the Draft EIR and further discussed in Topical Response No. 4 – *Aesthetics*, of the Final EIR, with regard to nighttime lighting, the Draft EIR and the Final EIR provided a robust discussion of lighting impacts, based on technical lighting studies prepared by StudioK1, lighting specialists who conducted site-specific field testing to establish existing light levels/conditions and projected future level light/conditions based on the design of proposed lighting equipment and facilities (contained in Appendix B of the Draft EIR and Appendix B of the Final EIR). As discussed in Chapter 3, *Revisions, Clarifications, and Corrections to the Draft EIR*, of the Final EIR, and Topical Response No. 2 - Modifications to the Project Design, of the Final EIR, updates to the Project's light poles were made by the School. The Project's lighting program was revised to reduce the number of field and tennis court lights. The Supplemental Lighting Report Memorandum was attached as Appendix B of the Final EIR and, as further evaluated in Topical Response No. 4 – *Aesthetics*, of the Final EIR, the reduction in lighting would further reduce the Project's light and glare levels and represent an even greater improvement as compared to existing lighting conditions.

The methodologies and analysis of the Project's lighting followed the applicable standards and thresholds included in the Los Angeles Municipal Code (LAMC). The lighting study analysis was conducted in accordance with standard industry practice for determining compliance with LAMC lighting requirements. As discussed in Topical Response No. 4 of the Final EIR, the Project's lighting program with design modifications would also reduce the existing ambient light and glare conditions with the exception of one receptor location (4202 Bellaire Avenue). However, all light and glare levels under the Project with design modifications would be below regulatory standards. In addition, the Draft EIR discusses sky glow on pages IV.A-15 and IV.A-16, which is the term often applied to the surface reflection of light described by the commenter. As discussed therein light increases from the Project would not result in a substantial change in the character of the ambient light or sky glow in the existing developed region and would produce a glow over a smaller area as compared to existing conditions. Furthermore, CEQA Guidelines Appendix G do not provide a question or standard threshold for sky glow, and sky glow within an existing, active urban area (an area not characterized by dark skies) is not a significant light and glare impact. The commenter provides no substantial evidence or facts that the Project's modeled lighting levels would be increased compared to those included in the Projects lighting report(s).

Also, as discussed on page IV.A-12 of the Draft EIR: "The Project's modeled sports lighting levels included in the Lighting Report did not account for the landscape conditions occurring between the Project Site and the Zev

Greenway changes in elevation, the preservation of most of the existing trees along the Project Site's property lines, or the addition of significant new landscaping to be undertaken as part of the Project. The numerous trees and dense landscaping along the property line in proximity to the Zev Greenway would likely block the line-of-sight between the light source and the Zev Greenway trail, with a similar effect at the residential neighborhoods immediately to the west, north, and east of the Project Site. As such, these conditions would work to shield the Project lighting and lower the foot candle levels at the property line beyond those included in the Lighting Report. As such, the Lighting Technical Report represents a conservative analysis of Project impacts." Therefore, since the existing conditions were not factored into the Project's prospective lighting analysis, the level of reduction from shielding features such as existing or future trees is not described in the Draft EIR. As further discussed in Topical Response No. 4 of the Final EIR, the types of fixtures to be implemented by the Project would reduce light and glare impacts on off-site areas, including residential neighborhoods and the Zev Greenway where levels are currently in excess of RIO District threshold standards. At no off-site locations would ambient light or glare levels exceed applicable RIO District, LAMC, or CEQA threshold standards. In addition, hours of operation for athletic facilities would cease no later than 8:00 or 9:00 p.m. compared to existing lighting of the tennis courts which currently occurs until 10:00 p.m. and existing lighting of the golf driving range which occurs until 11:00 p.m.

The commenter states that the EIR did not address lighting from the LED scoreboards. However, the Draft EIR did address lighting from the LED scoreboards. As stated on page IV.A-14 of the Draft EIR, the LED scoreboards would comply with LAMC Section 14.4.4 requirements which limit light intensity from signage to no more than three footcandles above ambient lighting at residential property boundaries. Page IV.A-18 of the Draft EIR further discusses the LED scoreboards. As discussed therein, signs and sign lighting would be restricted by the Energy Code limiting the allowable wattage for internally and externally illuminated signs. This applies to directional signs, message boards, as well as scoreboards, on the Project Site. Per Energy Code Section 140.8, internally illuminated signs are allowed up to 12 watts per square foot while externally illuminated signs can use 2.3 watts per square foot of illuminated sign area. Signs must also comply with Energy Code Section 130.3, which requires photosensor controls to switch off signs during daylight conditions or at least 65 percent dimming capabilities for signs illuminated both at night and day, and any Electronic Message Center greater than 15kW would be required to reduce power by 30 percent in an energy event. These maximum allowable power restrictions for signs would keep the illumination to a minimum while maintaining functional viewing. The layout of the scoreboards for the Project is such that no scoreboard directly faces an adjacent sensitive receptor. This layout of the scoreboards creates very long distances to any directly facing receptor and steep oblique viewing angles to closer receptors adjacent to the fields. Due to either the long distance or steep viewing angle, the illumination effects of these signs would be nearly nonexistent at the sensitive receptors resulting in no exceedance of LAMC Section 91.6205 M requirement, which limits light intensity from signage to no more than 3 foot candles above ambient lighting at residential property boundaries. The Project's scoreboards would comply with all applicable City lighting regulations and guidelines.

Also, a Memo Regarding Scoreboard Illumination, dated October 2023, prepared by StudioK1, was prepared to provide supplemental information on the scoreboard(s) illumination. StudioK1 prepared the previous lighting reports for the Project. To further understand the lighting impacts of the Project, the LED scoreboards for the two fields and the pool facility were evaluated to determine the amount of lighting produced and the extent of the lighting. The scoreboards for Field A and Field B are identical with LED illuminated numbers and letters but are not fully

illuminated across the entirety of the board itself. The pool facility would utilize an LED scoreboard which illuminates the entire surface (as needed) to display the scoring system, however this board is a low-resolution LED dot matrix with fewer total pixels than an LCD digital screen similar to a television.

Using the data provided by the manufacturer, Daktronics, StudioK1 calculated that the lighting effects of the Field A and Field B scoreboards extend to nearly a 60-meter radius (196 feet) using the white LED's, which are the brightest solution. At the 60-meter mark from the scoreboards, the lighting falls below 0.09 footcandles which is less than significant and cannot be reliably measured or experienced in real world applications where ambient light exists. The modeled lighting levels indicate that while illumination is present on the fields from the scoreboards, the orientation and position of the scoreboards relative to the light sensitive receptors, both residential and along the Zev Greenway, are not affected by the LED scoreboard. No additional illumination (footcandles) is created at any sensitive receptor from either Field A or Field B scoreboards.

The scoreboard at the pool facility is a dot matrix "screen" which is capable of a maximum brightness of ~7000 nits (candela/meter²) uniformly across the extent of the scoreboard. To maintain a conservative analysis, it was assumed that the entire board was illuminated to the maximum level to represent the worst- case scenario. The modeled lighting levels indicate a radius of ~351 feet to 0.09 footcandles, beyond which the illumination is no longer consequential. There are some values of 0.01 and 0.02 footcandles that reach the Project Site property line south of the gymnasium building. While these values are extremely low, and likely immeasurable, it is important to note that no consideration was given to any intervening landscaping. Therefore, based on the modeled lighting levels, and the future plan for landscaping and buildings, the pool LED scoreboard would not contribute to lighting impacts at any offsite sensitive receptor or along the Zev Greenway.

It is acknowledged that there would be some visibility of the different scoreboards from areas outside of the property lines of the Project. While the scoreboards are justified in a manner to cast light within the Project, some viewing angles still allow for a line of sight to a scoreboard (again, using conservative assumptions regarding the absence of landscaping). Despite being visible from receptors outside of the Project Site, the measurable impacts are essentially non-existent and will not exceed any of the applicable CEQA thresholds of significance. Thus, the scoreboards at both fields and the pool, while cumulative with the sports lighting fixtures at the athletic facilities themselves, would not contribute to any cumulative lighting impact at any of the sensitive receptors. All impacts would remain less than significant and continue to represent an improvement over existing conditions. Please refer to StudioK1's Memo Regarding Scoreboard Illumination, dated October 2023, for further details of the scoreboard lighting analysis.

In addition, lighting impacts to biological resources, including impacts to migratory birds, are addressed in Section IV.C, *Biological Resources*, of the Draft EIR. Lighting impacts to special status bat species are discussed on pages IV.C-35 to IV.C-41 of the Draft EIR. As concluded therein, Project construction and operation activities, including changes in the ambient levels of light and noise, would not result in significant indirect impacts to special-status, candidate, and/or sensitive bat species. As such, indirect impacts to special-status, candidate, and/or sensitive bat species would be less than significant.

Lighting impacts to wildlife movement and migratory birds are addressed on pages IV.C-45 to IV.C-49 of the Draft EIR. As discussed on page IV.C-47 and IV.C-48, the Biological Study Area supports potential nesting, roosting, and foraging habitat for migratory birds and bats. Since the Biological Study Area primarily supports ornamental trees and turfgrass, as well as a thin strip of native California brittlebush scrub that was recently restored on the Zev Greenway, the quality of existing foraging habitat is low. Higher quality foraging habitat occurs in less developed areas with larger expanses of open space. As analyzed in Section IV.C, *Biological Resources*, of the Draft EIR, Project landscaping would increase the quantity and quality of native habitat on the Project Site, and “would consist entirely of native tree and plant species that would provide foraging opportunities for bird species.” The Draft EIR also states: “The Project’s native landscaping would help to enhance the existing off-site native habitat, as well as the surrounding area, by expanding the habitat, creating a greater native seed source, and providing a larger buffer from non-native ornamental landscaping in the surrounding developed areas, which may benefit migrating wildlife by providing enhanced foraging opportunities.” The claim that lighting would adversely impact migratory birds is not supported by fact.

Comment 2-15

2. Air Quality Impacts

The EIR’s analysis of air quality impacts is inadequate for a number of reasons. (**Attachment 1**, pp. 15-18; **Attachment 2**, pp. 7-11.) The EIR fails to disclose the Project site is in an area of extreme non-attainment for ozone. The EIR relies on faulty assumptions regarding vehicle miles traveled (“VMTs”), which underestimates the Project’s air emissions. The EIR also fails to analyze and adopt all feasible mitigation measures for the lengthy construction period. Additionally, the EIR’s analysis of air quality impacts improperly considers the site to be urban infill despite the site’s current open space and recreational use.

Response to Comment 2-15

Regarding the EIR’s failure to disclose the Project Site is in an area of extreme non-attainment for ozone, as addressed in Response No. ORG 7A-32 of the Final EIR, the Draft EIR presented the attainment status of the South Coast Air Basin in Table IV.B-2, South Coast Air Basin Attainment Standards (Los Angeles County), page IV.B-21. As shown in the table, the South Coast Air Basin is listed as non-attainment, extreme, for ozone. Response No. ORG-7A-32 provides additional details regarding the extreme non-attainment designation.

Regarding VMTs, as evaluated in the Draft EIR, which the commentor does not attempt to explain how it was underestimated, the Project would result in a net decrease in VMT based on LADOT’s methodology for evaluating VMT impacts. This is explained in Section IV.M, *Transportation*, of the Draft and clarified in Topical Response No. 9 - Transportation and Parking during Construction and Operations, of the Final EIR. Section IV.M, *Transportation*, of the Draft EIR correctly determined that all CEQA-required transportation impacts would be less than significant without mitigation. Project VMTs are fully addressed in Response Nos. ORG 7A-122 through ORG 7A-128 in the Final EIR. Thus, the Project’s air emissions are not underestimated.

Regarding the adoption of all feasible mitigation measures to reduce construction impacts, this was addressed in Response No. ORG 7A-38 of the Final EIR. The commentor does not identify what, if any, additional mitigation

measures should have been included. As detailed in Section IV.B, *Air Quality*, of the Draft EIR and prior to the incorporation of mitigation measures, the Project's construction NO_x emissions would exceed the SCAQMD significance threshold for all the overlapping phases as shown in Table IV.B-6, Estimated Maximum Regional Construction Emissions (Pounds per Day), on page IV.B-52 of the Draft EIR, resulting in potentially significant impacts. However, with implementation of Mitigation Measure AQ-MM-1: Construction Equipment Features, NO_x emissions would be reduced to below the SCAQMD significance threshold as shown in Table IV.B-8, Estimated Maximum Mitigated Regional Construction Emissions (Pounds per Day), on page IV.B-56 of the Draft EIR. Since the mitigation measure would result in less-than-significant impacts, further mitigation is not required.

Regarding the site as urban infill, urban infill means a development located on a parcel of property bounded by existing urban development, or adjacent to an otherwise built-up area where public facilities are available. The Project meets this definition.

Comment 2-16

Further, the EIR fails to adequately address the air quality and hazard impacts associated with the Project's inclusion of artificial turf. Due to the serious harms and perfluoroalkyl and polyfluoroalkyl ("PFAS") contamination associated with artificial turf, the California legislature has passed AB 1423 and it is awaiting the Governor's signature. AB 1423 includes bans and prohibitions on the use of artificial turf because it contains harmful PFAS. Whether this approval has occurred in time for the School to skirt the ban does not change the underlying reasoning behind this bill; artificial turf contains PFAS and PFAS have harmful health and environmental impacts.

Response to Comment 2-16

Regarding the air quality and hazard impacts associated with PFAS in artificial turf, the issues were discussed in detail in Section (2)(a)(iii)(d) in Topical Response No. 7 - Artificial Turf and Effects on Localized Heat and Health of the Final EIR, and Section IV.H, Hazards and Hazardous Materials and Appendix H-2, Artificial Turf Technical Memorandum, of the Draft EIR. Additionally, this topic is discussed in Response Nos. ORG 1B-75, ORG 1C-28, ORG 7A-76, ORG 8-3, ORG 8-4, ORG 8-5, ORG 8-6, ORG 8-11, ORG 8-12, ORG 8-14, ORG 8-15, ORG 9-6, ORG 18-10, IND 83-3, and IND 209-15 of the Final EIR. Additional see the Memorandum Supplemental Final Environmental Impact Report Environmental Responses, Harvard-Westlake River Park Project Los Angeles, California dated August 12, 2023, specifically see Issues 1-1, 1-2, 2-1, 2-2, 2-3, 4-1, 4-2, 4-3, 4-4, 4-6, 5-2, 6-1, 6-2, 6-3, 6-4, and 6-5. Section IV.H, Hazards and Hazardous Materials, and Appendix H-2, Artificial Turf Technical Memorandum, of the Draft EIR, included a detailed evaluation of potential health impacts related to use of artificial turf and compounds in artificial turf, including PFAS. Based on the analysis, the Draft EIR determined that health-related impacts would be less than significant. Additionally, refer to Section (2)(a), Health Effects from the Use of Artificial Turf, pages 2-137 through 2-159 of the Final EIR for additional detail regarding the human health-related risks from PFAS in artificial turf, which the Draft EIR found to be less than significant based on a human health risk assessment (HHRAs) conducted on compounds in artificial turf, including PFAS. The HHRAs, which evaluated dermal, inhalation, and ingestion pathways, determined that impacts on human health would not rise to a level of significance.

Regarding AB 1432², a covered surface containing regulated PFAS shall not be purchased or installed by a public entity, a public or private school, a public or private institution of higher education, and no entity shall manufacture, distribute, sell, or offer for sale any covered surface that contains regulated PFAS. Additionally, a manufacturer of a covered surface shall use the least toxic alternative when replacing regulated PFAS in a covered surface.

Finally, consistent with a conditioned letter of project support from Councilmember Nithya Raman dated August 14, 2023 and at the direction of the City Planning Commission at its meeting on August 24, 2023, the following condition of approval (Condition No. 31.d) was required for the Project's use of artificial turf:

31. Landscaping

- d. If artificial turf is utilized at Fields A and B, the artificial turf shall be permitted pursuant to California Assembly Bill 1423 (Schiavo, 2023), as amended July 3, 2023, and utilize temperature reducing coatings. If artificial turf becomes not compliant with future state and local legislation, it shall be replaced with a suitable and compliant alternative, with the artificial turf responsibly recycled.

Thus, the Project would comply with AB 1423, even though the Governor vetoed AB 1423 on October 8, 2023, several years prior to the previously-proposed enforcement date of January 1, 2026. Therefore, the Appellant's assertion that the Project is attempting to skirt complying with AB 1423 is factually incorrect since the School has agreed to comply with its requirements even though it was not signed into law.

Comment 2-17

Finally, the EIR fails to address the air quality and health impacts associated with Valley Fever resulting from the massive amounts of soil excavation on the Project site.

Response to Comment 2-17

Valley Fever impacts are addressed in Response Nos. ORG 1B-185 and IND 241-3 of the Final EIR and Issues 3-13 of the Memorandum Supplemental Final Environmental Impact Report Environmental Responses, Harvard-Westlake River Park Project Los Angeles, California dated August 12, 2023. According to the County Los Angeles of Public Health *Coccidioidomycosis (Valley Fever) Management Plan: Guidelines for Employers*³, it is recommended that projects comply with the following: follow SCAQMD Rule 403 for fugitive dust, provide training on how to understand and manage risks, and provide Valley Fever educational materials. As discussed on pages IV.B-47, IV.B-52, IV.B-56 and IV.B-58 in Section IV.B. Air Quality, of the Draft EIR, Project construction would be compliant with SCAQMD Rule 403, which requires that soil be stabilized by watering the unpaved portions of the Project Site three times a day. The use of water is an accepted environmentally-safe dust control agent. The

² California Legislative Information, AB-1423 Product Safety: PFAS: artificial turf or synthetic surfaces. https://leginfo.ca.gov/faces/billCompareClient.xhtml?bill_id=202320240AB1423&showamends=false. Accessed October 2024.

³ County of Los Angeles Public Health, 2019. *Coccidioidomycosis (Valley Fever) Management Plan: Guidelines for Employers*, August. [valleyfeverplan2019.pdf](https://www.lacounty.gov/valleyfeverplan2019.pdf) (lacounty.gov). Accessed July 2023.

Project would also suspend construction activities on unpaved surfaces when wind speeds exceed 25 mph. In addition, soil migration off-site would be mitigated by installing wheel shaker device to remove soil from tires and vehicle undercarriages as they exit the Project Site, which would minimize the potential for transport of the Valley Fever spores, if present in the soil. Thus, the Project complies with the LA County recommended guidelines regarding Valley Fever and no other mitigation measures are required.

Comment 2-18

3. Biological Impacts

The EIR fails to adequately analyze and mitigate the Project's impacts on biological resources. (**Attachment 1**, pp. 18-20; **Attachment 2**, pp. 12-13.)

The Project would remove 250 mature trees, which are used by special-status birds, bats, raptors, and migratory birds. (Attachment 8, comments from Angelenos for Trees.) The EIR also fails to address the cumulative impacts of tree removal with the nearby Sportsmen's Lodge project, where 90 trees have already been removed and additional mature trees would be removed for the new project. The EIR failed to impose mitigation measures to address the mature tree removal provided by the California Department of Fish and Wildlife. The mitigation include for replacement trees also fails to be fully enforceable, in violation of CEQA. (CEQA Guidelines, §15126.4, subd. (a)(2).)

Response to Comment 2-18

This comment states that the EIR's analysis of impacts to biological resources was inadequate. Topical Response No. 5 – Biological Resources/Trees, of the Final EIR included an overview of impacts to biological resources based on the analysis included in Section IV.C, *Biological Resources*, of the Draft EIR. As discussed in Topical Response No. 5, the Project's tree removal and replanting program was fully analyzed in the Draft EIR's Section IV.C, *Biological Resources*, of the Draft EIR. As discussed in Section IV.C and Chapter II, *Project Description*, of the Draft EIR, the Project would implement an extensive tree planting and landscaping program that would remove 240 of the existing 421 trees, located both on the Project Site and off-site surrounding areas (e.g., within portions of the public right-of-way), and plant 393 trees, resulting in a net increase of 153 trees (or 36 percent), an increase in tree canopy on the Project Site, and a greater capacity for carbon sequestration. As discussed in Section IV.C, *Biological Resources*, of the Draft EIR, and Topical Response No. 5, with implementation of mitigation, the Project would not conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance, and impacts would be less than significant.

It should be noted that half of the tree removals are Mexican fan palms, and that the Project would preserve the vast majority of trees located toward the outer strata of the site (away from primary construction areas). As stated on pages IV.C-31 through IV.C-42, in Section IV.C, *Biological Resources*, under the heading Candidate, Sensitive, or Special-Status Wildlife, of the Draft EIR, there are no federally threatened and endangered wildlife species with potential to occur on-site. There is one special-status wildlife species, the western yellow bat (species of special concern), that has a moderate potential to occur, and mitigation is provided to reduce potentially significant direct impacts on this species as stated on page IV.C-42. Such mitigation was provided even though ESA's biologists

previously surveyed the Project Site for wildlife, including bats, in November 2016 for a different project and the western yellow bat was not detected at that time.⁴ That survey was conducted by an individual with bat expertise. Similarly, the western yellow bat was not observed during the more recent ESA wildlife surveys undertaken for the current Project, which is acknowledged to be general in nature (i.e., for the purpose of broadly examining and inventorying onsite plant and animal species, including bats) and not focused exclusively on the potential existence of bats. There is only one California Natural Diversity Database (CNDDB) occurrence record of this bat species within the vicinity of the Project Site, which was recorded in 1984 approximately 8.5 miles to the east in a developed area of Glendale. Closer in proximity to the Glendale record, bat surveys were conducted between April and November 2008 in Griffith Park, and the results of the surveys found no individual of western yellow bat to be present.⁵ Also, please refer to Response No. AG 4-30 and Response Nos. ORG 1B-45 through ORG 1B-48 in the Final EIR for additional information pertinent to impacts on bats.

As stated on pages IV.C-48 to IV.C-49, in Section IV.C, *Biological Resources*, under the heading Migratory Species and Native Wildlife Nursery Sites (beginning on page IV.C-47), of the Draft EIR, indirect impacts to nesting birds and roosting bats during construction and tree removal may result in behavioral changes and could cause unsuccessful breeding opportunities. However, construction activities would be temporary on an intermittent basis, and Project Design Feature PDF-BIO-1, which demonstrates compliance with regulatory requirements for nesting bird protection, and Mitigation Measure BIO-MM-1 would reduce any direct impacts to nesting birds and roosting bat species to a less-than-significant level.

The Project would result in a net increase of 153 trees (or 36 percent). As stated on pages IV.C-57 to IV.C-58, in Section IV.C, *Biological Resources*, under the heading Cumulative Impacts, of the Draft EIR, related projects would be required to comply with applicable regulatory requirements, such as the MBTA, and, to implement mitigation measures to addresses significant impacts under CEQA regarding migratory bird species, native wildlife nursery sites, and significant trees. The Project's contribution to cumulative impacts would not be cumulatively considerable when considered with the impacts of the related projects. As such, with incorporation of the Project's PDF and mitigation measures, cumulative impacts on biological resources would be less than significant.

The comment states the EIR failed to impose mitigation measures to address the mature tree removal provided by the California Department of Fish and Wildlife. This statement is simply false. Detailed responses to the CDFW letter are included in Response to Comment Nos. AG 4-1 to AG 4-6 of the Final EIR. As discussed therein, Mitigation Measure BIO-MM-1 was modified to bolster the mitigation for potential impacts to special-status bat species. Project Design Feature BIO-PDF-3 and BIO-PDF-4 were added for the School to make available educational materials and provide waste receptacles near the ramp to the Zev Greenway. These PDFs were not needed to address a potentially significant impact and, thus, were appropriately not identified as mitigation measures.

The comment recommends that the Project implement a phased removal of trees. It should be noted that half of the tree removals are Mexican fan palms, which are considered an invasive species, provide minimal foraging or habitat opportunities for most animal species that might exist on the Project Site and in the vicinity of the Project, and are

⁴ ESA, Biological Resources Technical Report, January 2022, provided in Appendix D of the Draft EIR.

⁵ Remington, S. and D.S. Cooper. 2009. Bat Survey of Griffith Park, Los Angeles, California, Draft Report. February 20, 2009.

specifically identified by the Los Angeles River Master Plan Landscaping Guidelines and Plant Palettes under the heading “Plants That Should Never Be Planted Along The River”. The Project would preserve the majority of trees located toward the outer strata of the Project Site (away from primary construction areas) and the Project’s landscaping plan would result in the net increase of 153 trees (an approximately 36 percent increase). Please refer to Topical Response No. 5 – Biological Resources/Trees, for further information regarding the less than significant Project impacts on biological resources, including trees and wildlife habitat. As discussed in Response No. AG 4-36 of the Final EIR, a number of the CDFW mitigation measures or recommendations were either not adopted or do not apply due to the lack of significant impact.

The comment states that Mitigation Measure BIO-MM-3 is not fully enforceable. The commenter in prior correspondence (May 10, 2023 comment letter) contended that the mitigation measure is not enforceable because the Department of City Planning can change the ratio of replacement of unprotected trees. However, this presumption is incorrect. Under Mitigation Measure BIO-MM-3, the Department of City Planning cannot modify the replacement ratio but may only modify the total number of trees needing to be replaced based on the City’s determination of any dead specimens. Replacement is not required for trees determined to be dead. Total replacement in accordance with the required ratio would still be required. While Mitigation Measure BIO-MM-3 requires the submission of a landscape plan prior to issuance of a building permit, which must be approved by the Department of City Planning, the mitigation measure contains parameters of what must be in the plan and the required replacement ratio as set forth in the measure and in the Los Angeles River Master Plan Landscaping Guidelines. Chapter II, *Project Description*, pages II-29 and II-30 of the Draft EIR, described the number of replacement trees. As discussed therein, “All invasive palms (i.e., the Mexican fan palm) removed would be replaced at a 1:1 minimum ratio with RIO-compliant trees and all other removed non-native trees would be replaced at a minimum 2:1 ratio with RIO-compliant trees. Street trees (trees within the public right-of-way) would also be replaced at a 2:1 ratio, as required by the City’s Department of Public Works, Urban Forestry Division.” In aggregate, the 240 removed trees would be replaced by 393 RIO-compliant trees, which exceeds the minimum number of trees required for replacement. The Draft EIR (page II-29) further states: “The majority of the trees to be removed, 75 percent (179 trees), are non-RIO compliant (including 121 Mexican fan palms).” The Project’s removal of 121 Mexican fan palms would require a replacement of 121 trees (at a 1:1 replacement ratio), while the remaining 119 removed trees would require a replacement of 238 trees (at a 2:1 replacement ratio), for a total replacement requirement of 359 trees. The Project would exceed this number by planting 393 replacement trees.

Finally, consistent with a conditioned letter of project support from Councilmember Nithya Raman dated August 14, 2023 and at the direction of the City Planning Commission at its meeting on August 24, 2023, the following condition of approval (Condition No. 32.e) was required for the Project’s landscaping program:

32. Tree Removal/Planting Plan

- e. All Mexican fan palms located in the public right-of-way along Valley Spring Lane shall be preserved.

Comment 2-19

The impact of nighttime lighting on bats and other species is also not adequately addressed by the EIR. (**Attachment 3**.) Noise impacts to species is also ignored by the EIR.

Response to Comment 2-19

This comment states lighting impacts to bats and other species are not adequately addressed in the EIR. Also, the comment states noise impacts to bats and other species are ignored by the EIR. Neither claim is supported by substantial evidence or facts. Further, the claim that the EIR ignores impacts to species is incorrect. Lighting impacts to biological resources, including impacts to bat species and migratory birds, are addressed in Section IV.C, *Biological Resources*, of the Draft EIR. Lighting impacts to special status bat species are discussed on pages IV.C-35 to IV.C-41 of the Draft EIR. As concluded therein, Project construction and operation activities, including changes in the ambient levels of light and noise, would not result in significant indirect impacts to special-status, candidate, and/or sensitive bat species. As such, indirect impacts to special-status, candidate, and/or sensitive bat species would be less than significant.

Lighting impacts to wildlife movement and migratory birds are addressed on pages IV.C-45 to IV.C-49 of the Draft EIR. As discussed on page IV.C-47 and IV.C-48, the Biological Study Area supports potential nesting, roosting, and foraging habitat for migratory birds and bats. Since the Biological Study Area primarily supports ornamental trees and turfgrass, as well as a thin strip of native California brittlebush scrub that was recently restored on the Zev Greenway, the quality of existing foraging habitat is low. Higher quality foraging habitat occurs in less developed areas with larger expanses of open space. As analyzed in Section IV.C, *Biological Resources*, of the Draft EIR, Project landscaping would increase the quantity and quality of native habitat on the Project Site, and “would consist entirely of native tree and plant species that would provide foraging opportunities for bird species.” The Draft EIR also states: “The Project’s native landscaping would help to enhance the existing off-site native habitat, as well as the surrounding area, by expanding the habitat, creating a greater native seed source, and providing a larger buffer from non-native ornamental landscaping in the surrounding developed areas, which may benefit migrating wildlife by providing enhanced foraging opportunities.”

Comment 2-20

4. Climate Change Impacts

The EIR fails to recognize the existing severity of the climate crisis, which necessitates an acknowledgment that any increase in greenhouse gas (“GHG”) emissions should be considered a significant impact. Instead, the EIR relies upon an unsupported threshold of significance for GHG emissions. The EIR fails to address the reduction in carbon sequestration that would result for many years after 250 mature trees are removed from the Project site, as well as the heat island effects and GHG emissions that would be caused by the use of artificial turf on the Project’s athletic fields. Further, the EIR’s claims that GHG emission impacts are fully mitigated is not supported. (**Attachment 1**, pp. 20-28; **Attachment 2**, pp. 13-17.)

Response to Comment 2-20

Regarding the commenter's statement that any increase in GHG emissions should be considered a significant impact and an unsupported threshold of significance, these topics were addressed in Response Nos. ORG 7A-47, ORG 7A-48, ORG 7A-49, and ORG 7A-51 of the Final EIR. The comment asserts that the Draft EIR's determination of consistency with applicable goals and policies related to GHG emissions is not supported adequately. The Draft EIR addressed GHG impacts in Section IV.G, Greenhouse Gas Emissions, with supporting data provided in Appendix C, Air Quality/Greenhouse Gas Emissions Technical Documentation, of the Draft EIR. As discussed in Section IV.G, pages IV.G-39 and IV.G-76 of the Draft EIR, per CEQA Guidelines Section 15064(h)(3), a project's incremental contribution to a cumulative impact can be found not cumulatively considerable if the project would comply with an approved plan or mitigation program that provides specific requirements that will avoid or substantially lessen the cumulative problem within the geographic area of the project. Thus, CEQA Guidelines Section 15064(h)(3) allows a lead agency to make a finding of non-significance for GHG emissions if a project complies with a program and/or other regulatory schemes to reduce GHG emissions. Therefore, in the absence of any adopted quantitative threshold, the significance of the Project's GHG emissions is evaluated consistent with CEQA Guidelines Section 15064.4(b)(2) by considering whether the Project complies with applicable plans, policies, regulations, and requirements adopted to implement a statewide, regional, or local plan for the reduction or mitigation of GHG emissions. Using that evaluative methodology consistent with the CEQA Guidelines, the Draft EIR included substantial evidence that supported the appropriate conclusion that the Project's impacts on GHGs would be less than significant because the Project would not conflict with an applicable plan, policy or regulation adopted for the purpose of reducing GHG emissions.

Regarding the reduction in carbon sequestration resulting from tree removal, this topic was addressed in Topical Response No. 5 – Biological Resources/Trees and Response Nos. ORG 6A-1, ORG 6B-2, ORG 7A-57, ORG-7A-67, ORG 12-4, ORG 14B-1, ORG 14B-2, Form 4-3, . While there is not a Threshold of Significance in Appendix G of the CEQA Guidelines related to carbon sequestration, nonetheless, a supplemental analysis of the Project's carbon sequestration from trees is provided within Appendix C, Carbon Sequestration and Tree Canopy Study, of the Final EIR for informational purposes. Rates of carbon sequestration (measured as pounds of carbon dioxide [CO₂]) were calculated by comparing the existing trees on the Project Site that are to be removed with the replacement trees that would be planted as part of the Project. Existing trees to remain under the Project were not included in the carbon sequestration analysis, as the carbon sequestration benefits from such trees would be included equally in the analysis of existing and Project conditions. As summarized on PDF pages three through five in the Carbon Sequestration and Tree Canopy Study, during Year 2 of Project operation, the annual CO₂ sequestration rate of the Project's replacement trees would be approximately equivalent to existing sequestration rates.

Regarding the urban heat island effect and GHG emissions of artificial turf, these topics were addressed in detail in Response Nos. ORG 1B-68, ORG 1B-189, ORG 6A-1, ORG 6B-6, ORG 7A-67, ORG 8-8, ORG 12-4 of the Final EIR. In addition, pages IV.G-72 through IV.G-74 in Section IV. G, Greenhouse Gas Emissions, of the Draft EIR, included an analysis of urban heat island effects from Project implementation. As analyzed therein, the Project's artificial turf would not substantially contribute to an increase in the urban heat island effect for the area. Refer to Topical Response No. 7 for additional detail regarding the Project's heat island-related impacts associated with artificial turf. As stated in Appendix C-2, Urban Heat Island, and Section IV.G 3.d)(3), Urban Heat Effect, based on the studies discussed in these sections, surface temperatures of artificial turf are higher compared to natural turf due

to solar heating and is most pronounced in the polyethylene and polypropylene fibers used to replicate natural grass. Air temperatures at 2 and 5 feet above artificial turf were measured to be generally equivalent to the measured ambient air temperature, indicating the lack of stored heat within the fibers and combined mass of the artificial turf components that could even theoretically contribute to an urban heat island. As further evidence, rapid cooling of the artificial turf fibers was noted if the sunlight was interrupted or filtered by clouds with observed data indicating a cooling of 40 to 50 degrees Fahrenheit over a 10-minute period when there was observed cloud cover. The Project Site is located in an already developed urban area with an asphalt roadway grid, and near commercial parking lots and commercial and residential buildings, which are general urban features that are known to contribute to the urban heat island effect. Thus, the Project's artificial turf would not substantially contribute to an increase in the urban heat island effect for the area. Finally, consideration of the urban heat island effect conservatively did not account for the Project's substantial landscaping program, including the planting of 393 new trees (a 36 percent increase over existing conditions), which would result in a greater percentage of the Project Site to be shaded by tree canopy beginning between years five and ten of Project operation as compared to existing conditions (refer to the Carbon Sequestration and Canopy Study, November 2022, in Appendix C of this Final EIR). Thus, as supported by the evidence discussed in the Draft EIR and in this Final EIR, the Project would have a less than significant impact with respect to the urban heat island effect.

Regarding the lack of support for GHG impacts being fully mitigated, Response to Comments ORG 7A- 48, ORG 7A-58, ORG 7A-59, ORG 7A-60, ORG 7A-68, OG 7A-69, ORG 1B-129, ORG 1B-132, ORG 1B-134, and ORG 1B-136 of the Final EIR address this topic. The comment reasserts that the Draft EIR fails to analyze and disclose the Project's significant GHG impacts and fails to impose mitigation measures. The comment's unsupported claim that the Draft EIR fails to analyze and disclose the Project's significant GHG impacts and impose mitigation measures is incorrect. The Draft EIR addressed GHG impacts in Section IV.G, Greenhouse Gas Emissions, with supporting data provided in Appendix C-1, Air Quality/Greenhouse Gas Emissions Technical Documentation, of the Draft EIR. As analyzed therein, GHG impacts would be less than significant and, as such, no mitigation measures would be required.

Comment 2-21

5. Hydrological and Water Quality Impacts

The Project could result in adverse impacts to the adjacent LA River that are not adequately analyzed or mitigated. (**Attachment 1**, pp. 28-30; **Attachment 2**, pp. 17-18.) The EIR improperly relies upon project design features instead of the required fully enforceable mitigation measures. The EIR also fails to provide adequate information regarding the Project's impacts on groundwater infiltration.

Response to Comment 2-21

The comment states that the Project could result in adverse impacts to the adjacent Los Angeles River that are not adequately analyzed or mitigated. The comment also states that the EIR improperly relies upon project design features instead of the required fully enforceable mitigation measures. The comment does not provide substantial evidence or facts to support these contentions.

Section IV.I, *Hydrology and Water Quality*, of the Draft EIR, fully analyzes the Project's hydrology impacts, including those to the Los Angeles River. With regard to water quality, the City's Low Impact Development (LID) Ordinance requires the capture and management of the greater of an 85th percentile rain event or the first 0.75-inch of runoff flow during storm events defined in the City's LID BMPs, through one or more of the City's preferred LID improvements in priority order: on-site infiltration, capture and reuse, or biofiltration/biotreatment BMPs, to the maximum extent feasible. As analyzed in Section IV.I, *Hydrology and Water Quality*, of the Draft EIR, the Project's underground cistern system exceeds the City LID requirements. Operation of the Project would not result in discharges that violate any water quality standards or waste discharge requirements; rather, it would improve water quality compared to existing conditions. Therefore, impacts resulting from Project operation would be less than significant with respect to surface water quality and groundwater quality.

Further, Section IV. I, *Hydrology and Water Quality*, of the Draft EIR, fully evaluated hydrology patterns in and around the Project Site with the Project. The analysis included in Section IV.I of the Draft EIR was largely based on the Hydrology and Water Quality Report (technical report) provided in Appendix I of the Draft EIR. The hydrology evaluation concluded that the existing hydrology pattern of the Project Site and surrounding area would not be affected in a manner that would result in significant hydrology impacts. All hydrology-related impacts would be less than significant as analyzed therein. Overall, the hydrological pattern of the of the Project site as well as downstream in the Los Angeles River would not be altered in a manner that would result in adverse impacts to biological resources.

The Project would implement Project Design Feature WS-PDF-2, which includes a capture and reuse system to capture, treat, and store stormwater and other urban runoff through a stormwater Low Impact Development (LID) capture and reuse cistern system, which will then use the treated stormwater for irrigation on the Project Site. As described on pages IV.O.1-28 through IV.O.1-31 of the Draft EIR, the Project design for this system would be required to comply with the LID Ordinance and the BMPs contained in that ordinance. The capture and reuse system has been reduced in size based on direction from the City for the Project to not provide treatment of stormwater from the off-site drainage area, but rather to capture, treat and reuse only on-site stormwater. This requirement from the City has resulted in a revision to Project Design Feature WS-PDF-2 to remove reference to the 38.64-acre off-site drainage area, which is discussed in Topical Response No. 2 – Modifications to the Project Design, and reflected in Chapter 3, *Revisions, Clarifications and Corrections to the Draft EIR*, of this Final EIR. The revisions do not result in any substantial increase in the severity of impacts or changes to the impact conclusions included in Section IV.I of the Draft EIR.

PDFs which alleviate environmental concerns can be integral to the project or volunteered by the applicant as a PDF to assist with an existing condition not caused by the project. In either case, and even when a PDF is mischaracterized, so long as the project's impacts are fully disclosed and analyzed, there is no violation of CEQA. See Response No. ORG 1B-22 regarding use of PDFs for both integral project features and features that assist with an existing condition rather than an element needed to mitigate a project impact. Since both Sections IV.I and IV.O.1, *Water Supply*, of the Draft EIR fully explain the hydrology and water quality issues related to this Project, the Draft EIR adequately analyzes the environmental impacts of the Project. Additionally, Project Design Feature PDF-WS-2, and all PDFs presented in the Draft EIR, would be incorporated into the MMP. All mitigation measures and PDFs incorporated into the MMP are equally enforceable.

The comment also states that the EIR fails to provide adequate information regarding the Project's impacts on groundwater infiltration. The comment does not provide substantial evidence or facts to support this contention. As discussed in Appendix G-1, Geotechnical Engineering Investigation, page 47 and page 20 of Appendix I, Hydrology and Water Quality Report, of the Draft EIR, the Project Site is underlain by impervious rock and clay layers, as shown in the existing perched groundwater conditions in which groundwater is trapped between impervious layers and does not move into a groundwater table. According to the geotechnical report, reviewed and accepted by the LADBS, groundwater was encountered below the Project Site at depths between 24½ and 49½ feet below grade. The determination that groundwater is perched was made by the registered geotechnical engineer who prepared the geotechnical report (Appendix G-1 of the Draft EIR) and is based on his professional understanding of the underlying compacted clays, rock formations and other geologic conditions, including the variation of depths to the perched groundwater. Because it is understood that the underlying clay soils and bedrock layers are relatively impervious, the perched water would not recharge other groundwater sources because it cannot move between the impervious layers. The depth of encountered groundwater indicates that groundwater is not close to the surface and would not likely seep into any future development above the highest water level. The Los Angeles Building Code provides regulatory protections for all subterranean structures, which would ensure that seepage would not damage the Project's underground parking structure or gymnasium basement. The geotechnical engineer's understanding of subsurface materials as presented in the Draft EIR is sufficient to support the assumption regarding existing perched groundwater conditions and the conclusion in the Draft EIR that infiltration into the area's groundwater table does not occur. The Draft EIR, thus, supports the conclusion that impacts related to groundwater recharge would be less than significant.

In addition, the Project's geotechnical study was peer-reviewed by Byer Geotechnical, Inc. August 17, 2022, who further concurred with the findings that infiltration at this site is not feasible. The Byer Geotechnical peer review of the Project's geotechnical study is included as Appendix G of this Final EIR. Based on the determination that infiltration is not feasible based on the site conditions, tier two (Capture and Use) was considered for the Project.

Comment 2-22

Further, the EIR fails to address the significant water quality impacts associated with use of artificial turf. The EPA defines artificial turf as an impervious surface, but the EIR fails to recognize it as such, thus failing to address the runoff impacts of the Project in to the LA River. (**Attachment 10**, MS4 Permit and article on artificial turf runoff.) The Project must include mitigation requiring a filtration system to clean any runoff from the artificial turf to prevent contamination of the LA Rivers with PFAS.

Response to Comment 2-22

The commenter incorrectly states the EIR fails to address runoff impacts to the Los Angeles River from the artificial turf. With regard to the comment the EIR fails to address water quality impacts associated with artificial turf, this topic was discussed in detail in Response Nos. ORG 7A-73, ORG 7A-74, ORG 7A-75, ORG 7A-76 in the Final EIR and Issues 1-1, 1-2, 2-2, 3, 4-1, 4-2, 4-3, 4-4, 4-6, 5-2, 6-5 in the Memorandum Supplemental Final Environmental Impact Report Environmental Responses, Harvard-Westlake River Park Project Los Angeles, California dated August 12, 2023. According to the Hydrology and Water Quality Report, page 20 (PDF page 25 of 142 of the

Appendix I, of the Draft EIR), the Project Site's impervious area would increase from 30 to 59 percent at Project buildout and did conservatively include the Project's artificial turf fields as impervious surfaces with that analysis. Section IV.O.1, Water Supply, of the Draft EIR, thoroughly discusses the Project's impacts related to water supply and includes Project Design Feature WS-PDF-2, which includes an on-site capture and reuse system to capture, treat, and store stormwater and other urban runoff through a stormwater Low Impact Development (LID) capture and reuse cistern system, which will then use the treated stormwater for irrigation on the Project Site. While the EIR's hydrology analysis was conservative in assuming the artificial turf would be impervious, the Project's artificial turf would be underlain by the 350,000 gallon capture and reuse system that will capture, filter, and reuse water that falls on the fields.

Final EIR Appendix E.2 Section 6, pages 7-9, discusses the comparison of natural soils and artificial turf for the chemicals of concern. Section 6 discusses that the chemicals that are often considered to be of concern in recycled rubber infill (i.e., metals, PFAS, and PAHs) are also found in natural soils, and in some cases, these compounds are actually present at higher levels in soil than in artificial turf or recycled crumb rubber infill. The section then goes on to discuss the metals that can be higher in natural soils than artificial turf. Mobility of PFAS is discussed in Section (2)(a)(iii)(f) Microplastics and Potential for PFAS Leaching, pages 2-156 – 2-159, in Topical Response No. 7 – Artificial Turf and Effects on Localized Heat and Health, of the Final EIR which provides a detailed discussion of potential PFAS leaching impacts. Leaching is also discussed in Response No. ORG 1B-75, pages 2-386 – 2-390 of the Final EIR, Response No. ORG 8-5, pages 2-844 – 2-850 of the Final EIR, and Response No. ORG 8-12, pages 2-860 – 2-862 of the Final EIR and shown, therein, as not rising to levels of significance. As evaluated in Topical Response No. 7 and respective responses to comments, leaching of PFAS and contamination resulting from the use of artificial turf was not found to result in significant impacts to the environment.

The USEPA has proposed new Maximum Contaminant Levels (MCLs) for six PFAS in drinking water, with PFOS having a proposed MCL of zero. Final EIR Appendix E.2, Supplemental Analysis of Artificial Turf Fields – Gradient, pages 6 and 7, provides a discussion on MCLs and why the soil MCL is the appropriate MCL to use when sampling artificial turf and not the drinking water MCL. Furthermore, the analytical testing done on the proposed artificial turf for the Project shows that no detectable concentrations of PFAS were found in analytical testing using the modified USEPA Method 537. The additional TOP assay post-treatment indicated trace concentrations of two PFAAs – PFBA and perfluoro-2-methoxypropionic acid (MTP) (Final EIR Appendix E.3, FieldTurf Testing Report). While USEPA has not calculated exposure limits for either of these PFAAs, comparing these concentrations to the lowest PFAS exposure limit (USEPA Regional Screening Level for residential soil for PFOS is 0.13 mg/kg) indicates that the trace concentrations of PFAAs were well below existing PFAS exposure limits. Based on these analyses of PFAS in the artificial turf products planned to be used for the Project, there are no or only very small detectable concentrations of PFAS in artificial turf, all of which were at least an order of magnitude lower than health-protective screening levels. Therefore, the EIR does not fail to address runoff impacts and no new mitigation is required. Finally, consistent with a conditioned letter of project support from Councilmember Nithya Raman dated August 14, 2023 and at the direction of the City Planning Commission at its meeting on August 24, 2023, the following condition of approval (Condition No. 31.d) was required for the Project's use of artificial turf:

31. Landscaping

- d. If artificial turf is utilized at Fields A and B, the artificial turf shall be permitted pursuant to California Assembly Bill 1423 (Schiavo, 2023), as amended July 3, 2023, and utilize temperature reducing coatings. If artificial turf becomes not compliant with future state and local legislation, it shall be replaced with a suitable and compliant alternative, with the artificial turf responsibly recycled.

In compliance with AB 1423, and even though the Governor vetoed AB 1423 on October 8, 2023, the Project's artificial turf would be subject to laboratory testing prior to installation and could only be installed if PFAS were detected below 20 parts per million, as measured in total organic fluorine.

Comment 2-23

6. Land Use Impacts

SCRA and SLAROS have provided detailed comments on the Project's inconsistencies with the City's General Plan, the Sherman Oaks-Studio City-Toluca Lake-Cahuenga Pass Community Plan, the Los Angeles River Revitalization Plan and River Improvement Overlay District, the 2020-2045 Regional Transportation Plan/Sustainable Communities Strategy, the Project site's designation as Open Space and existing height and lighting limitations. The FEIR also failed to provide good faith responses to SCRA and SLAROS's comments on these inconsistencies in the DEIR. (**Attachment 1**, pp. 30-36; **Attachment 2**, pp. 18-21.)

Response to Comment 2-23

The commenter states the SCRA and SLAROS have provided detailed comments on the Project's inconsistencies with the City's General Plan, the Sherman Oaks-Studio City-Toluca Lake-Cahuenga Pass Community Plan, the Los Angeles River Revitalization Plan and River Improvement Overlay District, the 2020-2045 Regional Transportation Plan/Sustainable Communities Strategy, the Project site's designation as Open Space and existing height and lighting limitations. The commenter also states that the FEIR failed to provide good faith responses to SCRA and SLAROS's comments on these inconsistencies in the DEIR.

The Final EIR included detailed responses to all of the land-use related comments in this regard within Response to Comment Nos. ORG 7A-78 to 7A-98. The comment does not provide substantial evidence or facts to support the contention that the Final EIR failed to provide good faith responses to SCRA and SLAROS's comments on these inconsistencies in the DEIR. As discussed in Response No. ORG 7A-78 of the Final EIR, the applicable threshold in the determination of land use impacts is whether the Project would cause a significant impact due to a conflict with land use policies adopted for the purpose of avoiding or mitigating an environmental effect. Response No. ORG 7A-78 in the Final EIR indicates that the Draft EIR, on pages IV.J-18 through IV.J-30 and in Appendix J, does identify and analyze whether the Project would conflict with applicable land use plans, policies and regulations including the 2020-2045 RTP/SCS, the General Plan's Framework Element, Open Space Element, and Conservation Element, the Community Plan, the Los Angeles River Revitalization Master Plan, the Los Angeles River Improvement Overlay District Ordinance, and the LAMC, including disclosure that the Project is seeking several zoning actions related to the height of the light poles, walls and fences all as permitted by the LAMC. As such, the Draft EIR appropriately discloses impacts related to conflicts with land use plans, policies and regulations.

Also, the commenter's July 17 letter (Attachment 2) raises various unsubstantiated comments pertaining to the Final EIR's responses to comments addressing the Project's potential for land use conflicts that result in environmental impacts. Responses to the issues raised were addressed under Issue 15-III-F in ESA's Memorandum Supplemental Final Environmental Impact Report Environmental Responses, Harvard-Westlake River Park Project Los Angeles, California dated August 12, 2023. Again, as discussed therein, the comments raised no substantial evidence of significant new information that the Draft EIR's analysis of land use impacts was inadequate, nor is there any evidence that the Draft EIR is flawed to support a contention that the Draft EIR is required to be recirculated pursuant to CEQA Guidelines Section 15088.5

Comment 2-24

7. Tribal Cultural Resource Impacts

The EIR provides inadequate mitigation for impacts to tribal cultural resources. (Attachment 1, pp. 36-39; Attachment 2, p. 24.)

Response to Comment 2-24

As explained in Response No. ORG 7A-99 of the Final EIR, although no mitigation measures are required for specific tribal cultural resources, the City has established a standard condition of approval to address inadvertent discovery of tribal resources. The standard condition of approval requires the immediate halt of construction activities in the vicinity of the discovery, coordination with appropriate Native American tribes and the City, and development and implementation of appropriate actions for treating the discovery (see Sections IV.D, *Cultural Resources*, page IV.D-36, and IV.N, *Tribal Cultural Resources*, pages IV.N-11 and IV.N-12 of the Draft EIR). The City's standard condition of approval would protect the potential inadvertent discovery of tribal cultural resources. The comment does not include any factual evidence to show how the Draft EIR does not meet the requirements of CEQA with respect to the evaluation of tribal cultural resources.

Comment 2-25

8. Noise Impacts

The EIR fails to adequately analyze the Project's noise and vibration impacts from construction and operation of the Project. (Attachment 1, pp. 39-42; Attachment 2, pp. 22-24.) These noise impacts can have significant adverse impacts on public health, including sleep disturbances. The EIR also improperly relies on deferred mitigation for construction noise impacts.

Response to Comment 2-25

Construction and operation noise and vibration impacts, including public health impacts and deferred mitigation, were discussed in detail in Topical Response No. 8 – Noise: Construction and Operation Impacts and Response Nos. ORG 7A-109, ORG 7A-110, ORG 7A-114, ORG 7A-118, ORG 1B-31, IND 6-3, in the Final EIR. The comment expresses the concern that excessive sound results in profound health impacts. The Draft EIR provides information to the public and decision-makers on the potential for the Project to result in sleep disturbance. Page IV.K-5 of the

Draft EIR cites to the World Health Organization (WHO) Guidelines for Community Noise, which details the adverse health effects of high noise levels, including hearing impairment, speech intelligibility, sleep disturbance, physiological functions (e.g., hypertension and cardiovascular effects), mental illness, performance of cognitive tasks, social and behavioral effects (e.g., feelings of helplessness, aggressive behavior), and annoyance.⁶ The USEPA Noise Effects Handbook states that “continuous or very frequent noise throughout the night, even as high as 95 dB (A-weighted), appears to cause little change in the average duration of sleep stages, since such stages are disturbed more by peaks that vary widely from the background ambient level than by high continuous levels alone.”⁷ The USEPA Noise Effects Handbook also states that “the higher the noise level the greater the probability of a response” and that a study “found that there was a 5 percent probability, of subjects being awakened by peak levels of 40 dB (A-weighted level) and a 30 percent probability at 70 dB. If [electroencephalographic]⁸ changes are also considered, these probabilities increase to 10 percent at 40 dB and 60 percent at 70 dB.”⁹ The WHO Environmental Noise Guidelines for the European Region states that noise as well as non-acoustic factors such as temperature, humidity, and sleep disorders could also affect the quality of an individual’s sleep.¹⁰ The WHO Environmental Noise Guidelines also conducted a meta-analysis of surveys for road, rail, and aircraft noise exposure and found a statistically meaningful association for the percent highly sleep disturbed for a 10 dBA increase.¹¹ As discussed on p. IV.K-5 of the Draft EIR, an increase of 10 dBA is perceived by the human ear as a doubling of the “loudness” and a 3 dBA increase is “barely perceivable.” As discussed in Section IV.K, Noise, of the Draft EIR, the Project’s operation noise impacts would be below the City’s noise thresholds. Further, as specified on pages II-34 and II-47 of the Draft EIR, the Project’s regular outdoor athletic activities would be required to cease no later than 8:00 p.m. at both fields and the swimming pool and no later than 9:00 p.m. at the tennis courts. Based upon the School’s 2018-2019 athletics calendar, approximately 50 percent of school days contained no outdoor athletic activities after 5:30 p.m.

Noise generating construction activity would terminate at 4:00 p.m. and no construction activities would occur during the nighttime in accordance with LAMC requirements. LAMC Section 41.40 prohibits construction activity before 7:00 and after 9:00 p.m. on Mondays through Fridays, before 8:00 a.m. and after 6:00 p.m. on Saturdays and National Holidays, or at any time on Sundays. As discussed in Section IV. K, Noise, of the Draft EIR, the Project’s construction noise impacts were analyzed and disclosed in accordance with the City’s noise thresholds of significance.

The comment asserts that the Draft EIR does not disclose impacts related to noise and vibration or the effect of noise pollution on health. In this regard, page IV.K-4 of Section IV.K, Noise, of the Draft EIR discloses the effect of noise on human health including hearing loss, sleep disruption, and annoyance. The Draft EIR explains that the health

⁶ World Health Organization Team, edited by Berglund, Birgitta; Lindvall, Thomas; Schwela, Dietrich H, Guidelines for Community Noise, 1999.

⁷ U.S. Environmental Protection Agency, Noise Effects Handbook, 6. Sleep Disturbance, 1981, <http://www.nonoise.org/library/handbook/handbook.htm>, accessed October 2023.

⁸ Electrical activity in brain.

⁹ U.S. Environmental Protection Agency, Noise Effects Handbook, 6. Sleep Disturbance, 1981.

¹⁰ Basner, M., and S. McGuire, WHO Environmental Noise Guidelines for the European Region: A Systematic Review on Environmental Noise and Effects on Sleep, International Journal of Environmental Research and Public Health, 15(519), 2018, <https://pubmed.ncbi.nlm.nih.gov/29538344/>, accessed June 2021.

¹¹ Basner, M., and S. McGuire, WHO Environmental Noise Guidelines for the European Region: A Systematic Review on Environmental Noise and Effects on Sleep, International Journal of Environmental Research and Public Health, 15(519), 2018.

effects of noise are largely subjective and influenced by a multitude of factors including the type of noise, the perceived importance of the noise, the appropriateness of the noise to the setting, the duration of the noise, the time of day and the type of activity during which the noise occurs, and individual noise sensitivity. The Draft EIR discloses that a “wide variation in individual thresholds of annoyance exists, and different tolerances to noise tend to develop based on an individual’s past experiences with noise. Thus, an important way of predicting a human reaction to a new noise environment is the way it compares to the existing environment to which one has adapted (i.e., comparison to the ambient noise environment). In general, the more a new noise level exceeds the previously existing ambient noise level, the less acceptable the new noise level will be judged by those hearing it. With regard to increases in A-weighted noise level, the following relationships generally occur:¹²

- Except in carefully controlled laboratory experiments, a change of 1 dBA in ambient noise levels cannot be perceived;
- Outside of the laboratory, a change of 3 dBA in ambient noise levels is considered to be a barely perceivable difference;
- A change of 5 dBA in ambient noise levels is considered to be a readily perceivable difference; and
- A change of 10 dBA in ambient noise levels is subjectively heard as doubling of the perceived loudness.” (Page IV.K-4 through IV.K-5).

The Draft EIR noise analysis acknowledges the health effects of noise on human health and establishes quantifiable guidelines for ensuring that noise does not affect sensitive receptors adversely. Furthermore, the comment does not provide any specific information that would show any deficiencies in the analyses in the Draft EIR.

Regarding deferred mitigation, this comment states that PDFs related to minimizing noise from the Project should be analyzed as mitigation measures. The comment conflates Project components with mitigation measures needed if those components were not integrated into the design of the Project. For all the reasons previously stated in the Responses to Comments in the Final EIR, the EIR is not flawed in its use of PDFs which are Project elements, or its use of mitigation measures which are additional measures added after analysis of the Project with the PDFs integrated into the Project. See Response No. ORG 1B-8, Response No. ORG. 1B-22, Response No. ORG 1B-23, Response No. ORG 1B-25 and Response No. ORG 1B-26 in the Final EIR for further discussion of PDFs. Project Design Features NOI-PDF-1, NOI-PDF-2 and NOI-PDF-3 are all integral parts of the Project as designed by the School. As such, they are part of the whole of the Project and appropriately considered as a Project component in the analysis of the Project’s potential noise impacts.

Noise was estimated according to conservative assumptions to provide maximum impact and to avoid underestimating impacts. As analyzed in Section IV.K, Noise, of the Draft EIR, the Project’s construction activities would result in the generation of temporary noise increases over ambient noise levels in the vicinity of the Project Site in excess of standards established by the City of Los Angeles and impacts would be potentially significant. While the Project would implement all feasible mitigation measures to reduce construction noise levels (Mitigation Measures NOI-MM-1 [sound barriers], NOI-MM-2 [construction equipment locations and screening] and NOI-MM-

¹² California Department of Transportation, Technical Noise Supplement to the Traffic Noise Analysis Protocol, Section 2.2.1, 2013.

3 [construction equipment requirements and sound curtains]), during various phases of construction, construction-related noise levels would exceed applicable noise impact thresholds at some of the nearby sensitive receptor locations even with the required mitigation measures. As such, construction noise impacts associated with on-site noise sources would be temporarily significant and unavoidable. However, as explained in Section IV.K, Project-level noise from on-site construction equipment would be less than significant with implementation of Mitigation Measures NOI-MM-1, NOI-MM-2 and NOI-MM-3 at Receptor Location R7 (single-family residential uses on Sunswept Drive, approximately 800 feet south of the Project Site). Additionally, cumulative on-site construction equipment noise levels at Receptor Location R7 would only be significant and unavoidable in the event of concurrent construction activities at the Project and at Related Projects Nos. 2, 3 or 4 since those related projects are located approximately 150 feet to 400 feet from Receptor Location R7. Operational noise levels, which conservatively included noise levels generated by the simultaneous use of all athletic facilities, would not exceed noise impact standards established by the City of Los Angeles at the noise sensitive receptors immediately adjacent to the Project Site, or at Receptor location R7, and impacts would be less than significant.

Comment 2-26

Expert evidence identifies the EIR's failure to provide an accurate assessment of baseline noise levels, to adequately analyze and mitigate noise impacts associated with the Project, particular amplified noise. (Attachment 4, expert analysis by Steve Rodgers Acoustics; Attachment 5, expert analysis by Menlo Scientific Acoustics.) The School has already violated noise limits during sporting events at its existing Coldwater Canyon campus, demonstrating an increased likelihood the Project would also exceed allowable noise levels in an area where there are even more sensitive receptors.

Response to Comment 2-26

Construction and operation noise and vibration impacts, including baseline noise levels and amplified noise were discussed in detail in Topical Response No. 8 – Noise: Construction and Operation Impacts, Response Nos. ORG 1B-93, ORG 9-8, ORG 9-11, ORG 7A-115, and IND 193-6 in the Final EIR, and Issues 10-4 and 10-5 in the Memorandum Supplemental Final Environmental Impact Report Environmental Responses, Harvard-Westlake River Park Project Los Angeles, California dated August 12, 2023. Regarding baseline noise levels, eight off-site noise-sensitive receptor locations were identified to represent noise-sensitive uses within the Project area. The locations of the noise-sensitive receptors are listed in Final EIR Table 2-7, Summary of Ambient Noise Measurements at Noise Sensitive Receptors, as Receptor Locations 1 through 8 with the approximate distances to the Project Site. Final EIR Table 2-7 is the same table as Table IV.K-6, Summary of Ambient Noise Measurements, in the Draft EIR. Ambient noise levels were measured at all eight locations (R1 through R8). The measured environmental noise levels at R1 through R8 represent the current ambient noise levels in the vicinity of the Project Site and are used to establish the existing ambient noise level at the noise-sensitive receptors within the Project area.

As indicated in Final EIR Table 2-7, the existing ambient noise levels at the receptor locations ranged from 50.5 dBA Leq (at receptor location R1) to 69.5 dBA Leq (at receptor location R5). Based on field observation and measured sound data, the current ambient noise environment in the vicinity of the Project Site is influenced primarily by vehicular traffic on local roadways, commercial uses, and other typical urban noise. The existing ambient noise

environment at all measurement locations currently exceed the City's presumed daytime ambient noise standard of 50 dBA (Leq) for residential use as established in the Los Angeles Municipal Code (LAMC) Section 111.01(a) and 111.03 and other conditions in Section 111.02. As described on pages IV.K-14 and IV.K-15 of the Draft EIR, the LAMC identifies the location (at an adjacent property line and at a location appropriate for the particular noise source being measured) and length of the time period (at least 15 minutes Leq) for conducting ambient noise measurements as indicated below in the relevant sections from the LAMC.

- As indicated in Table 2-7, the existing ambient noise levels at the receptor locations ranged from 50.5 dBA Leq (at receptor location R1) to 69.5 dBA Leq (at receptor location R5). Based on field observation and measured sound data, the current ambient noise environment in the vicinity of the Project Site is controlled primarily by vehicular traffic on local roadways, commercial uses, and other typical urban noise. The existing ambient noise environment at all measurement locations currently exceed the City's presumed daytime ambient noise standard of 50 dBA (Leq) for residential use as established in the Los Angeles Municipal Code (LAMC) Section 111.01(a) and 111.03 and other conditions in Section 111.02. As described on pages IV.K-14 and IV.K-15 of the Draft EIR, the LAMC identifies the location (at an adjacent property line and at a location appropriate for the particular noise source being measured) and length of the time period (at least 15 minutes Leq) for conducting ambient noise measurements as indicated below in the relevant sections from the LAMC.
- LAMC Section 111.02 provides procedures and criteria for the measurement of the sound level of "offending" noise sources. In accordance with the LAMC, a noise level increase of 5 dBA over the existing average ambient noise level at an adjacent property line is considered a noise violation. To account for people's increased tolerance for short-duration noise events, the Noise Regulation provides a 5-dBA allowance for noise occurring more than five but less than fifteen minutes in any one-hour period and an additional 5-dBA allowance (total of 10 dBA) for noise occurring five minutes or less in any one-hour period.

Therefore, consistent with LAMC procedures, the measured existing ambient noise levels were used in the EIR as the baseline conditions for the purposes of determining Project impacts.

Regarding adequately analyzing and mitigating noises impacts, particularly amplified sound, the comment expresses that the Draft EIR did not adequately evaluate noise from amplified sound. As discussed in pages IV.K-46 and IV.K-49 of Section IV.K, Noise, of the Draft EIR, and shown in Tables IV.K-14, School Related Special Events Noise Levels, and IV.K-15, Public Special Events Noise Levels, of the Draft EIR, the range of public or special events activities (including the use of amplified sound), singularly or in combination, would not exceed CEQA threshold levels for noise. As discussed in Draft EIR, Appendix K, Noise Technical Study, page 18, the regulatory limit for amplified sound is established under Section 112.01 of the LAMC. Section 112.01 specifies that operation of an amplified sound system (i.e., machine or device producing, reproducing or amplification of the human voice, music, or any other sound) shall not exceed the ambient noise level on the premises of any other occupied property by more than five (5) decibels. Project Design Feature NOI-PDF-2 requires that the Project's "amplified sound system for special events at Field A be installed and designed using a line-array speaker system, so as to not exceed a maximum noise level of 92 dBA (Leq) at a distance of 50 feet from the amplified sound system. In addition, the stage for special events will be located at the north side of Field A, with the amplified sound system facing south in the opposite direction from the nearest off-site sensitive uses to the north of Field A, which would reduce speaker noise at the nearest off-site sensitive uses to the north and east of Field A." The objective of the noise analysis and the amplification system for the purpose of the Draft EIR is not to result in silence or no discernable sound but to comply with LAMC requirements in accordance with the CEQA threshold. Project Design Feature NOI-PDF-2

conservatively requires the noise level to be at a maximum of 92 dBA (Leq) at a distance of 50 feet from the amplified sound system. At this distance, the noise levels from the amplified system would not significantly impact nearby noise sensitive receptors, as shown in Tables IV.K-14 and IV.K-15 of the Draft EIR. Furthermore, even under a conservative, worst-case scenario evaluating composite noise impacts, which evaluates all Project-related noise sources (including speakers) operating simultaneously plus existing ambient noise levels, the Draft EIR shows that operational noise impacts would be less than significant. Also, it is acknowledged that sound does continue after reaching its target, but since the noise analysis evaluates the nearest noise sensitive receptors, any receptors beyond those analyzed in the Draft EIR would experience lower noise levels due to natural attenuation and, thus, reduced less than significant noise impacts.

It should be noted that as a Condition of Approval, the number of special events has been modified from 3 events with up to 2,000 people and 27 events with up to 500 people, to 2 events with up to 2,000 people, 6 events with up to 500 people, and 12 events with up to 250 people. This change in the Condition of Approval lowers the overall number of events that would occur per year and the overall number of attendees, which would further reduce noise impacts. However, the overall noise impact would remain the same, less than significant.

Comment 2-27

9. Transportation and Traffic Impacts

Expert comments demonstrate that the EIR's analysis and mitigation of traffic-related impacts is inadequate. (**Attachment 1**, pp. 43-48; **Attachment 2**, p. 24.) Mitigation measures are improperly deferred and inadequately analyzed due to improper reliance on project design features. VMTs are not adequately analyzed. Nor are impacts to emergency access and public safety. (**Attachment 7**, comments from Aperture, experts in construction consulting, safety, engineering & management, with additional expertise in forensic engineering.) The EIR fails to analyze the impacts of construction traffic. The EIR further fails to disclose the Project's conflicts with the Mobility Plan.

Response to Comment 2-27

The commenter refers to comments in letters prepared by Tom Brohard dated April 25, 2022 and June 28, 2023. Comments raised by Mr. Brohard in his April 25, 2022 letter were addressed in Response Nos. ORG 7A-181 through 7A-200 in the Final EIR. Comments raised by Mr. Brohard in his June 28, 2022 letter were addressed in responses to Issues 16-1 to 16-12 in ESA's Memorandum Supplemental Final Environmental Impact Report Environmental Responses, Harvard-Westlake River Park Project Los Angeles, California dated August 12, 2023. Again, as discussed therein, the comments raised no substantial evidence of significant new information that the Draft EIR's analysis of transportation impacts was inadequate, nor was there any evidence that the Draft EIR is flawed to support a contention that the Draft EIR is required to be recirculated pursuant to CEQA Guidelines Section 15088.5.

The comment states that mitigation measures are improperly deferred and inadequately analyzed due to improper reliance on project design features. See Response No. ORG 1B-22 regarding use of PDFs and Response No. ORG 1B-23 of the Final EIR regarding the inapplicability of the *Lotus* decision to the Project's Draft EIR, as referred to in the commenter's May 10, 2023 comment letter (referred to as Attachment 1 herein). See also Topical Response No. 9 - Transportation and Parking During Construction and Operations, in the Final EIR, which discusses the

Project’s CEQA and non-CEQA impacts. As discussed therein, “The City, through the LADOT TAG, continues to require that transportation assessments analyze various non-CEQA transportation topics, such as pedestrian, bicycle and transit access, intersection operations, project access, construction period traffic effects, and residential street cut-through effects.” As discussed in Topical Response No. 9, the Project’s construction and operation transportation/traffic impacts were fully evaluated in Section IV.M, *Transportation*, of the Draft EIR, which is primarily based on the *Transportation Assessment for the Harvard-Westlake River Park Project* prepared for the Project, included in Appendix M of the Draft EIR. In accordance with LADOT’s Transportation Assessment Guidelines (TAG) adopted in July 2019 (updated in July 2020), the CEQA-required analysis to be included within the Draft EIR section includes an assessment of whether the Project would result in: 1) potential conflicts with transportation-related plans, ordinances, or policies; 2) a substantial increase in VMT; or 3) increased hazards due to a geometric design feature or incompatible use. In addition, in accordance with Appendix G of the CEQA Guidelines, an assessment of whether the Project would result in inadequate emergency access is included. The comment contains no facts to support the contention that compliance with the TAG compressed CEQA required analysis of transportation related impacts. Moreover, as traffic (street congestion) is a non-CEQA issue, the comment fails to state any basis for the contention that the Draft EIR’s transportation analysis was inadequate.

The comment states that the EIR fails to adequately assess VMT, but does not raise any specific comments with regard to the Draft EIR traffic analysis or calculation of VMT. Refer to Response Nos. ORG 7A-181 through 7A-200 in the Final EIR for specific comments raised in Mr. Brohard’s in his April 25, 2022 letter. In addition, refer to responses under 16-1, 16-2 and 16-5 in ESA’s Memorandum Supplemental Final Environmental Impact Report Environmental Responses, Harvard-Westlake River Park Project Los Angeles, California dated August 12, 2023. The responses therein discuss how the Project’s Transportation Assessment of VMT impacts were adequately analyzed in accordance with LADOT’s TAG applicable CEQA impact thresholds.

The comment states that the EIR analysis of Project impacts on emergency access is inadequate. Impacts on emergency response, including effects on LAFD access, were fully evaluated in Section IV.M, *Transportation*, page IV.M-44 of the Draft EIR. The commenter is also referred to Topical Response No. 10 – Emergency Access, for a discussion of Project effects to operations at the LAFD Fire Station 78. As discussed therein, a flashing red warning light(s), activated by LAFD during the initial stages of response mobilization, will be installed on the southern exit driveway before vehicles reach Valleyheart Drive. The primary objective of the warning light is to assist the return of the fire trucks and other vehicles to the fire station via Valleyheart Drive and would reduce conflicts between vehicles leaving the Project Site and emergency vehicles leaving/coming back to the station and minimize eastbound queues by vehicles leaving the Project Site. Also, Response to Comment Nos. 7A-130 to 7A-134 of the Final EIR provide additional discussion of impact related to emergency access.

The comment references comments by Aperture, who provided comments on May 6, 2023 and July 11, 2023. Responses to Comment Nos. ORG 1B-171 through 1B-195, of the Final EIR, provide responses to the comments prepared by Aperture’s May 6, 2023 letter and responses to Issues 3-1 to 3-14-10 in ESA’s Memorandum Supplemental Final Environmental Impact Report Environmental Responses, Harvard-Westlake River Park Project Los Angeles, California dated August 12, 2023, address Aperture’s comments raised in their July 11, 2023 letter. As discussed in the responses, the EIR does in fact adequately address impacts regarding emergency access and public safety as appropriate to the CEQA thresholds. The comments provided by Aperture do not provide substantial

evidence of significant new information showing that there is a new significant impact, an increase in the severity of an impact, or that the Draft EIR is fundamentally flawed to show that the EIR is inadequate or support a contention that the Draft EIR is required to be recirculated pursuant to CEQA Guidelines Section 15088.5.

The comments state that the EIR fails to analyze the impacts of construction traffic. Regarding construction traffic, evaluation criteria include potential temporary traffic constraints (e.g., temporary lane closures), temporary loss of access (e.g., loss of vehicle, bicycle, or pedestrian access to nearby parcels), and temporary loss of bus stops or rerouting of bus lines. The Project would not require construction activities that would take place within the right-of-way which would necessitate temporary lane, alley, or partial street closures for more than a day at a time. In addition to traffic control measures included within the Project's Construction Management Plan (CMP), as required by Project Design Feature TRAF-PDF-1 the mitigation monitoring program provides that LADOT will serve as the monitoring and enforcement agency for the implementation of Project Design Feature TRAF-PDF-1 requiring approval of the CMP prior to issuance of building permit and periodic field inspections. With implementation of Project Design Feature TRAF-PDF-1, construction traffic was determined to be less than significant.

The commenter is referred to Topical Response No. 10 – Emergency Access, for a discussion of effects to operations at LAFD Fire Station 78, by vehicular traffic. As discussed in Topical Response No. 10, during construction, the Project would employ temporary traffic controls, such as flag persons, to control traffic movement during temporary traffic flow disruptions. Traffic management personnel would be trained to assist in emergency response by restricting or controlling the movement of traffic that could interfere with emergency vehicle access. The comment does not contain substantial evidence that supports the contention that congestion in the Project area would increase as a result of Project construction, or that Project traffic would create hazardous or unsafe conditions.

The EIR further states that the EIR fails to disclose the Project's conflicts with the Mobility Plan. This issue is addressed in Response to Comment Nos. ORG 7A-136 and ORG 7A-137 of the Final EIR. Comment No. ORG 7A-136 lists various policies of the Mobility Plan related to Safe Routes to School (Policy 1.3), Multi-Modal Detour Facilities (Policy 1.6), and Recreational Trail Safety (Policy 1.9). As discussed in Response No. ORG 7A-136, the Project would not conflict with any of the cited Mobility Plan policies in a manner that would lead to a substantial adverse physical impact on the environment.

Overall, based on the above, the comment does not include any substantial evidence or facts to show how the Draft EIR does not meet the requirements of CEQA with respect to the evaluation transportation impacts.

Comment 2-28

10. Recreational Impacts

The Project converts a publicly available golf course and tennis center into an athletic facility for a private school, with limited and highly restricted public use availability. The recreational impacts of the conversion of this public use into a private use must be acknowledged in the EIR, but were not. (**Attachment 1**, pp. 48-49; **Attachment 2**, pp. 24-25.)

Response to Comment 2-28

The commenter states the Project would have limited and highly restricted public use availability. The commenter further states the recreational impacts of the conversion of this public use into a private use must be acknowledged in the EIR, but were not.

With regard to public and access to the Project Site, and to clarify the existing property rights and on-site uses, the Project Site is not public open space. The land that currently comprises Weddington Golf & Tennis, which was first purchased by the Weddington/Becker families and then sold to Harvard-Westlake in late 2017, has been privately owned since the late 1800s. No public access to the Project Site is allowed, except for fee-based tennis or golf uses, as well as access to the café. Thus, the ability to use the golf and tennis facilities on the Project Site has been controlled by the private property owners and is not generally considered a public facility open to the public as implied by the comment. Further, unlike a public property, the Project Site may be closed at the property owner's sole discretion.

The Draft and Final EIR thoroughly describe public use of the site. The Draft EIR is clear that public access to the Project Site is an integral part of the Project. As described in Chapter II, *Project Description*, of the Draft EIR on pages II-2 and II-33 through II-35 (subsection titled, "Public Use of the Project Site"), the Project has been designed to provide daily, 7:00 a.m. to 9:00 p.m., public access to an approximately 0.75-mile landscaped pathway and other landscaped areas totaling 5.4 acres, and continued all day public use of the putting green and clubhouse/café. In addition, as shown in Table II-3, *Public Use Days and Hours*, on page II-34 of the Draft EIR, the public would have use of the tennis courts when courts are available, even if some of the courts are in use by the School. Public use of the tennis courts could be through walk-on play or through advanced reservations. Table II-3 also describes the hours of public use for all of the Project's on-site facilities (i.e., park areas, gymnasium community room, gymnasium courts, swimming pool, athletic fields, clubhouse, café, and putting green). Furthermore, the Final EIR provides a 7-page Topical Response No. 3 – Enforcement of Public Access, dedicated to a discussion of the School's commitment to providing public access to the community on the Project Site, including describing how the School will be required to provide public access and how the School or City will guarantee the public access. As such, the EIR thoroughly described the extent and limitations of public use of the site.

The commenter speculates without any evidence or facts implies that impacts to recreational facilities could occur. The Draft EIR and Final EIR clearly demonstrate that recreational impacts based on the thresholds established in the CEQA Guidelines would be less than significant. The commenter is referred to Topical Response No. 11 – Recreation: Golf and Tennis Facilities, of the Final EIR, which provides an overview of the potential for recreational impacts to occur. As discussed therein, the Project Site's current golfers would be accommodated at other golf facilities without exceeding their capacity. Tennis players who use the existing Project Site tennis courts could also be accommodated at other facilities during construction without exceeding their capacity. After completion of Project construction, tennis players would have access to the eight new onsite tennis courts. Furthermore, the proximity of the Project Site to the surrounding residential neighborhood and the provision of recreational opportunities and park uses that do not currently exist in the area, would reduce demand on other local park facilities (excluding public tennis and golf facilities). The Project's recreational facilities would reduce demand for off-site parks and recreational uses and meet the criterion of neighborhood park uses within walking distance of the surrounding neighborhood, as well as provide the highest priority recreational uses (walking paths) and high priority uses (gymnasium and swimming pool) identified in the RAP's Citywide Community Needs Assessment for the South San Fernando Valley geographic area. Therefore, the Project would not cause the substantial or accelerated

physical deterioration of public park and recreational facilities, and would not require the construction or expansion of recreational facilities that would have an adverse physical effect on the environment. The recreational impacts of the Project were appropriately addressed in the Draft EIR

Comment 2-29

11. Public Health

The EIR fails to analyze the health impacts associated with Valley Fever, increased mosquito activity and the use of artificial turf. (**Attachment 1**, p. 49; Attachment 9, expert comments from Autumn Winds Associates.)

Response to Comment 2-29

Valley Fever impacts are addressed in detail in Response to Comment 2-17, above, in this Memorandum.

Regarding increased mosquito activity, the topic was addressed in Response No. ORG 7A-142, ORG 7A-143, and ORG 7A-145 of the Final EIR. The comment claims that the Project would increase mosquito activity. Mosquito activity is not a CEQA issue and is appropriately not addressed in the Draft EIR. However, mosquito control within the Los Angeles River is the responsibility of the local vector control and the Project would coordinate, contribute, and cooperate with the local vector control to address any future mosquito issues or apply recommendations to minimize mosquito breeding or attractants. As discussed in Topical Response No. 2 - Modifications to the Project Design, of the Final EIR, the School removed the Project's proposed landscape water features, and there would thus be no source of standing water on the Project Site that would be a vector for mosquito reproduction.

Regarding the health impacts of artificial turf, please refer to Response to Comment 2-16, 2-22, and 2-30 in this Memorandum. Regarding health impacts of the entire turf formation, the composition of artificial turf and the studies conducted on the turf, including all the different parts of the turf formation and of turf that is already in place and in use were discussed in Section IV.H, Hazards and Hazardous Materials, of the Draft EIR, pages IV.H-31 – IV.H-44, Appendix H-2 of the Draft EIR, pages 5 – 19, and Topical Response 7 – Artificial Turf and Effects on Localized Heat and Health Section (2)(a), Health Effects from the Use of Artificial Turf, pages 2-137 – 2-159 of the Final EIR. Thus, based on the numerous studies conducted on the chemistry of artificial turf, the Draft and Final EIRs concluded that impacts on human health would be less than significant.

Comment 2-30

Experts at Public Employees for Environmental Responsibility (PEER) assessed the type of artificial turf planned for the Harvard-Westlake Project for PFAS and found it would have levels hazardous to the public and for water quality in the adjacent LA River. (**Attachment 6**, PEER analysis of turf.) Responses to comments in the FEIR claimed this analysis was inadequate to demonstrate hazardous PFAS in the artificial turf, so PEER commissioned detailed testing of Field Turf's Vertex Core 2.5 and crumb rubber infill which is proposed to be used at the Project. The sample was obtained directly from the manufacturer and sent directly to Eurofins Laboratories, which found four PFAS species in the turf that will readily leach off into surrounding soil and waters, and a number of metals and

semi- volatile organic compounds. (**Attachment 12**, PEER’s summary and Eurofins Laboratories’ complete report on PFAS and other chemicals of concern in artificial turf.)

Response to Comment 2-30

The comments raised in regards to the PEER assessment of the type of artificial turf planned for the Project and PFAS hazardous to the public and water quality in the adjacent Los Angeles River were addressed in detail in Topical Response No. 7 – Artificial Turf and Effects on Localized Heat and Health and Response Nos. ORG 1B-75, ORG 1C-28, ORG 7A-76, ORG 8-3, ORG 8-4, ORG 8-5, ORG 8-6, ORG 8-11, ORG 8-12, ORG 8-15, and ORG 9-6, in the Final EIR, and Issues 1-1, 1-2, 2-1, 2-2, 3, and 4-1 through 4-8 in the Memorandum Supplemental Final Environmental Impact Report Environmental Responses, Harvard-Westlake River Park Project Los Angeles, California dated August 12, 2023. As discussed therein, metals and semi-volatile organic compounds are expected compounds in artificial turf, especially crumb rubber, as it is made from shredded tires. Additionally, the extrusion process uses a fluoropolymer which is not a part of the artificial turf but is considered a PFAS. Based on these analyses of PFAS in the artificial turf products planned to be used for the Project, there are no or only very small detectable concentrations of PFAS in artificial turf, all of which were at least an order of magnitude lower than health-protective screening levels. Additionally, based on the studies regarding crumb rubber and artificial turf components, Section IV.H, Hazards and Hazardous Materials, and Appendix H-2, Artificial Turf Technical Memorandum, of the Draft EIR, included a detailed evaluation of potential health impacts related to use of crumb rubber and artificial turf. Based on the analysis, the EIR determined that health-related impacts would be less than significant.

Attachment 6 referenced in the comment was previously submitted to the City by PEER, dated July 11, 2023 and responses to Attachment 6 were provided previously. Please refer to the Memorandum Supplemental Final Environmental Impact Report Environmental Responses, Harvard-Westlake River Park Project Los Angeles, California dated August 12, 2023, specifically see Issues 4-1 through 4-8. Additionally, the results provided in the commenter’s Attachment 6 have a data qualifier “B” which means the chemical was also detected in the method blank. When chemicals are found in both the blank and the test sample, the reported value is qualified with a “B” to indicate that there is uncertainty in the source of the contamination and that it is possible that both the blank and the test sample were contaminated prior to or during the testing.

Regarding Attachment 12, PEER commissioned Eurofins to test Field Turf’s Vertex Core 2.5 and crumb rubber infill. Four PFAS compounds were detected using the Synthetic Precipitation Leaching Procedure (SPLP) testing, which is one accepted methodology for assessing potential leaching from materials found in the environment. Three of the PFAS compounds, perfluorooctanesulfonic acid (PFOS), 6:2 fluorotelomer sulfonic acid (6:2 FTS), and 7:3 fluorotelomer carboxylic acid (7:3 FTCA) were detected less than reporting limit but greater than the detection limit and the concentrations are an approximate value. Only perfluoropropionic acid (PFPrA) was detected slightly above the reporting limit.

As discussed in the attached memo, Supplemental Memo Re: HW River Park – Response to Supplemental PFAS Test¹³, PEER compared their SPLP leachate results to the total oxidizable precursor (TOP) results presented in Final EIR Appendix E.3. None of the nine PFAS detected in the TOP assay were detected in the SPLP leachate.¹⁴ These data sets demonstrate the potential for oxidation and leaching of fluorinated chemistries from turf products in the environment at trace-levels with use and time. Given the ubiquitous nature of some PFAS chemicals, trace-level detections from both the SPLP and TOP testing methodologies is expected. The values for each of the detected PFAS analytes detected after oxidation (0.17 – 5.9 ppb) were substantially lower than the respective levels of each substance used for regional screening levels for soils (130 – 19,000 ppb by EPA; 3.8-12 ppb by California) and proposed regulatory guidance for turf products (20 ppm total organic fluorine per recently proposed CA AB 1423).¹⁵ Additionally, please see Response to Comment No. 2-22 above for a discussion as to why the soil MCL is the appropriate MCL to use when sampling artificial turf and not the drinking water MCL. Even if all the PFOS detected in the SPLP leachate and the TOP assay were released in the same rainfall event, the PFOS concentrations detected in the turf samples are below the EPA proposed Maximum Containment Level of 4 ppt for PFOS in drinking water and well below the EPA draft aquatic life ambient water quality criteria of 3.0 ppm.¹⁶ Further, the detected PFOS levels are multiple orders of magnitude below the EPA screening level for residential soil (130 ppb).¹⁷ These benchmark concentrations suggest the detections in these turf products would have minimal impact on human and environmental health, even if all available PFOS leached from the turf.¹⁸

In summary, the assertion that PFOS or the other PFAS and organic chemicals detected in the SPLP leachate and the TOP assay will have a detrimental impact on human health and the environment is not supported by the data in either the Exponent assessments describing the TOP testing or the PEER assessments or commissioned testing memo describing the SPLP analysis.

Comment 2-31

12. Cumulative Impacts

In addition to the cumulative mature tree removal impacts of this Project and the nearby Sportsmen's Lodge project, these projects would also have unanalyzed cumulative construction related impacts. Both require massive amounts of excavation and hauling of export materials. This Project includes approximately 197,000 cubic yards of soil to be exported, which in and of itself would result in adverse traffic and traffic safety impacts that have not be adequately addressed. Those impacts will be increased when occurring at the same time as the Sportsmen's Lodge project's hauling of approximately 430,000 cubic yards of soil. Relevant assessments, such as whether the same haul route would be used for both projects and used simultaneously, were not included in the EIR. These cumulative impacts need to be addressed.

¹³ Exponent, 2023. Supplemental Memo Re: HW River Park – Response to Supplemental PFAS Test, October 20.

¹⁴ SPLP was not evaluated for oxidizable precursors.

¹⁵ Exponent, 2023. Supplemental Memo Re: HW River Park – Response to Supplemental PFAS Test, October 20.

¹⁶ Exponent, 2023. Supplemental Memo Re: HW River Park – Response to Supplemental PFAS Test, October 20.

¹⁷ Exponent, 2023. Supplemental Memo Re: HW River Park – Response to Supplemental PFAS Test, October 20.

¹⁸ Exponent, 2023. Supplemental Memo Re: HW River Park – Response to Supplemental PFAS Test, October 20.

Response to Comment 2-31

This comment states the Draft EIR did not adequately assess cumulative transportation impacts associated with the Sportsmen's Lodge project. Section IV.M, *Transportation*, of the Draft EIR, analyzed cumulative impacts relevant to the applicable CEQA-related thresholds. As discussed on page IV.M-46 of the Draft EIR, the cumulative transportation analysis considered all the related projects, including both Sportsmen's Lodge project (even though one was at/nearing completion at the time the Draft EIR was circulated), as set forth in Chapter III, *Environmental Setting*, of the Draft EIR. The commenter is referred to Topical Response No. 9 – Transportation and Parking During Construction and Operations, of the Final EIR, which describes the CEQA versus non-CEQA transportation analysis requirements and issues. With regard to the related projects' construction traffic combined with the Project's construction traffic (i.e., cumulative construction traffic), the level of traffic congestion or increases in traffic on local roadways is a non-CEQA issue.

With regard to relevant CEQA construction-related cumulative impacts, as discussed on page IV.M-47 of the Draft EIR, each related project would have its own Construction Management Plan (CMP), as would the Project, during construction activities. Implementation of the CMPs would ensure that if there are overlapping construction activities for the related projects, that measures would be put in place to ensure adequate emergency access is maintained on the local roadway network at all times. Thus, the Project's contribution to cumulative impacts associated with emergency access during construction would not be considerable.

In addition, the Draft EIR's cumulative noise analysis analyzed impacts from off-site construction traffic noise and vibration from all of the related projects, which is discussed on pages IV.K-71 to IV.K-78. The cumulative construction traffic noise analysis discloses a conservative conclusion that the Project's contribution to cumulative construction noise associated with off-site construction truck traffic would be cumulatively considerable and would represent a significant and unavoidable cumulative impact.

Comment 2-32

The cumulative air quality impacts of this large amount of excavation, hauling and other construction work must also be assessed. The Project would have project-level regional NO_x construction that are claimed to be reduced by over 100 pounds per day to slightly under the individual threshold of significance. The Sportsmen's Lodge project also claims a substantial mitigation reduction to just under the threshold of significance. An analysis of the cumulative construction air quality impact of these projects was not provided.

Response to Comment 2-32

Cumulative air quality impacts of the Project, including those related to NO_x construction emissions, were fully addressed in the EIR. As shown on page III-5, of the Draft EIR, the Sportsmen's Lodge project was included in Table III-1, Related Project List, as project 5. Cumulative impacts were addressed for air quality on pages IV.B-64 through IV.B-67, of the Draft EIR. Based on available information, Related Project No. 1 was anticipated to complete construction in 2021 prior to the commencement of construction activities for the Project.¹⁹ However, since

¹⁹ The Shops at Sportsmen's Lodge, <https://www.shopsatsportsmenslodge.com/>, accessed April 15, 2021.

both the specific timing and the sequencing of the construction of Related Project Nos. 2, 3, 4, and 5 are unknown, any quantitative analysis to ascertain daily construction emissions that assumes multiple, concurrent construction projects would be speculative. Furthermore, as discussed above, the related projects are not located directly adjacent to the Project Site, but are located 530 feet or more away from the Project Site. Therefore, even if construction of the related projects were to occur at the same time as the Project, localized emissions from the related projects would not substantially combine with localized emissions from the Project.²⁰

The SCAQMD recommends evaluating cumulative impacts for individual projects based on whether the project exceeds the SCAQMD's recommended daily thresholds for project-specific impacts for those pollutants for which the Air Basin is in non-attainment. Thus, the cumulative analysis of air quality impacts follows SCAQMD's guidance such that construction or operational Project emissions would be considered cumulatively considerable if Project-specific emissions exceed an applicable SCAQMD recommended significance threshold. The City has determined to rely on thresholds established by the SCAQMD (refer to CEQA Guidelines Section 15064.7) to assess the Project's cumulative impacts. Regional emissions from a project have the potential to affect the Air Basin as a whole, and, unlike other environmental issues areas, such as aesthetics or noise, it is not possible to establish a geographical radius from a specific project site where potential cumulative impacts from regional emissions would be limited. Meteorological factors, such as wind, can disperse pollutants, often times tens of miles downwind from a project site. Therefore, consistent with accepted and established SCAQMD cumulative impact evaluation methodologies, the potential for the Project to result in cumulative impacts from regional emissions is assessed based on the SCAQMD thresholds. For construction, as shown in Table IV.B-6, IV.B-8, and IV.B-9, of the Draft EIR, the Project would not result in an exceedance of regional and localized significance thresholds with implementation of mitigation measures. Therefore, cumulative impacts related to regional and localized construction emissions would be less than significant with mitigation. For operations, as shown in Table IV.B-7 and IV.B-10, of the Draft EIR, the Project would not result in an exceedance of regional or localized significance thresholds. Therefore, cumulative impacts related to regional operational emissions of VOC would be less than significant.

Comment 2-33

The noise impacts associated with the construction of the Project and the Sportsmen's Lodge project, in particular the excavation, have not been addressed.

Response to Comment 2-33

The noise impacts associated with the construction of the Project and the Sportsmen's Lodge projects were fully addressed in the Project's EIR. As shown on page III-5, of the Draft EIR, the Sportsmen's Lodge projects were included in Table III-1, Related Project List, as project 1 (the Shops at Sportsmen's Lodge) and project 5 (commercial/residential mixed use). Cumulative impacts were addressed for noise on pages IV.K-69 through IV.K-78, of the Draft EIR, and included excavation under construction noise impacts. Noise from the construction of development projects is typically localized and has the potential to affect noise-sensitive uses within 500 feet from

²⁰ SCAQMD, Final Localized Significance Threshold Methodology, page 3-3, June 2003 and revised July 2008. Page 3-3 states that "...allowable emissions increase rapidly with increasing downwind distance." Stated another way, emissions and resultant pollutant concentrations from a source disperse rapidly as the distance from the source increases

the construction site, based on the L.A. CEQA Thresholds Guide screening criteria. Thus, noise from construction activities for two projects within 1,000 feet of each other can contribute to a cumulative noise impact for receptors located midway between the two construction sites. Related Project Nos. 1 and 5 are located at 12833 Ventura Boulevard, approximately 630 feet west of the Project Site. While construction related to Related Project 1 is at or near completion, the EIR analysis conservatively included this related project in the cumulative impacts analysis. Therefore, the EIR conservatively assumed that construction of both Sportmen's Lodge related projects could occur at the same time as the Project. Residences located at the corner of Valleyheart Drive and Bellaire Avenue (represented by receptor R1) are located between the Project Site and the Related Projects 1 and 5 and could be exposed to construction noise from both the Project and the Related Projects 1 and 5. As analyzed above, the estimated Project construction noise level at receptor R1 would exceed the 5-dBA significance threshold and the construction related noise from Related Project Nos. 1 and 5 would contribute to the cumulative noise impacts. Based on the above, there would be potential cumulative noise impacts at the nearby sensitive uses (receptor locations R1) in the event of concurrent construction activities with Related Project Nos. 1 through 5. Construction-related noise levels from the related projects would be intermittent and temporary, and it is anticipated that, as with the Project, the related projects would comply with the construction hours and other relevant provisions set forth in the LAMC. In addition, noise associated with cumulative construction activities would be reduced to the degree reasonably and technically feasible through proposed mitigation measures for each individual related project and compliance with locally adopted and enforced noise ordinances. The Draft EIR was therefore correct in concluding that the Project's contribution to cumulative construction noise associated with on-site construction equipment would be cumulatively considerable and would represent a significant and unavoidable cumulative impact, even after mitigation.

Comment 2-34

The water quality impacts of this cumulative excavation at Los Angeles River adjacent sites could also result in unaddressed significant adverse water quality impacts.

Response to Comment 2-34

This comment states the water quality impacts of the cumulative excavation associated with the Sportsmen's Lodge project (presumably, Related Project No. 5) at Los Angeles River adjacent sites could also result in unaddressed significant adverse water quality impacts. The comment does not provide substantial evidence or facts to support this contention. The Draft EIR provides a cumulative water quality impact analysis on pages IV.I-43 to IV.I-46, in Section IV.I, *Hydrology and Water Quality*. As discussed on page IV.I-43 of the Draft EIR, the cumulative hydrology and water quality analysis considered all the related projects, including the Sportsmen's Lodge project, as set forth in Chapter III, *Environmental Setting*, of the Draft EIR. As analyzed therein, with adherence to applicable regulations and implementation of Mitigation Measure HAZ-MM-1 (temporary construction only), the Project's contribution to cumulative impacts would not be cumulatively considerable during construction, and cumulative impacts during construction on water quality would be less than significant.

Comment 2-35

F. The EIR Fails to Provide an Adequate Alternatives Analysis.

The EIR relies on overly narrow project objectives to improperly reject less impactful alternatives with greater public benefits. The EIR failed to consider: off-site alternative locations for Project components; a Reduced School Use Intensity alternative; a Natural Golf Course Alternative and a LA River Natural Park Alternative. (**Attachment 1**, pp. 50-60; **Attachment 2**, pp. 25-29.)

Response to Comment 2-35

The comment asserts that the alternatives analysis is inadequate because the Project Objectives are too narrow and the range of alternatives is insufficient, citing various alternatives that should have been considered. The comment contains no facts to support this contention. Chapter II, *Project Description*, pages II-13 through II-14 of the Draft EIR contain a list of nine Project Objectives in addition to the underlying purpose of supplementing the School's existing recreational facilities. The scope of the Objectives range from fulfilling school needs to providing for public recreational opportunity to incorporating environmentally sustainable features. As such, the Project Objectives are reasonable, provide the public with access and recreational opportunities to private property, and do not limit the range of alternatives for the decisionmakers to consider. CEQA Guidelines 15126.6(a) only requires an EIR to evaluate a reasonable range alternatives. There is no requirement that all possible alternatives be considered. In determining which alternatives to evaluate, the lead agency is governed by a "rule of reason"; needing "only those alternatives necessary to permit a reasoned choice" (CEQA Guidelines Section 15126.6(f)). Please refer to Response Nos. ORG 1B-104 through 1B-106 in the Final EIR, regarding the selection of alternatives. As explained therein, the selection of alternatives is consistent with CEQA Guidelines because the alternatives evaluated in the Draft EIR would reduce the Project's construction noise and vibration impacts (albeit impacts would remain significant and unavoidable), reduce many of the Project's less than significant impacts (acknowledging a few impacts may be greater than the Project's) while largely achieving most of the Project's basic objectives either fully, substantially or partially.

With regard to the contention that the Draft EIR failed to consider off-site alternatives, disagreement with the Project Objectives, the School's determination of its needs, or the analysis contained in the Draft EIR does not constitute facts which substantiate the contention that the analysis was inadequate. See Response Nos. ORG 7A-147 and 7A-148 of the Final EIR for the criteria by which Project alternatives are to be considered and Response No. ORG 7A-155 for further discussion of the off-site alternatives.

The consideration of a reduced school intensity alternative was addressed in Response No. ORG 7A-164 of the Final EIR. As discussed therein, because the Project would not result in significant environmental impacts presumed throughout Comment Letter No. ORG 7A and implied in Comment No. ORG 7A-164, the analysis of an additional Reduced Density alternative to address non-existent impacts would not be required or necessary.

The consideration of a Los Angeles River Natural Park alternative was addressed in Response Nos. ORG 7A-158 to 7A-162 of the Final EIR. As discussed therein, the Los Angeles River Natural Park Alternative would not meet the Project's underlying purpose to supplement the School's athletic and recreational facilities and in the abandonment of the Project's underlying purpose, the Alternative is not warranted just to address the Project's significant construction noise and vibration impacts. As proposed, the Project would follow most of the guiding principles of the Los Angeles River Natural Park Alternative, including to enhance connections to the River; improve water

quality by integrating natural treatment of urban runoff; provide public access to the River and regional trails; emphasize pedestrian access; restore native habitat; preserve the historic clubhouse, café, putting green and provide tennis use; assist in meeting Los Angeles River and regional water quality standards; and be consistent with the Los Angeles River Revitalization Master Plan (see Table LU-6 in Appendix J of the Draft EIR). However, the Los Angeles River Natural Park Alternative precludes any development of the Project Site with recreational uses that would meet the Project's basic purpose and, further, would appear to contain the same sort of narrow project objective that the commenter contends exists for the Project. Moreover, such an alternative, if demanded by the City to replace the Project analyzed in the Draft EIR, would constitute a taking of private property. Nonetheless, because the Project would not result in the profusion of significant, adverse impacts claimed in Comment Letter No. ORG 7A, the selection of an Alternative that would preclude any development for Harvard-Westlake School, the property owner, is not reasonable or necessary. As such, there is no compelling reason, nor CEQA requirement, for the Draft EIR to evaluate the Los Angeles River Natural Park as a Project Alternative.

The comment asserts that the Draft EIR should have considered an alternative that retains the golf course use of the Project Site. The consideration of a Natural Golf Course alternative was addressed in Response Nos. ORG 7A-163 of the Final EIR. The selection of Alternatives for the Draft EIR was not based on the feasibility of Alternatives, which would cover an infinite range of uses, but Alternatives that would reduce the Project's significant environmental impacts to less-than-significant levels (see CEQA Guidelines, Section 15126.6, which states: "An EIR shall describe a range of reasonable alternatives to the Project, or the location, of the Project, which would feasibly attain most of the objectives of the project but would avoid or substantially lessen any of the significant effects of the project.") The significant impacts identified by the Draft EIR were construction noise and vibration. Therefore, the selection of Alternatives was based on the ability of Alternatives to substantially reduce the highest construction noise generators, which were excavation and grading activities. The selected Alternatives included those that eliminated excavation for subsurface parking and the underground one-million-gallon water collection and reuse system. With the exception of the No Project Alternative, the selected alternatives would meet most of the Project Objectives while incrementally reducing the Project's significant and unavoidable construction noise and vibration impacts. However, these impacts would not be reduced to less-than-significant levels since the Project Alternatives would include a similar amount of daily construction activity in the same proximity to sensitive receptors (residential uses). The purpose of the selection is described in more detail in Chapter V, *Alternatives*, pages V-2 through V-5 of the Draft EIR. In addition, the alternative proposed in the comment would not achieve the underlying purpose of the Project to supplement Harvard-Westlake's Athletic and Recreational program. Since the Project would not result in the profusion of significant, adverse impacts claimed in Comment Letter No. ORG 7A, the analysis and selection of an Alternative that would preclude any development for Harvard-Westlake School would not be reasonable or necessary.

Comment 2-36

G. The City Lacks Support for Claimed Overriding Benefits of the Project.

CEQA Guidelines section 15093, subdivision (b) requires that when a lead agency approves a project that would result in significant, unavoidable impacts, "the agency shall state in writing the specific reasons to support its action" in a statement of overriding considerations. These project benefits are in addition to the required finding of no

feasible alternatives to substantially lessen a project's significant adverse impacts, and CEQA also requires substantial evidence in the record support the claimed benefits to justify proceeding with a project despite its adverse impacts. (Public Resources Code § 21081; Guidelines § 15093, subds.(b), (c).) "[A]n unsupported claim that the project will confer general benefits" is insufficient to override a project's significant impacts. (*Woodward Park Homeowners Assn., Inc. v. City of Fresno* (2007) 150 Cal.App.4th 683, 717.) "[A] statement of overriding considerations, like an EIR, must make a good-faith effort to inform the public;" the "statement's purposes are undermined if its conclusions are based on misrepresentations...or it misleads the reader about the relative magnitude of the impacts and benefits..." (*Id.* at 718.)

Here, the Project would have acknowledged significant and unavoidable construction noise impacts. As set forth above and in the attached documentation, this Project also has a number of undisclosed remaining significant impacts. These significant and unavoidable impacts necessitate the City's adoption of a statement of overriding considerations for the Project.

The City Planning Commission improperly relied on a misleading description of the Project as an overriding benefit. The Commission's findings rely in part on a claim that the Project "would enhance public access to open space and recreational facilities" as an overriding benefit. This is based on a misleading claim by the Project proponents that the Project would provide 5.4 acres of publicly available open space from 7 a.m. to 9 p.m. However, a careful review of the Project site plan shows very little of this space is usable public open space; the publicly accessible area is mainly just the landscaping around the new Harvard-Westlake school athletic facilities and the walking paths connecting those facilities. The Project site is so crowded with school facilities, very little space is left for the public. It is also unclear whether County property is included in this calculation. The overstatement of the public open space is misleading and cannot be used as an overriding benefit. Moreover, this is significantly less open space that currently exists on the Project site.

Response to Comment 2-36

The City Planning Commission properly relied on a complete and stable project description in certifying the final EIR and adopting the statement of overriding considerations.

The City Planning Commission's findings rely in part on an accurate statement that the Project "would enhance public access to open space and recreational facilities" as an overriding benefit. This is based on the fact that the conditions of approval require the Project to provide 5.4 acres of publicly available open space from 7 a.m. to 9 p.m. The School's commitment to providing public access and the amount and type of the public open space is not misleading and can be used as an overriding benefit. Moreover, there is significantly more open space with the Project than currently exists on the Project Site since the Project Site is currently accessible only to those that pay to either play golf or tennis or to eat at the café, whereas the School has voluntarily agreed to provide significant free access to members of the community and pre-approved organizations.

The City Planning Commission conditioned its approval of the Project's conditional use permit on compliance with the following conditions of approval, all of which support the City Planning Commission's adoption of the statement of overriding consideration (See Condition of Approval Nos 12 and 20).

- The School shall improve and continuously maintain the Zev Greenway on the north side of the Los Angeles River from Whitsett Avenue to the western property line of the Project Site.
- The School shall preserve the existing clubhouse with café and the existing putting green at Valley Spring Lane and Whitsett Avenue, and allow for continued access to the public from 7:00 a.m. to 9:00 p.m.
- The gymnasium shall include a ground-level community room available for public use by organizations. The community room shall be available through a reservation system, and the main entrance shall face the Los Angeles River. The community room shall be available between from 7:00 a.m. to 9:00 p.m.
- The School shall provide public access to the tennis courts from 7:00 a.m. to 9:00 p.m. when they are not in use by the School.
- The School shall provide public access to the approximately 5.4 acres of open space and landscaped paths from 7:00 a.m. to 9:00 p.m.
- The School shall allow pre-approved organizations, including local schools and youth groups, to reserve via a reservation system use of the swimming pool from 7:00 a.m. to 9:00 a.m. and Field A, Field B, and the gymnasium courts from 7:00 a.m. to 9:00 p.m. (Field A and Field B until 8:00 p.m.) when they are not in use by the School.
- The School shall be supportive of any neighborhood requests to the City for “traffic calming” measures, such as speed humps and Preferential Parking Districts on residential streets surrounding the Project Site.
- Installation of a controlled pedestrian crossing at the intersection of Whitsett Avenue and Valleyheart Drive to improve pedestrian safety and enhance public access to the Los Angeles River.
- Work with the City’s Department of Public Works and the Department of Transportation to assess further improvements, as needed, for drainage and flow southward from the southwest corner of Valley Spring Lane at Whitsett Avenue, and install such improvements, if necessary.

Therefore, the administrative record contains substantial evidence supporting the City Planning Commission’s adoption of the statement of overriding considerations.

Comment 2-37

Additionally, as addressed above, considering the Project to include “publicly accessible” recreational facilities is also highly misleading. The Project would impose significant organizational and financial burdens for those seeking use of the facilities, place a substantial barrier to public use. These burdens would make public use of recreational facilities on the site more difficult and costly than current use of the public golf course and tennis facilities.

The City cannot rely on this reduction in open space and public accessibility as a benefit that overrides the Project’s significant adverse impacts.

Response to Comment 2-37

It is not clear what the Appellant is referring to with this comment letter. The Project includes 5.4 acres of publicly accessible open space, which includes a pocket park, that members of the community can use for free seven days a week between the hours of 7:00 a.m. and 9:00 p.m.

Furthermore, the School is conditioned to allow pre-approved organizations, including local schools and youth groups, to reserve via a reservation system the use of the swimming pool from 7:00 a.m. to 9:00 a.m. and Field A, Field B, and the gymnasium courts from 7:00 a.m. to 9:00 p.m. (Field A and Field B until 8:00 p.m.) when they are not in use by the School. As explicitly stated in the Final EIR, “[b]y providing a variety of accessible recreational opportunities, the Project would support the following: field, pool, and gym-based sports by pre-approved community groups or swim program members when not in use by the School; continued playing of tennis on eight courts; and regular access to approximately 5.4 acres (235,224 square feet) of passive open space, including the three-quarter mile long pedestrian pathway system described above. Several comments were received requesting clarity on what types of groups would be permitted to use the Project Site, and what the process for receiving preapproval might entail. Based on information received from Harvard-Westlake, the preapproval requirement for groups ensures that: a) the group is familiar with and abides by the conditions of Project Site usage (including, but not limited to, preferred driving routes, allowable hours of operation, and prohibition on parking in the neighborhood); b) the group or organization is able to provide appropriate supervision of its intended activities and participants; and c) the use of facilities can be managed in a way that best supports the aggregate, desired activity or program schedules of public groups across the Project Site. A group would consist of any organization or league that has a registration process for its own participants, provides trained staffing and/or coaching, provides supervision commensurate with its activities and number of participants, maintains liability insurance covering its participants, and has an executed/up-to-date agreement in place with the School. Group use of the tennis courts, such as for a tournament or tennis club, would be permissible as is individual use. With the exception of the walking pathway, putting green, café, and clubhouse, use of recreational facilities by entities other than the School would require a fee to help offset the cost of basic maintenance and security functions.” (Final EIR, g. 2-102)

Comment 2-38**II. The Proposed Project Fails to Comply with the Surplus Land Act.**

The Project propose development of a portion of an athletic field with primary use by a private school on land owned by the County of Los Angeles. SCRA and SLAROS have submitted Public Records Act requests to determine whether there has been compliance with the Surplus Land Act to offer this land to a public recreational agency prior to disposal of the land through a lease or sale to a private entity. The County was unable to provide any documentation that this requirement has been met. Thus, the Project cannot legally be constructed on any portion of the County land.

Response to Comment 2-38

The use of the portion of the Project Site that is owned by the County of Los Angeles Flood Control District, including compliance with the Surplus Land Act, is a matter that the County must consider, which is why the Draft

EIR identified the County of Los Angeles Flood Control District a Responsible Agency. The City notes that the 1.1 acres of land to which the comment refers has been leased by the former and current owners of the Project Site for many decades, and that three of the existing golf course holes as well as portions of three existing tennis courts rely on such land.

Comment 2-39

III. Approval of the Vesting Conditional Use Permit Should be Reversed.

A. Required Findings Cannot be Made.

The City must be able to make specific findings, supported by substantial evidence before it can approve a vesting conditional use permit and must be able to “bridge the analytic gap” between that evidence and findings being made. (*Topanga Assn. for a Scenic Community v. County of Los Angeles* (1974) 11 Cal.3d 506, 515.) Evidence does not support the required findings necessary to approve a vesting conditional use permit for the Harvard-Westlake Project.

1. The City must be able to find that the Project would enhance the built environment in the surrounding community or that the Project performs an essential service to the community.

The City Planning Commission did not have evidentiary support for this required finding. The Project’s densely packed development of a site that is currently covered with trees and open space as a golf course does not enhance the environment of the surrounding Studio City community. The Project would cram two large sports fields with artificial turf and a 50-meter swimming pool, with hundreds of bleacher seats and up to 80-foot-tall lighting and LED scoreboards, a two-story, 80,249-square-foot multi-purpose gymnasium and a 386-space subterranean parking garage on the site after eliminating the existing popular golf course and driving range and the hundreds of mature trees located on the Project site. The Project would also surround the site with fencing up to 10 feet tall, which would eliminate or significantly alter existing views of greenspace. For these reasons, the Project, would not enhance the surrounding community.

Response to Comment 2-39

This comment is similar to Comment 1-2. Please refer instead to Response to Comment 1-2, above.

Comment 2-40

Additionally, the Project does not provide an essential service to the community. Instead, it provides athletic facilities for a private school. Though the public’s ability to use the facilities is touted as a benefit of the Project, there are significant hurdles to that public use. The hours of use of facilities are restricted to those times the site is not in use by Harvard-Westlake, but there are not clearly defined hours set. The proposed conditions of approval do not provide further clarity on the public availability of the site, continuing to allow the school to determine at a future time what times the public will be able to use the site. Weekday daytime use, which is less convenient for the working public will typically be allowed, unless the school decides to use the site during those times.

Response to Comment 2-40

This comment is similar to Comment 2-36. Please refer instead to Response to Comment 2-36, above.

Comment 2-41

Moreover, significant organizational and financial burdens required of those seeking use of the facilities, place a substantial barrier to public use. The use is only allowed for highly organized groups with set memberships lists, that have liability insurance and can pay fees to use this site.

Response to Comment 2-41

This comment is similar to Comment 2-37. Please refer instead to Response to Comment 2-37, above.

Comment 2-42

2. The City must also be able to find that that the Project's location, size, height, operations and other significant features will be compatible with and will not adversely affect or further degrade adjacent properties, the surrounding neighborhood, or the public health, welfare, and safety.

The City Planning Commission also lacked evidentiary support necessary to make this required finding. As set forth above, the densely packed development of the site and intensity of use is not compatible with the surrounding single-family neighborhood and the Zev Yaroslavsky Los Angeles River Greenway Trail. The significant increases in night lighting included in this Project is also incompatible with the surrounding neighborhood and wildlife on the adjacent Greenway and Los Angeles River.

Response to Comment 2-42

This comment is similar to Comment 1-2. Please refer instead to Response to Comment 1-2, above.

Comment 2-43

Additionally, SCRA and SLAROS provided detailed comments on the draft EIR and final EIR, including expert analysis, that identify significant public health and safety impacts associated with this Project, further preventing necessary findings to be made.

These health and safety impacts include, but are not limited to:

- Impacts associated with the use of artificial turf, which include health impacts for turf users, an urban heat island effect that could increase temperatures by up to 15 degrees, and its runoff into the Los Angeles River, as identified by PEER, Safe and Healthy Playing Fields, Dr. Sarah Jean Royer, and Kristen Mello.

Response to Comment 2-43

Health impacts from artificial turf, including the urban heat island effect, and runoff into the Los Angeles River are addressed in Response to Comments 2-16, 2-20, 2-22, 2-30 in this Memorandum.

Comment 2-44

- Expert Autumn Wind Associates identified the health hazard of Valley Fever that could result from this Project.

Response to Comment 2-44

Valley Fever impacts are addressed in Response to Comments 2-17 and 2-29 in this Memorandum.

Comment 2-45

- Experts at Wexco identified traffic safety hazards and safety impacts associated with traffic use interfering with LA Fire Station 78 access.

Response to Comment 2-45

Issues raised by Aperture (formerly Wexco) are addressed in Response to Comment 2-27 of this Memorandum.

Comment 2-46

- Menlo Scientific identified noise impacts on the surrounding community.

Response to Comment 2-46

Issues raised by Menlo Scientific are addressed in Response to Comment 2-26 of this Memorandum.

Comment 2-47

- Expert Tom Brohard identified safety hazards associated with emergency evacuation and other traffic hazards.

Response to Comment 2-47

Issues raised by Tom Brohard are addressed in Response to Comment 2-27 of this Memorandum.

Comment 2-48

3. Finally, the City must be able to find that the Project substantially conforms with the purpose, intent and provisions of the General Plan, the applicable community plan, and any applicable specific plan.

The Sherman Oaks-Studio City-Toluca Lake-Cahuenga Pass Community Plan designates the Project site as open space with a golf course. The Community Plan includes Policy 5-1.1 “Encourage the retention of passive and visual

open space which provides a balance to the urban development of the Plan Area” and requires open space areas be protected from the encroachment of more intense uses. The Project eliminates the golf course and almost all of the open space by including significant development on the site and an encroachment of more intense uses by Harvard-Westlake. Thus, the finding that the Project substantially conforms with the Community Plan could not be made.

Response to Comment 2-48

This comment is similar to Comments 1-3 and 1-4. Please refer instead to Response to Comments 1-3 and 1-4, above.

Comment 2-49

B. Additional Conditions Must be Imposed.

This Project cannot be approved as proposed because the required findings cannot be made. SCRA and SLAROS have proposed the following revisions to the Project to be added as conditions that may allow a legally adequate approval on appeal. The City should consider the following revisions to the Project:

- Reduce the size of the gymnasium by limiting the building to one basketball court, which contains two practice areas, with locker rooms for students.
- Limit the Project to one sports field, without bleacher seating. This field should use grass instead of artificial turf to maintain the ecosystem on the site.
- Eliminate the pool element from the Project.
- Eliminate the Project’s proposed 30 Special Events per year.
- All structures, fences and lighting should comply with zoning requirements without the need for discretionary approvals to deviate from those standards.
- Provide 16 tennis courts, available for public use.
- Provide at least 7 acres of contiguous native vegetation parkland within the Project site, adjacent to the Greenway Trail. The walking paths, Clubhouse and putting green should not be counted towards these 7 acres.
- To maintain the tranquility of the site as part of an important flyway for Western migratory birds, only Mexican fan palms and damaged trees should be removed as part of the Project. All other old growth trees should remain.
- Ensure the entire complex is open to the public.

- Maintain all historical components at the Project site, including the Clubhouse and putting green. Land identified as native land should also remain undisturbed.
- Water reclamation for the Project site should address dry runoff from 200 acres as was assessed in a recent Department of Sanitation feasibility study. This treated runoff should then be piped directly into the L.A. River, not allowed to comeingle with other polluted water on Whitsett Avenue or other locations.
- Mitigate increased traffic and congestion, including without limitation issues related to the movement of students and staff to and from the Harvard-Westlake Coldwater Canyon campus and the Project site, as well as traffic, access and parking impacts of the Project on adjacent residential neighborhoods.

Response to Comment 2-49

As thoroughly discussed throughout this response, the findings are based on substantial evidence and facts, and the Appellant has not provided any facts supporting its position that the City should incorporate additional conditions of approval.

Comment 2-50

Prior to considering any revisions to the Project, the City should also consider stronger and more well-defined conditions of approval and on-going mitigation. These conditions must include clearly defined hours of public availability of the site. The conditions should also set parameters allowing use of the facilities by individuals and not just formal community organizations. These conditions should also reduce the density and intensity of development, as identified above. Moreover, the conditions should require any proposed future development at the Harvard-Westlake Coldwater Canyon campus to assess its cumulative impacts with this Project.

Response to Comment 2-50

As thoroughly discussed throughout this response, the findings are based on substantial evidence and facts, and the Appellant has not provided any facts supporting its position that the City should consider stronger and more well-defined conditions of approval and on-going mitigation. The Project does not propose any development at the Harvard-Westlake Coldwater Canyon campus, so there are no cumulative impacts to address.

Comment 2-51

Further, to ensure compliance with the conditions and achievement of mitigation measures, a condition of approval requiring discretionary review of compliance by the Planning Department every two years, with a public hearing should be included. This condition should also provide for the addition of further corrective and mitigation conditions if construction or operation of the Project result in impacts that have not been adequately addressed.

Response to Comment 2-51

The Appellant has not provided any facts to support its position that the City should require discretionary review of the conditional use permit every two years, with a corresponding public hearing.

LAMC Section 12.24F already grants the City the legal ability to revoke the conditional use permit if the School does not comply with the conditional use permit.

Specifically, LAMC Section 12.24F provides:

“[t]he Department shall have the authority to conduct inspections to verify compliance with any and all conditions imposed on any conditional use or other similar quasi-judicial approval granted pursuant to this section. Clearance, monitoring and inspection fees shall be paid by the business operator or property owner to the Department in accordance with the fee schedule in Section 19.01 of this Code.

If, upon inspection, the Department finds that the applicant has failed to comply with conditions of any conditional use or other similar quasi-judicial approval granted pursuant to this section, the Department shall give notice to the business operator or property owner to correct the specific deficiencies and the time in which to complete the correction. Evidence of compliance shall be submitted to the Department within the specified correction period. If the deficiencies are not corrected within the time prescribed by the Department, revocation proceedings pursuant to Subsection Z. of this section may commence.”

Comment 2-52

IV. Site Plan Review Was Improperly Approved.

Approval of Site Plan Review was required for the Project due to the size of the development. Site Plan Review is intended to “evaluate and mitigate significant environmental impacts, and promote public safety and the general welfare by ensuring that development projects are properly related to their sites, surrounding properties, traffic circulation, sewers, other infrastructure and environmental setting; and to control or mitigate the development of projects which are likely to have a significant adverse effect on the environment as identified in the City’s environmental review process, or on surrounding properties by reason of inadequate site planning or improvements.” (LAMC §16.05(A).)

SCRA and SLAROS have provided detailed comments, supported by experts, on the EIR and summarized above identifying impacts that have not been evaluated, inadequate mitigation and public safety impacts. We have also identified the incompatibility of this Project with the surrounding community. For these reasons, approval of Site Plan Review of the proposed Project was improper and should be revoked.

Response to Comment 2-52

The administrative record includes substantial evidence that the Project includes all feasible mitigation measures, and that all environmental impacts have been mitigated to the extent feasible. Furthermore, the administrative record includes substantial evidence and facts supporting the City Planning Commission’s approval of the site plan review. Additionally, see Responses to Comments 1-4 and 1-5, above.

Comment 2-53

V. The School Submitted an Incomplete Application.

As previously identified by SCRA and SLARO [sic], Master Land Use Application Instruction Sheet (CP-7810) requires an applicant to identify whether there will be any special events held at school facility, identify those events and the proposed frequency. Harvard-Westlake wholly failed to include this required information, evasively stating instead that special events are to be determined. All approvals for this Project should be revoked pending the submission of a complete and accurate application and analysis of the Project's impacts based upon a complete disclosure of the Project uses.

Response to Comment 2-53

The Applicant submitted the Environmental Assessment Form in conjunction with the Department of City Planning Application (submitted in March 2020) adequately disclosing that the Project would include special events at the Project Site throughout the year. The EIR thoroughly analyzed special events, and the conditions of approval explicitly limit the number of special events, which number less than analyzed in the EIR. It is therefore the case that the EIR analysis is conservative since it analyzed more special events, and larger special events, than can occur at the Project Site. Additionally, refer to Final EIR Chapter 2, Response to Comments, Response No. ORG 7C-1.

Comment 2-54

Conclusion

For all of the reasons set forth herein and incorporated by reference, we urge the City to grant SCRA and SLAROS's appeal of the City Planning Commission's approval of this Project. SCRA and SLAROS also reserve the right to supplement this appeal justification prior to the City Council's consideration of this appeal.

Response to Comment 2-54

Based on the responses above and those included in the Final EIR addressing the Appellant's comments, the Appellant has provided no substantial evidence of significant new information that the City's findings related to the approval of the Project are inadequate, nor is there any evidence that the Draft EIR is flawed to support a contention that the Draft EIR is required to be recirculated pursuant to CEQA Guidelines Section 15088.5. As such, the revision and recirculation of the Draft EIR is not necessary.

Attachments

Attachment 1 – Letter 1: Jamie Hall with Channel Law Group, LLP, on behalf of Save Weddington, dated September 26, 2023

Attachment 2 – Letter 2: Amy C. Minter with Carstens, Black & Minter, LLP, on behalf of SCRA and SLAROS, dated September 26, 2023

Attachment 3 – Studio K1, Lighting: Memo Regarding Scoreboard Illumination, dated October 2023

Attachment 4 – Exponent, Supplemental Memo RE: HW River Park – Response to Supplemental PFAS Test, dated October 20, 2023

ATTACHMENT 1

Channel Law Group, LLP

8383 Wilshire Blvd.
Suite 750
Beverly Hills, CA 90211

Phone: (310) 347-0050
Fax: (323) 723-3960
www.channellawgroup.com

JULIAN K. QUATTLEBAUM, III
JAMIE T. HALL *
CHARLES J. McLURKIN

Writer's Direct Line: (310) 982-1760
jamie.hall@channellawgroup.com

*ALSO Admitted in Texas

September 26, 2023

VIA ELECTRONIC MAIL

Planning and Land Use Management (PLUM) Committee
Marqueece Harris-Dawson, Chair
councilmember.harris-dawson@lacity.org

Re: Appeal of Harvard-Westlake Project; 4047-4155 N. Whitsett Ave.; 12506-12630 W. Valley Spring Ln.; CPC-2020-1511-VCU-SPR and ENV-2020-1512-EIR

Honorable Chair Harris-Dawson and Committee Members:

This office represents Appellant Save Weddington in its appeal of the City Planning Commission's August 24, 2023 approval of the Harvard-Westlake Project, which expands Harvard Westlake School's sports facilities at steep environmental cost. The Project proposes the destruction of 240 mature, healthy trees and unimproved grassy area and its replacement with an 80,249 square-foot gymnasium, astroturf, a parking lot and a sea of concrete punctuated by immature replacement trees providing negligible habitat or shade value. Appellant hereby appeals the Vesting Conditional Use, height determination, and Site Plan Review approvals (the "Entitlements") and the certification of the Environmental Impact Report ("EIR") for the Project.

I. THE COMMISSION FAILED TO SUBSTANTIATE THE VESTING CONDITIONAL USE FINDINGS

The following findings are not supported by substantial evidence:

The project's location, size, height, operations and other significant features will be compatible with and will not adversely affect or further degrade adjacent properties, the surrounding neighborhood, or the public health, welfare, and safety.

There is no substantial evidence in the record that the Project's significant features – including its replacement of trees and grass with structures, artificial turf and concrete – will be compatible with adjacent properties, the surrounding neighborhood, or public health welfare. The loss of trees and the replacement of grass with buildings and paved surfaces will exacerbate the urban heat island effect significantly. The Commission's findings do not address these features or their impacts on the surrounding properties.

The project substantially conforms with the purpose, intent and provisions of the General Plan, the applicable community plan, and any applicable specific plan.

The Project site is designated as open space according to the Sherman Oaks-Studio City-Toluca Lake-Cahuenga Pass Community Plan. Community Plan Policy 5-1.1 provides for the preservation of open space from incompatible encroachments by encouraging “the retention of passive and visual open space which provides a balance to the urban development of the Plan Area.” The Project eliminates the golf course and results in encroachment of high-intensity school sports facilities into open space areas. There is simply no substantial evidence supporting a finding of consistency with the Community Plan.

II. THE COMMISSION FAILED TO SUBSTANTIATE THE SITE PLAN REVIEW FINDINGS

The following findings are not supported by substantial evidence:

The project is in substantial conformance with the purposes, intent and provisions of the General Plan, applicable community plan, and any applicable specific plan.

The Project is not consistent with the applicable Community Plan because it does not provide for the retention of the golf course's open space and instead approves an incompatible high-intensity encroachment inconsistent with Community Plan Policy 5-1.1. Therefore, substantial evidence cannot support this finding.

The project consists of an arrangement of buildings and structures (including height, bulk and setbacks), off-street parking facilities, loading areas, lighting, landscaping, trash collection, and other such pertinent improvements, that is or will be compatible with existing and future development on adjacent properties and neighboring properties.

This finding lacks substantial evidence. The Project's extensive expansion of school sports facilities into open space facilities will directly degrade neighboring properties, reducing effective access to open space, removing essential green space reducing the urban heat island effect and destroying countless trees visible from the nearby community. Over-height fences on Whitsett Avenue and Valley Spring Lane will degrade the neighborhood along its two primary frontages as visible from neighborhoods to the north and east of the Property. Therefore, there is no substantial evidence in the record to support this finding.

III. THE PROJECT FAILS TO COMPLY WITH CEQA

As articulated in Appellant's May 10, 2022 letter, the Environmental Impact Report ("EIR") for the proposed Project is deficient. The DEIR fails to set forth a proper project description because it incorporates mitigation measures into the scope of the project itself, under-identifying impacts for biological resources, cultural resources, greenhouse gas impacts, hazardous materials impacts, noise and vibration impacts, police service impacts, transportation impacts and utility systems impacts. The Project Description is also inadequate because it fails to describe the extended authorization for special events and public use, or to mitigate or Project impacts by including a mitigation measure limiting use to 27 annual events up to 500 people and 3 annual events up to 2,000 people per year. Project Design Feature TRAF-PDF-3 is entirely unenforceable for non-school events and would not reduce impacts. The EIR must clarify the extent and limitations of public use of the site. The EIR also included deficient cumulative analysis, deficient analysis of hazardous materials, greenhouse gas impacts and traffic and deficient analysis of impacts to air quality resources, biological resources and historic resource impacts. The EIR failed to consider adequate alternatives or alternative sites. The EIR relied on an improperly limited related projects list, tainting cumulative analysis.

IV. CONCLUSION

On behalf of Appellant, we respectfully request that you grant the appeal, deny the Entitlements or require recirculation of the EIR. I may be reached at 310-982-1760 or jamie.hall@channellawgroup.com.

Sincerely,

A handwritten signature in black ink, appearing to read "Jamie T. Hall", written in a cursive style.

Jamie T. Hall

ATTACHMENT 2



Main Office Phone:
310-798-2400
Direct Dial:
310-798-2409

Carstens, Black & Minter LLP
2200 Pacific Coast Highway, Suite 318
Hermosa Beach, CA 90254
www.cbcearthlaw.com

Amy C. Minter
Email Address:
acm@cbcearthlaw.com

September 26, 2023

**STATEMENT OF REASONS FOR APPEAL;
Case No. CPC-2020-1511-VCU-SPR
ENV-2020-1512-EIR**

On behalf of the Studio City Residents Association (“SCRA”) and Save LA River Open Space (“SLAROS”), we provide this summary of our reasons for appeal of the City Planning Commission’s approval of the Harvard-Westlake athletic facility project at 4047 – 4155 North Whitsett Avenue; 12506 – 12630 West Valley Spring Lane (“Project”). SCRA is an all-volunteer membership organization that advocates for and enhances the quality of life in Studio City. The SCRA’s volunteers educate our members and create a platform for the interests, concerns and passions regarding the Studio City community. SCRA consists of more than 2,100 members in the community surrounding the proposed Project site on what is now the site of Weddington Golf & Tennis. SLAROS is a non-profit volunteer organization working with SCRA in their commitment to protect the last remaining 16 acres of unprotected open space along the Los Angeles River in the San Fernando Valley.

SCRA and SLAROS have serious concerns regarding the density and intensity of development proposed as part of Harvard-Westlake’s Project, as well as the limited public access to the recreational facilities on the Project site. The Harvard-Westlake School (“School”) has proposed to cram two large sports fields with artificial turf and a 50-meter swimming pool, with hundreds of bleacher seats and 80-foot-tall lighting and LED scoreboards, a two-story, 80,249-square-foot multi-purpose gymnasium and an approximately 400-space subterranean parking garage on the site after eliminating the existing popular golf course and driving range and the hundreds of mature trees located on the Project site.

Large numbers of community members, environmentalists and recreation enthusiasts agree that this is the wrong site for a massive athletic facility. SCRA and SLAROS most significant concerns regarding the proposed Harvard-Westlake athletic facility are:

- the excessive density of development and intensity of proposed uses of the site;

- this Project would result in an opportunity cost, preventing an ecologically superior use of the last remaining 16 acres of unprotected open space along the Los Angeles River in the San Fernando Valley;
- the Project provides very limited public use, with significant financial and organizational burdens;
- the inclusion of artificial turf on the Project's sports fields;
- the use of the Project site for incredibly large school related special events numerous times per year.

These features of the Project are the source of adverse environmental impacts that SCRA, SLAROS, experts and many others have identified in comments on the EIR.

Herein, SCRA and SLAROS summarize the inadequacies of environmental review for the Project under the California Environmental Quality Act ("CEQA"), the violations of the Los Angeles Municipal at issue in the approval of the Project, and violations of the Surplus Land Act. We have also attached our previous detailed comments on these summarized legal violations, as well as the comments of experts.

I. Approval of the Project Violates CEQA

The environmental impact report ("EIR") for the Project is inadequate for a number of reasons.

A. Inadequate Project Description.

First, the EIR lacks an adequate project description. As detailed in SCRA and SLAROS's previously submitted comments, the EIR fails to provide adequate information regarding the Project's public accessibility. (**Attachment 1**, SCRA and SLAROS May 10, 2022 Comments on Draft EIR pp. 8-10; **Attachment 2**, SCRA and SLAROS July 11, 2023 Comments on Final EIR pp. 3-4.) The final EIR ("FEIR") identified provided some additional information, but this information disclosed additional barriers to public use of the Project site facilities beyond just the limited and uncertain time of availability. The FEIR disclosed financial and organizational barriers to use of the site due to fees that would be charged, insurance requirements and limits on use to only formal organized entities, but failed to assess the impacts these additional barriers would have on the public's ability to use this site.

The EIR also fails to provide adequate information regarding the numerous “special events” planned for the Project site. Thus, the impacts of the special events have not been fully evaluated, in violation of CEQA.

B. The EIR Fails to Assess Future Use of Existing School Athletic Facilities.

The School’s Coldwater Canyon campus has existing athletic facilities, including a gym, sports field and track, pool and sports performance center. The EIR was required, but failed to assess the future use of these facilities, which would become redundant after Project is installed. (**Attachment 1**, pp. 10-12; **Attachment 2**, p. 4.)

C. The EIR Improperly Relies on Project Design Features.

The EIR improperly relies on “project design features” to claim that Project impacts would be less than significant. (**Attachment 1**, pp. 12-13; **Attachment 2**, pp. 4-5.) This violates CEQA because it improperly compresses the DEIR’s disclosure and analysis function. (*Lotus v. Department of Transportation* (2014) 223 Cal.App.4th 645, 655-656.)

D. The School’s History of Violation of Conditions Must be Considered When Evaluating Impacts.

The Harvard-Westlake Coldwater Canyon campus has a long history of repeated violations of conditions of approval and code requirements. These violations included, but are not limited to: exceedance of allowable enrollment; unpermitted demolition, grading and construction in connection with 50 meter pool on the Coldwater Campus; unpermitted construction of the Kutler Center and Mudd Library and modifications to the Seaver Building; provision of inaccurate information regarding valuation of new construction; unpermitted construction of silent study/English classroom permanent building; unpermitted renovation of Chalmers Hall; unpermitted renovation of orchestra room; failure to comply with noise and lighting limits on the campus’s existing athletic fields; and unpermitted construction of parking areas. (**Attachment 11**, detailed description of violations history.)

The EIR has improperly failed to address this long history of violations in considering the impacts and compliance requirements for the proposed Project. “Because an EIR cannot be meaningfully considered in a vacuum devoid of reality, a project proponent’s prior environmental record is properly a subject of close consideration in determining the sufficiency of the proponent’s promises in an EIR.” (*Laurel Heights Improvement Assn. v. Regents of University of California* (1988) 47 Cal.3d 376, 420.)

E. The EIR Fails to Adequately Analyze Project Impacts.

1. Aesthetic Impacts

The EIR fails to provide an adequate analysis of the Project's adverse impacts to the scenic quality of the site that would result from removing hundreds of mature trees to install athletic fields with artificial turf and large bleachers, a pool and massive multi-purpose gymnasium. It would take many years for replacement trees to reach the size of existing trees, and the development of the overwhelming majority of the site would provide only limited availability of areas to plant replacement trees. The EIR also fails to adequately disclose night lighting impacts. (**Attachment 1**, pp. 13-15; **Attachment 2**, pp. 5-7.) As lighting experts found, the EIR does not account for light that is reflected from the site or scattered in the air, thus claims that the angle of the lighting will prevent impacts is unsupported. The EIR also failed to adequately address the lighting associated with the LED scoreboards. (**Attachment 3**, Land Protection Partners expert report on aesthetic and biological impacts of night lighting.)

2. Air Quality Impacts

The EIR's analysis of air quality impacts is inadequate for a number of reasons. (**Attachment 1**, pp. 15-18; **Attachment 2**, pp. 7-11.) The EIR fails to disclose the Project site is in an area of extreme non-attainment for ozone. The EIR relies on faulty assumptions regarding vehicle miles traveled ("VMTs"), which underestimates the Project's air emissions. The EIR also fails to analyze and adopt all feasible mitigation measures for the lengthy construction period. Additionally, the EIR's analysis of air quality impacts improperly considers the site to be urban infill despite the site's current open space and recreational use.

Further, the EIR fails to adequately address the air quality and hazard impacts associated with the Project's inclusion of artificial turf. Due to the serious harms and perfluoroalkyl and polyfluoroalkyl ("PFAS") contamination associated with artificial turf, the California legislature has passed AB 1423 and it is awaiting the Governor's signature. AB 1423 includes bans and prohibitions on the use of artificial turf because it contains harmful PFAS. Whether this approval has occurred in time for the School to skirt the ban does not change the underlying reasoning behind this bill; artificial turf contains PFAS and PFAS have harmful health and environmental impacts.

Finally, the EIR fails to address the air quality and health impacts associated with Valley Fever resulting from the massive amounts of soil excavation on the Project site.

3. Biological Impacts

The EIR fails to adequately analyze and mitigate the Project's impacts on biological resources. (**Attachment 1**, pp. 18-20; **Attachment 2**, pp. 12-13.)

The Project would remove 250 mature trees, which are used by special-status birds, bats, raptors, and migratory birds. (**Attachment 8**, comments from Angelenos for Trees.) The EIR also fails to address the cumulative impacts of tree removal with the nearby Sportsmen's Lodge project, where 90 trees have already been removed and additional mature trees would be removed for the new project. The EIR failed to impose mitigation measures to address the mature tree removal provided by the California Department of Fish and Wildlife. The mitigation include for replacement trees also fails to be fully enforceable, in violation of CEQA. (CEQA Guidelines, §15126.4, subd. (a)(2).)

The impact of nighttime lighting on bat and other species is also not adequately addressed by the EIR. (**Attachment 3**.) Noise impacts to species is also ignored by the EIR.

4. Climate Change Impacts

The EIR fails to recognize the existing severity of the climate crisis, which necessitates an acknowledgment that any increase in greenhouse gas ("GHG") emissions should be considered a significant impact. Instead, the EIR relies upon an unsupported threshold of significance for GHG emissions. The EIR fails to address the reduction in carbon sequestration that would result for many years after 250 mature trees are removed from the Project site, as well as the heat island effects and GHG emissions that would be caused by the use of artificial turf on the Project's athletic fields. Further, the EIR's claims that GHG emission impacts are fully mitigated is not supported. (**Attachment 1**, pp. 20-28; **Attachment 2**, pp. 13-17.)

5. Hydrological and Water Quality Impacts

The Project could result in adverse impacts to the adjacent LA River that are not adequately analyzed or mitigated. (**Attachment 1**, pp. 28-30; **Attachment 2**, pp. 17-18.) The EIR improperly relies upon project design features instead of the required fully enforceable mitigation measures. The EIR also fails to provide adequate information regarding the Project's impacts on groundwater infiltration.

Further, the EIR fails to address the significant water quality impacts associated with use of artificial turf. The EPA defines artificial turf as an impervious surface, but the EIR fails to recognize it as such, thus failing to address the runoff impacts of the Project

in to the LA River. (**Attachment 10**, MS4 Permit and article on artificial turf runoff.) The Project must include mitigation requiring a filtration system to clean any runoff from the artificial turf to prevent contamination of the LA Rivers with PFAS.

6. Land Use Impacts

SCRA and SLAROS have provided detailed comments on the Project's inconsistencies with the City's General Plan, the Sherman Oaks-Studio City-Toluca Lake-Cahuenga Pass Community Plan, the Los Angeles River Revitalization Plan and River Improvement Overlay District, the 2020-2045 Regional Transportation Plan/Sustainable Communities Strategy, the Project site's designation as Open Space and existing height and lighting limitations. The FEIR also failed to provide good faith responses to SCRA and SLAROS's comments on these inconsistencies in the DEIR. (**Attachment 1**, pp. 30-36; **Attachment 2**, pp. 18-21.)

7. Tribal Cultural Resource Impacts

The EIR provides inadequate mitigation for impacts to tribal cultural resources. (**Attachment 1**, pp. 36-39; **Attachment 2**, p. 24.)

8. Noise Impacts

The EIR fails to adequately analyze the Project's noise and vibration impacts from construction and operation of the Project. (**Attachment 1**, pp. 39-42; **Attachment 2**, pp. 22-24.) These noise impacts can have significant adverse impacts on public health, including sleep disturbances. The EIR also improperly relies on deferred mitigation for construction noise impacts.

Expert evidence identifies the EIR's failure to provide an accurate assessment of baseline noise levels, to adequately analyze and mitigate noise impacts associated with the Project, particular amplified noise. (**Attachment 4**, expert analysis by Steve Rodgers Acoustics; **Attachment 5**, expert analysis by Menlo Scientific Acoustics.) The School has already violated noise limits during sporting events at its existing Coldwater Canyon campus, demonstrating an increased likelihood the Project would also exceed allowable noise levels in an area where there are even more sensitive receptors.

9. Transportation and Traffic Impacts

Expert comments demonstrate that the EIR's analysis and mitigation of traffic-related impacts is inadequate. (**Attachment 1**, pp. 43-48; **Attachment 2**, p. 24.) Mitigation measures are improperly deferred and inadequately analyzed due to improper reliance on project design features. VMTs are not adequately analyzed. Nor are impacts

to emergency access and public safety. (**Attachment 7**, comments from Aperture, experts in construction consulting, safety, engineering & management, with additional expertise in forensic engineering.) The EIR fails to analyze the impacts of construction traffic. The EIR further fails to disclose the Project's conflicts with the Mobility Plan.

10. Recreational Impacts

The Project converts a publicly available golf course and tennis center into an athletic facility for a private school, with limited and highly restricted public use availability. The recreational impacts of the conversion of this public use into a private use must be acknowledged in the EIR, but were not. (**Attachment 1**, pp. 48-49; **Attachment 2**, pp. 24-25.)

11. Public Health

The EIR fails to analyze the health impacts associated with Valley Fever, increased mosquito activity and the use of artificial turf. (**Attachment 1**, p. 49; **Attachment 9**, expert comments from Autumn Winds Associates.) Experts at Public Employees for Environmental Responsibility (PEER) assessed the type of artificial turf planned for the Harvard-Westlake Project for PFAS and found it would have levels hazardous to the public and for water quality in the adjacent LA River. (**Attachment 6**, PEER analysis of turf.) Responses to comments in the FEIR claimed this analysis was inadequate to demonstrate hazardous PFAS in the artificial turf, so PEER commissioned detailed testing of Field Turf's Vertex Core 2.5 and crumb rubber infill which is proposed to be used at the Project. The sample was obtained directly from the manufacturer and sent directly to Eurofins Laboratories, which found four PFAS species in the turf that will readily leach off into surrounding soil and waters, and a number of metals and semi-volatile organic compounds. (**Attachment 12**, PEER's summary and Eurofins Laboratories' complete report on PFAS and other chemicals of concern in artificial turf.)

12. Cumulative Impacts

In addition to the cumulative mature tree removal impacts of this Project and the nearby Sportsmen's Lodge project, these projects would also have unanalyzed cumulative construction related impacts. Both require massive amounts of excavation and hauling of export materials. This Project includes approximately 197,000 cubic yards of soil to be exported, which in and of itself would result in adverse traffic and traffic safety impacts that have not be adequately addressed. Those impacts will be increased when occurring at the same time as the Sportsmen's Lodge project's hauling of approximately 430,000 cubic yards of soil. Relevant assessments, such as whether the same haul route would be used for both projects and used simultaneously, were not included in the EIR. These cumulative impacts need to be addressed.

The cumulative air quality impacts of this large amount of excavation, hauling and other construction work must also be assessed. The Project would have project-level regional NOx construction that are claimed to be reduced by over 100 pounds per day to slightly under the individual threshold of significance. The Sportsmen's Lodge project also claims a substantial mitigation reduction to just under the threshold of significance. An analysis of the cumulative construction air quality impact of these projects was not provided.

The noise impacts associated with the construction of the Project and the Sportsmen's Lodge project, in particular the excavation, have not been addressed. The water quality impacts of this cumulative excavation at Los Angeles River adjacent sites could also result in unaddressed significant adverse water quality impacts.

F. The EIR Fails to Provide an Adequate Alternatives Analysis.

The EIR relies on overly narrow project objectives to improperly reject less impactful alternatives with greater public benefits. The EIR failed to consider: off-site alternative locations for Project components; a Reduced School Use Intensity alternative; a Natural Golf Course Alternative and a LA River Natural Park Alternative. (**Attachment 1**, pp. 50-60; **Attachment 2**, pp. 25-29.)

G. The City Lacks Support for Claimed Overriding Benefits of the Project.

CEQA Guidelines section 15093, subdivision (b) requires that when a lead agency approves a project that would result in significant, unavoidable impacts, "the agency shall state in writing the specific reasons to support its action" in a statement of overriding considerations. These project benefits are *in addition* to the required finding of no feasible alternatives to substantially lessen a project's significant adverse impacts, and CEQA also requires substantial evidence in the record support the claimed benefits to justify proceeding with a project despite its adverse impacts. (Public Resources Code § 21081; Guidelines § 15093, subds.(b), (c).) "[A]n unsupported claim that the project will confer general benefits" is insufficient to override a project's significant impacts. (*Woodward Park Homeowners Assn., Inc. v. City of Fresno* (2007) 150 Cal.App.4th 683, 717.) "[A] statement of overriding considerations, like an EIR, must make a good-faith effort to inform the public;" the "statement's purposes are undermined if its conclusions are based on misrepresentations...or it misleads the reader about the relative magnitude of the impacts and benefits..." (*Id.* at 718.)

Here, the Project would have acknowledged significant and unavoidable construction noise impacts. As set forth above and in the attached documentation, this Project also has a number of undisclosed remaining significant impacts. These

significant and unavoidable impacts necessitate the City's adoption of a statement of overriding considerations for the Project.

The City Planning Commission improperly relied on a misleading description of the Project as an overriding benefit. The Commission's findings rely in part on a claim that the Project "would enhance public access to open space and recreational facilities" as an overriding benefit. This is based on a misleading claim by the Project proponents that the Project would provide 5.4 acres of publicly available open space from 7 a.m. to 9 p.m. However, a careful review of the Project site plan shows very little of this space is usable public open space; the publicly accessible area is mainly just the landscaping around the new Harvard-Westlake school athletic facilities and the walking paths connecting those facilities. The Project site is so crowded with school facilities, very little space is left for the public. It is also unclear whether County property is included in this calculation. The overstatement of the public open space is misleading and cannot be used as an overriding benefit. Moreover, this is significantly less open space that currently exists on the Project site.

Additionally, as addressed above, considering the Project to include "publicly accessible" recreational facilities is also highly misleading. The Project would impose significant organizational and financial burdens for those seeking use of the facilities, place a substantial barrier to public use. These burdens would make public use of recreational facilities on the site more difficult and costly than current use of the public golf course and tennis facilities.

The City cannot rely on this reduction in open space and public accessibility as a benefit that overrides the Project's significant adverse impacts.

II. The Proposed Project Fails to Comply with the Surplus Land Act.

The Project propose development of a portion of an athletic field with primary use by a private school on land owned by the County of Los Angeles. SCRA and SLAROS have submitted Public Records Act requests to determine whether there has been compliance with the Surplus Land Act to offer this land to a public recreational agency prior to disposal of the land through a lease or sale to a private entity. The County was unable to provide any documentation that this requirement has been met. Thus, the Project cannot legally be constructed on any portion of the County land.

III. Approval of the Vesting Conditional Use Permit Should be Reversed.

A. Required Findings Cannot be Made.

The City must be able to make specific findings, supported by substantial evidence before it can approve a vesting conditional use permit and must be able to “bridge the analytic gap” between that evidence and findings being made. (*Topanga Assn. for a Scenic Community v. County of Los Angeles* (1974) 11 Cal.3d 506, 515.) Evidence does not support the required findings necessary to approve a vesting conditional use permit for the Harvard-Westlake Project.

1. The City must be able to find that the Project would enhance the built environment in the surrounding community or that the Project performs an essential service to the community.

The City Planning Commission did not have evidentiary support for this required finding. The Project’s densely packed development of a site that is currently covered with trees and open space as a golf course does not enhance the environment of the surrounding Studio City community. The Project would cram two large sports fields with artificial turf and a 50-meter swimming pool, with hundreds of bleacher seats and up to 80-foot-tall lighting and LED scoreboards, a two-story, 80,249-square-foot multi-purpose gymnasium and a 386-space subterranean parking garage on the site after eliminating the existing popular golf course and driving range and the hundreds of mature trees located on the Project site. The Project would also surround the site with fencing up to 10 feet tall, which would eliminate or significantly alter existing views of greenspace. For these reasons, the Project, would not enhance the surrounding community.

Additionally, the Project does not provide an essential service to the community. Instead, it provides athletic facilities for a private school. Though the public’s ability to use the facilities is touted as a benefit of the Project, there are significant hurdles to that public use. The hours of use of facilities are restricted to those times the site is not in use by Harvard-Westlake, but there are not clearly defined hours set. The proposed conditions of approval do not provide further clarity on the public availability of the site, continuing to allow the school to determine at a future time what times the public will be able to use the site. Weekday daytime use, which is less convenient for the working public will typically be allowed, unless the school decides to use the site during those times.

Moreover, significant organizational and financial burdens required of those seeking use of the facilities, place a substantial barrier to public use. The use is only allowed for highly organized groups with set memberships lists, that have liability insurance and can pay fees to use this site.

2. The City must also be able to find that that the Project's location, size, height, operations and other significant features will be compatible with and will not adversely affect or further degrade adjacent properties, the surrounding neighborhood, or the public health, welfare, and safety.

The City Planning Commission also lacked evidentiary support necessary to make this required finding. As set forth above, the densely packed development of the site and intensity of use is not compatible with the surrounding single-family neighborhood and the Zev Yaroslavy Los Angeles River Greenway Trail. The significant increases in night lighting included in this Project is also incompatible with the surrounding neighborhood and wildlife on the adjacent Greenway and Los Angeles River.

Additionally, SCRA and SLAROS provided detailed comments on the draft EIR and final EIR, including expert analysis, that identify significant public health and safety impacts associated with this Project, further preventing necessary findings to be made. These health and safety impacts include, but are not limited to:

- Impacts associated with the use of artificial turf, which include health impacts for turf users, an urban heat island effect that could increase temperatures by up to 15 degrees, and its runoff into the Los Angeles River, as identified by PEER, Safe and Healthy Playing Fields, Dr. Sarah Jean Royer, and Kristen Mello.
 - Expert Autumn Wind Associates identified the health hazard of Valley Fever that could result from this Project.
 - Experts at Wexco identified traffic safety hazards and safety impacts associated with traffic use interfering with LA Fire Station 78 access.
 - Menlo Scientific identified noise impacts on the surrounding community.
 - Expert Tom Brohard identified safety hazards associated with emergency evacuation and other traffic hazards.
3. Finally, the City must be able to find that the Project substantially conforms with the purpose, intent and provisions of the General Plan, the applicable community plan, and any applicable specific plan.

The Sherman Oaks-Studio City-Toluca Lake-Cahuenga Pass Community Plan designates the Project site as open space with a golf course. The Community Plan includes Policy 5-1.1 "Encourage the retention of passive and visual open space which provides a balance to the urban development of the Plan Area" and requires open space areas be protected from the encroachment of more intense uses. The Project eliminates the golf course and almost all of the open space by including significant development on the site and an encroachment of more intense uses by Harvard-Westlake. Thus, the

finding that the Project substantially conforms with the Community Plan could not be made.

B. Additional Conditions Must be Imposed.

This Project cannot be approved as proposed because the required findings cannot be made. SCRA and SLAROS have proposed the following revisions to the Project to be added as conditions that may allow a legally adequate approval on appeal. The City should consider the following revisions to the Project:

- Reduce the size of the gymnasium by limiting the building to one basketball court, which contains two practice areas, with locker rooms for students.
- Limit the Project to one sports field, without bleacher seating. This field should use grass instead of artificial turf to maintain the ecosystem on the site.
- Eliminate the pool element from the Project.
- Eliminate the Project's proposed 30 Special Events per year.
- All structures, fences and lighting should comply with zoning requirements without the need for discretionary approvals to deviate from those standards.
- Provide 16 tennis courts, available for public use.
- Provide at least 7 acres of contiguous native vegetation parkland within the Project site, adjacent to the Greenway Trail. The walking paths, Clubhouse and putting green should not be counted towards these 7 acres.
- To maintain the tranquility of the site as part of an important flyway for Western migratory birds, only Mexican fan palms and damaged trees should be removed as part of the Project. All other old growth trees should remain.
- Ensure the entire complex is open to the public.
- Maintain all historical components at the Project site, including the Clubhouse and putting green. Land identified as native land should also remain undisturbed.

- Water reclamation for the Project site should address dry runoff from 200 acres as was assessed in a recent Department of Sanitation feasibility study. This treated runoff should then be piped directly into the LA. River, not allowed to comingle with other polluted water on Whitsett Avenue or other locations.
- Mitigate increased traffic and congestion, including without limitation issues related to the movement of students and staff to and from the Harvard-Westlake Coldwater Canyon campus and the Project site, as well as traffic, access and parking impacts of the Project on adjacent residential neighborhoods.

Prior to considering any revisions to the Project, the City should also consider stronger and more well-defined conditions of approval and on-going mitigation. These conditions must include clearly defined hours of public availability of the site. The conditions should also set parameters allowing use of the facilities by individuals and not just formal community organizations. These conditions should also reduce the density and intensity of development, as identified above. Moreover, the conditions should require any proposed future development at the Harvard-Westlake Coldwater Canyon campus to assess its cumulative impacts with this Project.

Further, to ensure compliance with the conditions and achievement of mitigation measures, a condition of approval requiring discretionary review of compliance by the Planning Department every two years, with a public hearing should be included. This condition should also provide for the addition of further corrective and mitigation conditions if construction or operation of the Project result in impacts that have not been adequately addressed.

IV. Site Plan Review Was Improperly Approved.

Approval of Site Plan Review was required for the Project due to the size of the development. Site Plan Review is intended to “evaluate and mitigate significant environmental impacts, and promote public safety and the general welfare by ensuring that development projects are properly related to their sites, surrounding properties, traffic circulation, sewers, other infrastructure and environmental setting; and to control or mitigate the development of projects which are likely to have a significant adverse effect on the environment as identified in the City’s environmental review process, or on surrounding properties by reason of inadequate site planning or improvements.” (LAMC §16.05(A).)

SCRA and SLAROS have provided detailed comments, supported by experts, on the EIR and summarized above identifying impacts that have not been evaluated, inadequate mitigation and public safety impacts. We have also identified the incompatibility of this Project with the surrounding community. For these reasons, approval of Site Plan Review of the proposed Project was improper and should be revoked.

V. The School Submitted an Incomplete Application.

As previously identified by SCRA and SLARO, Master Land Use Application Instruction Sheet (CP-7810) requires an applicant to identify whether there will be any special events held at school facility, identify those events and the proposed frequency. Harvard-Westlake wholly failed to include this required information, evasively stating instead that special events are to be determined. All approvals for this Project should be revoked pending the submission of a complete and accurate application and analysis of the Project's impacts based upon a complete disclosure of the Project uses.

Conclusion

For all of the reasons set forth herein and incorporated by reference, we urge the City to grant SCRA and SLAROS's appeal of the City Planning Commission's approval of this Project. SCRA and SLAROS also reserve the right to supplement this appeal justification prior to the City Council's consideration of this appeal.

ATTACHMENT 3

Harvard-Westlake River Park Project

Studio City, CA

Lighting

Memo Regarding Scoreboard Illumination

Prepared by



October 2023

StudioK1 previously prepared a Lighting Technical Report in October 2021 to analyze the potential lighting impacts of the Harvard-Westlake River Park project, including the use of LED-based sports lighting fixtures at Field A, Field B, and the pool. Based on modifications to the Project Design and as described in the Project's Final EIR, a Memo Update to the Technical Report was prepared in July 2022 to reflect a change in the height and number of sports lighting poles. Both the 2021 technical report and July 2022 memo concluded, on the basis of conservative assumptions, that Project illuminance (i.e., spillover) and luminance (i.e., glare) would be within applicable regulatory thresholds and not represent a significant impact to any sensitive receptor. The analyses also concluded that the Project's lighting would generally represent an improvement (i.e., less light spill-over) over existing conditions which rely on high-wattage induction floodlights.

In reaching these conclusions, consideration was also given to the use of scoreboards as part of the Project. However, and unlike sports lighting fixtures, scoreboards are not evaluated under the same standard as luminaires or other forms of outdoor lighting. Rather, scoreboards are to comply with Section 130.3 and Section 140.8 of the California Energy Code which specify maximum allowed lighting power, the use of photocontrols and automatic time-switch control and dimming capability. It is on that basis that the Project's scoreboards were previously, and appropriately, evaluated and the determination made that lighting impacts would be less than significant. Nonetheless, and in response to public comment, StudioK1 has prepared this Memo Regarding Scoreboard Illumination ("Memo") to quantitatively evaluate the Project's scoreboard illuminance, both individually and combined with the sports lighting fixtures.


To further understand the impacts of the Harvard-Westlake River Park Project, the LED scoreboards for the two fields and the pool facility have been evaluated to determine the amount of lighting produced and the extent of the lighting. The scoreboards for Field A and Field B are identical with LED illuminated numbers and letters but are not fully illuminated across the entirety of the board itself. The pool facility would utilize an LED scoreboard which illuminates the entire surface (as needed) to display the scoring system, however this board is a low-resolution LED dot matrix with fewer total pixels than an LCD digital screen similar to a television.

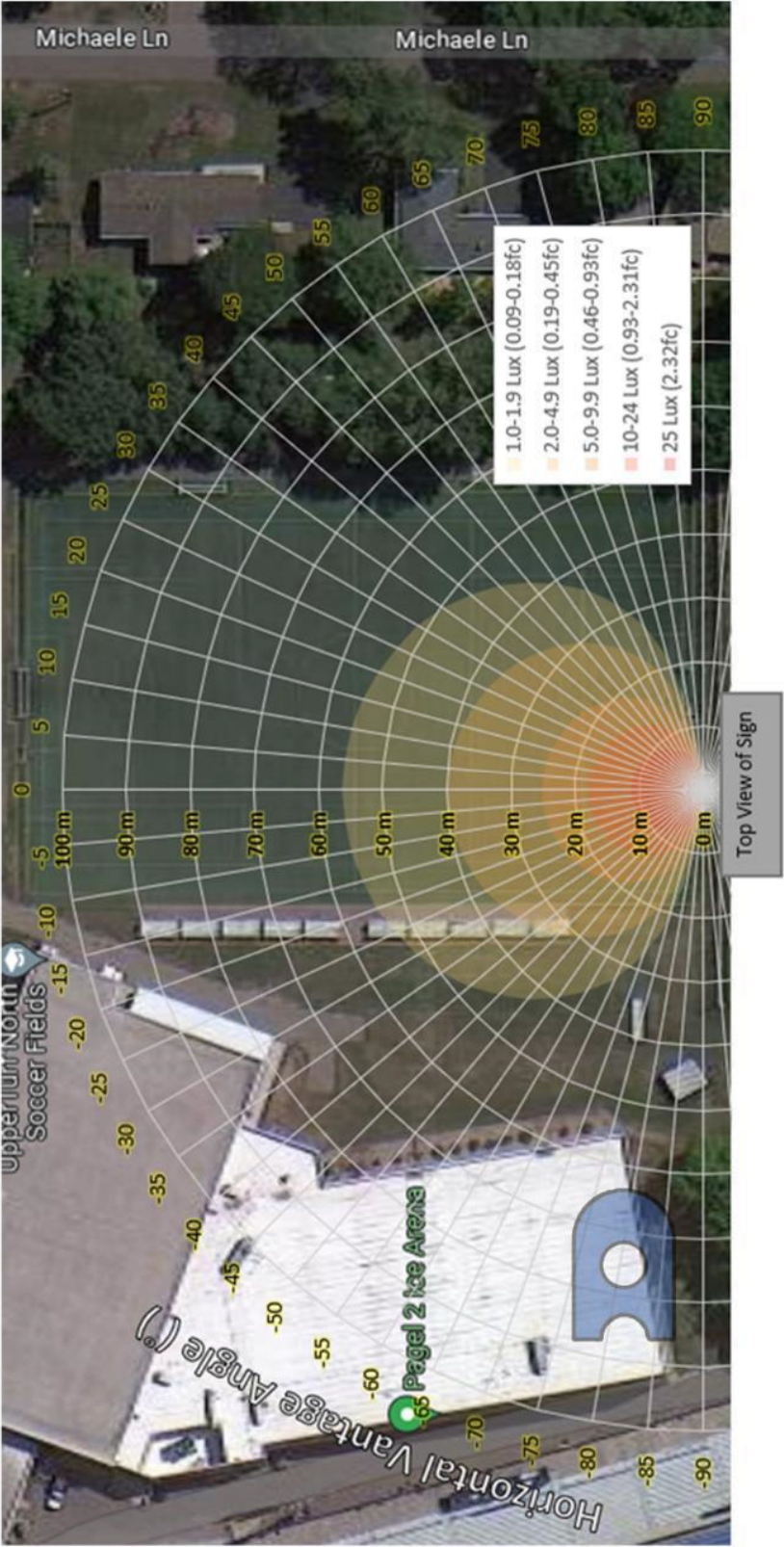
Using the data provided by the manufacturer, Daktronics, StudioK1 calculated that the lighting effects of Field A and Field B scoreboards extend to nearly a 60-meter radius (196 feet) using the white LED's, which are the brightest solution. Figure 1 – Daktronics LED Scoreboard Calculation depicts the output of the calculation, which was performed in connection with a different project that uses the same Daktronics scoreboard as the River Park Project. The 60-meter radius covers 180 degrees in the forward-facing direction of the scoreboard as there would be no backlight. At the 60-meter mark from the scoreboard, the lighting falls below 0.09 footcandles which is less than significant and cannot be reliably measured or experienced in real world applications where ambient light exists. Figure 2 – Site Scoreboard Illumination Representation in this Memo demonstrates the extents of a 60-meter radius on the Project's site plan. The diagram shows that while illumination is present on the field from the scoreboards, the orientation and position of the scoreboard relative to the sensitive receptors, both residential and along the Zev Greenway, are not affected at all by the LED scoreboard. No additional illumination (footcandles) is created at a sensitive receptor from either Field A or Field B scoreboards.

The scoreboard at the pool facility is a dot matrix "screen" which is capable of a maximum brightness of ~7000 nits (candela/meter²) uniformly across the extent of the scoreboard. To maintain a conservative analysis, it was assumed that the entire board was illuminated to the maximum level to represent the worst-case scenario. Using the photometric calculation tool AGI32, the pool scoreboard was modeled on the Project Site to determine the illumination (Figure 3 – Pool LED Matrix Scoreboard Calculation). It was found

that the lighting created a radius of ~351 feet to 0.09 footcandles, beyond which the illumination is no longer consequential. There are some values of 0.01 and 0.02 footcandles that reach the Project Site property line south of the gymnasium building. While these values are extremely low, and likely immeasurable, it is important to note that no consideration was given to any intervening landscaping. Therefore, based on this study, and the future plan for landscaping and buildings, the pool LED scoreboard will not contribute to any lighting impacts at any offsite sensitive receptor or along the Zev Greenway.

It is acknowledged that there would be some visibility of the different scoreboards from areas outside of the property lines of the Project. While the scoreboards are justified in a manner to cast light within the Project, some viewing angles still allow for a line of sight to a scoreboard (again, using conservative assumptions regarding the absence of landscaping). Despite being visible from receptors outside of the Project Site, the measurable impacts are essentially non-existent and will not exceed any of the applicable CEQA thresholds of significance. Thus, the scoreboards at both fields and the pool, while cumulative with the sports lighting fixtures at the athletic facilities themselves, would not contribute to any cumulative lighting impact at any of the sensitive receptors. All impacts would remain less than significant and continue to represent an improvement over existing conditions.

	SO-918-W	
	Values expressed are specific to Daktronics product only	



*Calculations are based on white digits powered to their maximum potential for nighttime viewing. Values are shown in footcandles (fc).

Figure 1 – Daktronics LED Scoreboard Calculation

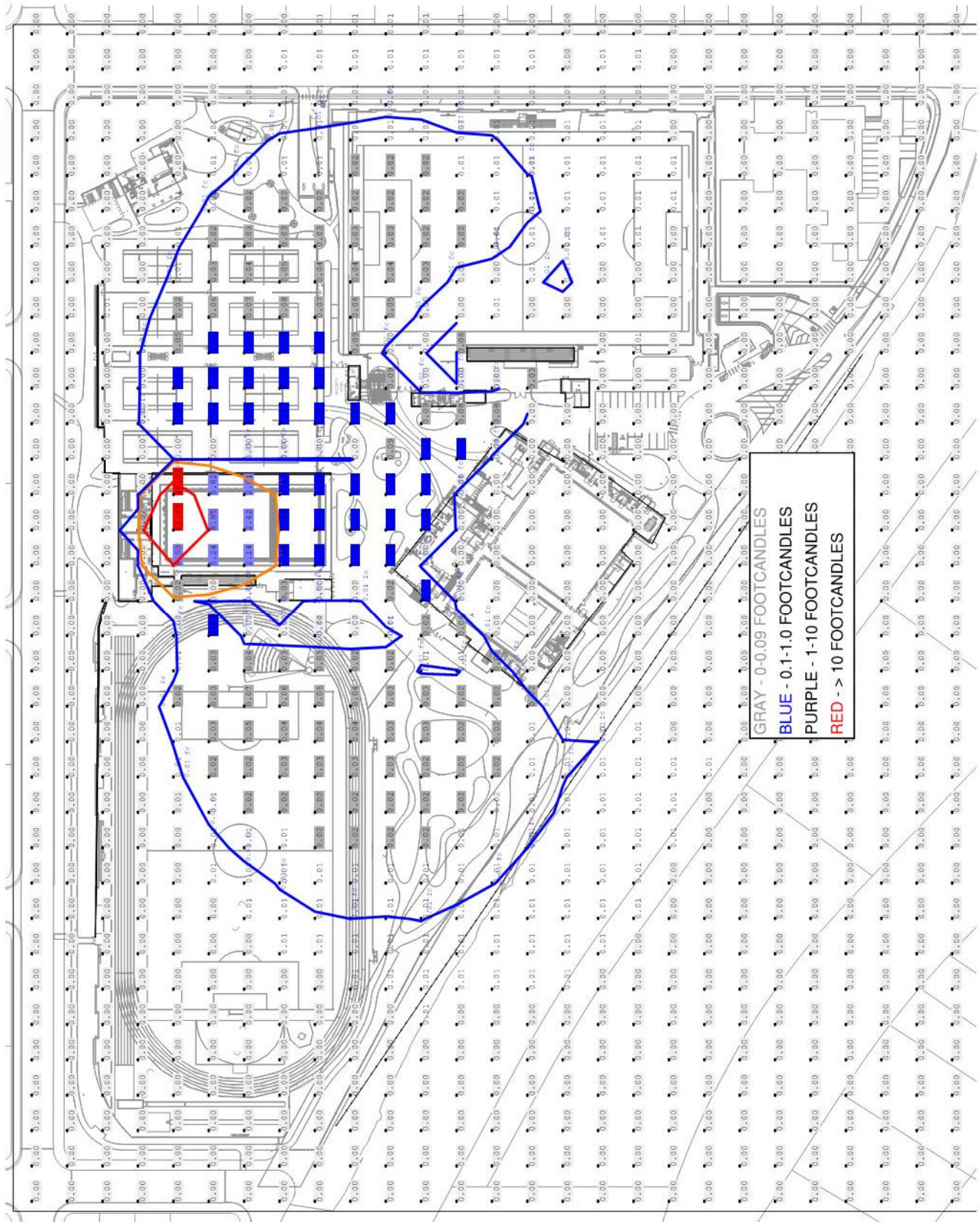


Figure 3 - Pool LED Matrix Scoreboard Calculation

ATTACHMENT 4



E X T E R N A L M E M O R A N D U M

TO: Mike Harden
 Environmental Science Association
 2121 Alton Parkway, Suite 100
 Irvine, California 92606

FROM: Sarah Parker, Ph.D., Senior Managing Scientist, Exponent, Inc.

DATE: October 20, 2023

PROJECT: 2209255.000

SUBJECT: Supplemental Memo Re: HW River Park – Response to Supplemental PFAS Test

In response to your requests, Exponent, Inc. (Exponent) has authored two technical memos – the first, dated December 21, 2022 (“the Exponent 2022 memo”),¹ included an assessment of material components of artificial turf fields from the Harvard-Westlake River Park Project, specifically the intended Vertex CORE 2.5 synthetic turf carpet and Cryogenic Rubber 14-30 crumb rubber infill. The analysis in the Exponent 2022 memo included an evaluation of the turf product’s potential to release specific per- and polyfluorinated alkyl substances (PFAS) under the conditions of use based on the chemical and physical properties of the materials and data reported by several sources. The second, supplemental memo dated February 16, 2023 evaluated an August 3, 2022 article titled “Our community has been deceived: Turf wars mount over PFAS” (“the Greenwire article”),² related to PFAS in the context of artificial turf fields. Exponent has been asked to conduct an additional analysis of the data and analysis presented in the memo titled “Summary of PFAS and other chemicals of concern in Harvard-Westlake’s proposed FieldTurf Vertex Core 2.5” from the Public Employees for Environmental Responsibility (PEER) memo (“2023 PEER memo”).

The 2023 PEER memo includes chemical analysis of leachate obtained from utilizing the United States Environmental Protection Agency (EPA) Test Method 1312: Synthetic Precipitation Leaching Procedure (SPLP). EPA Method 1312: SPLP is a “method designed to determine the

¹ Parker, S. December 21, 2022. *River Park Project Artificial Turf Field Materials Analysis* [Memorandum]. Exponent, Inc.

² Crunden, E.A. and Wittenberg, A. (2022). ‘Our community has been deceived’: Turf wars mount over PFAS. E&E News: Greenwire. Available at: <https://www.eenews.net/articles/our-community-has-been-deceived-turf-wars-mount-over-pfas/>, accessed February 7, 2023.

mobility of both organic and inorganic analytes present in liquids, soils, and wastes.”³ The SPLP extraction followed by targeted PFAS analysis is one accepted methodology for assessing potential leaching from materials found in the environment. According to the 2023 PEER memo, Vertex CORE 2.5 synthetic turf blades, turf backing, and Cryogenic Rubber 14-30 crumb rubber infill samples were sent directly from the manufacturer for analysis by Eurofins Sacramento. The SPLP leachate was analyzed for specific PFAS, semi-volatile organic compounds (SVOCs), and metals using EPA Methods 537 (modified), 8270D, and 6010D, respectively. Across all samples, four PFAS were detected in the leachates – perfluorooctanesulfonic acid (PFOS),⁴ perfluoropropionic acid (PFPrA),⁵ 6:2 fluorotelomer sulfonic acid (6:2 FTS),⁶ and 7:3 fluorotelomer carboxylic acid (7:3 FTCA),⁷ at concentrations ranging from 0.63 – 11 ppt. Only PFPrA was detected above the reporting limit (RL). The remainder of the PFAS analytes were below the RL and above the method detection limit (MDL).⁸

PEER also compared these SPLP leachate results to the total oxidizable precursor (TOP) results reported by Eurofins Sacramento and the analysis included in the Exponent 2022 memo (pages 21 – 24).⁹ The TOP assay followed by targeted PFAS analysis has been used to quantify the contribution from potential precursors of select PFAS compounds by accelerating oxidative degradation that may occur throughout a product’s lifetime. The results of that finished turf product testing indicate that, prior to oxidation, very low levels of small-molecule PFAS were present in the product. After oxidation and extraction, only two PFAS were detected above the RL; seven PFAS were detected above the method detection limit but below the RL. Notably, none of the nine PFAS detected by the TOP assay were detected in the SPLP leachate.¹⁰ These data sets demonstrate the potential for oxidation and leaching of fluorinated chemistries from turf products in the environment at trace-levels with use and time. The values for each of the detected PFAS analytes detected after oxidation (0.17 – 5.9 ppb) were substantially lower than the respective levels of each substance used for regional screening levels for soils (130 – 19,000 ppb by EPA; 3.8-12 ppb by California) and proposed regulatory guidance for turf products (20 ppm total organic fluorine per recently proposed CA AB 1423). In the PEER 2023 memo, PEER

³ EPA. SW-846 Test Method 1312: Synthetic Precipitation Leaching Procedure. September 1994. Available at <https://www.epa.gov/hw-sw846/sw-846-test-method-1312-synthetic-precipitation-leaching-procedure>.

⁴ PFOS was detected at 1.2 and 0.67 ng L⁻¹ (parts per trillion, ppt) in the blades and crumb rubber infill, respectively. Both detections were above the MDL but below the RL.

⁵ PFPrA was detected at 9.3 and 11.0 ng L⁻¹ (ppt) in the turf backing and crumb rubber infill, respectively. Both detections were above the RL.

⁶ 6:2 FTS was detected at 5.8 ng L⁻¹ (ppt) in the turf blades. This detection was above the MDL but below the RL.

⁷ 7:3 FTCA was detected at 0.63 ng L⁻¹ (ppt) in the turf blades. This detection was above the MDL but below the RL.

⁸ The reporting limit is a concentration threshold that is often set in relation to the practical quantitation limit, as a threshold level below which results should be considered approximate. The lowest concentration detectable by the method is typically called the “detection limit,” below which, the analyte could be present but would not be identified by that method. (Parker, S. December 21, 2022. *River Park Project Artificial Turf Field Materials Analysis* [Memorandum]. Exponent, Inc.).

⁹ PEER refers to these data as Dr. David Teter’s results in Figures 3 and 4, and surrounding text. Dr. Teter is Harvard-Westlake’s scientific consultant who arranged the sampling and TOP testing prior to Exponent’s analysis.

¹⁰ SPLP leachate was not evaluated for oxidizable precursors.

concluded that these compounds will “readily leach off into surrounding soil and waters” and “any amount of PFOS in artificial turf is of grave concern.” Given the ubiquitous nature of some PFAS chemicals, trace-level detections from both the SPLP and TOP testing methodologies is expected.

To understand potential risks associated with the data from the TOP assay and the SPLP tests, it is helpful to understand the purpose, assumptions, and limitations of each methodology. SPLP is used to mimic exposure to rainfall and assess the subsequent impact on groundwater.¹¹ The TOP assay is used to quantify the contribution from potential precursors of select PFAS compounds by accelerating oxidative degradation that may occur throughout a product’s lifetime. The Leaching Environmental Assessment Framework (LEAF) is one methodology that can be utilized to develop the relationship between the results of laboratory leaching tests to the potential of chemicals to leach from materials overtime due to environmental weathering factors such as rain and sunlight at a specific location. The LEAF specifies, “interpretation of laboratory leaching test results to the field must be conducted within the context of the controlling physical and chemical mechanisms of the field scenario” and “can be evaluated through a combination of empirical calculations to extrapolate laboratory results and chemical speciation and reactive mass transport simulations.”¹² Further, LEAF is recommended by the EPA for many applications.¹³ When considering leaching potential over time, the PFAS, SVOCs, and metals that were detected at trace concentrations should be considered in the context of the material environmental exposure to factors that cause weathering of the material and leaching over time, rather than the end, cumulative concentration of chemicals that leached from the materials in a laboratory study.

Even if all the PFOS detected in the SPLP leachate and the TOP assay were released in the same rainfall event, the PFOS concentrations detected in the turf samples are below the EPA proposed Maximum Containment Level of 4 ppt for PFOS in drinking water and well below the EPA draft aquatic life ambient water quality criteria of 3.0 ppm.¹⁴ Further, the detected PFOS levels are multiple orders of magnitude below the EPA screening level for residential soil (130 ppb).¹⁵ These benchmark concentrations¹⁶ suggest the detections in these turf products would have

¹¹ EPA Method 1312 for SPLP was designed for use with “soil samples from a contaminated site to estimate the site-specific adsorption-desorption potential of a contaminant that may impact ground water.”

(https://www.nj.gov/dep/srp/guidance/rs/splp_guidance.pdf) It was developed for volatiles, semi-volatiles, mercury, and metals. It has not been validated for the fluorinated chemistries discussed here.

¹² EPA-600/R-14/061. National Service Center for Environmental Publications (NSCEP). Leaching Test Relationships, Laboratory-to- Field Comparisons and Recommendations for Leaching Evaluation using the Leaching Environmental Assessment Framework (LEAF). October 2014. Available at <https://nepis.epa.gov/Exe/ZyNET.exe/>.

¹³ EPA SW-846 Update VI. Leaching Environmental Assessment Framework (LEAF) How-To Guide. October 2017. https://www.epa.gov/sites/default/files/2017-11/documents/leaf_how_to_guide.pdf.

¹⁴ EPA 842-D-22-005. Fact Sheet: Draft 2022 Aquatic Life Ambient Water Quality Criteria for Perfluorooctanoic acid (PFOA) and Perfluorooctane Sulfonic Acid (PFOS). April 2022. <https://www.epa.gov/system/files/documents/2022-04/pfoa-pfos-draft-factsheet-2022.pdf>

¹⁵ EPA. Regional Screening Levels (RSLs) - Generic Tables. May 2023. Available at <https://www.epa.gov/risk/regional-screening-levels-rsls-generic-tables>.

¹⁶ Draft 2022 Aquatic Life Ambient Water Quality Criteria for Perfluorooctanoic acid (PFOA) and Perfluorooctane Sulfonic Acid (PFOS), Regional Screening Levels (RSLs), and Maximum Containment Levels for drinking water.

minimal impact on human and environmental health, even if all available PFOS leached from the turf.

In summary, the assertion that PFOS or the other PFAS and organic chemicals detected in the SPLP leachate and the TOP assay will have a detrimental impact on human health and the environment is not supported by the data in either the Exponent 2022 memo describing the TOP testing or the PEER 2023 memo describing the SPLP analysis.

Limitations

This memo is based on publicly available literature, the materials cited in this memo, and my education, training, and experience. In this analysis, Exponent has relied on provided information and has not independently assessed the validity by which the information was collected (including, but not limited to, professional standards and care exercised by independent laboratories in the investigation of the aforementioned chemicals and compounds).

Our analysis is based on observations and information available at the time of the investigation. Exponent's role is advisory in nature, and the opinions, analysis, conclusions, results, recommendations, and the like will be assessed by ESA with respect to its products, processes, or services. As such, no guarantee or warranty as to future life or performance of the reviewed artificial turf systems is expressed or implied. The scope of services performed during this investigation may not adequately address the needs of other users of this memo, and any reuse of this memo or its findings, conclusions, or recommendations presented herein are at the sole risk of the user.