

## McMillan, Acquanette (Netta)

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**From:** julianna  
**Sent:** Monday, September 18, 2023 9:52 AM  
**To:** Williams, Felicia; Gordo, Victor  
**Cc:** 'julianna'; Johnson, Kevin; Dyson, Darla; De La Cuba, Vannia; Paige, Jennifer; PublicComment-AutoResponse; Lyon, Jason; Cisneros, Stephanie  
**Subject:** RE: City Council Agenda Item #14 - Appeal of 740-790 E. Green Street

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Dear Mayor Gordo and Vice Mayor Williams,

Regarding Agenda Item #14 and this evening's appeal, I urge you to adopt Staff's recommendation to uphold the Design Commission's Concept Design Review approval for the project at 740-790 Green Street within the Central District Specific Plan area, allowing it to go forward to Final Design Review.

The Commission unanimously found that the project is consistent with the City's General Plan Land Use and Housing Elements and zoning for the District, any potential significant impacts will be reduced to less-than-significant levels, and meets or exceeds applicable design guidelines. The project will bring much-needed housing to the heart of the District, where residents will be able to walk to goods and services while providing support for local businesses. It is well-designed and will physically improve in a cohesive manner the desolate environment along this section of Green Street where properties have been underutilized and buildings are aesthetically incongruous.

Appealing on CEQA grounds to mask concerns that the project is 'too big' or 'too dense' and disturbs an imaginary status quo is an abuse of environmental protections and irrelevant in the context of Design Review.

Thank you for your consideration.

Julianna Delgado

Chair, City of Pasadena Design Commission

**Julianna Delgado, M.Arch, Ph.D, FAICP**

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Planning Commissioner, City of Pasadena  
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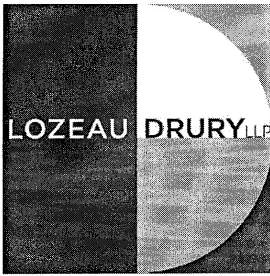
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***After enlightenment, do the laundry.***

*- Zen proverb*

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September 18, 2023

*Via E-mail*

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Re: Appeal of 740-790 E. Green Street Project

Dear Vice Mayor Williams and Honorable Councilmembers:

I am writing on behalf of Supporters Alliance for Environmental Responsibility and its members living in and around the City of Pasadena (“SAFER”) regarding SAFER’s appeal of the Design Commission’s approval of a Concept Design Review and adoption of a Mitigated Negative Declaration (“MND”) for the 740-790 East Green Street Mixed-Use Project (“Project”).

The MND fails to analyze and mitigate the Project’s significant environmental impacts. As a result, SAFER respectfully requests the City Council: (1) grant SAFER’s appeal, (2) refrain from approving the Project and adopting the MND, and (3) direct staff to prepare an EIR for the Project prior to approval.

This comment has been prepared with the assistance of Certified Industrial Hygienist, Francis “Bud” Offermann, PE, CIH. Mr. Offerman’s comment and curriculum vitae are attached as Exhibit A hereto and is incorporated herein by reference in its entirety.

**I. PROJECT DESCRIPTION**

The Project involves the demolition of five existing commercial buildings, and the construction and operation of a new mixed-use project within the City of Pasadena Playhouse District. The mixed-use project would include one 4-story mixed-use building and one 5-story

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residential building. The two buildings would be located on top of a two-level subterranean parking garage that encompasses the majority of the 2.33-acre property, and would include 416 parking spaces. The Project would include 14,346 square feet of office use and 263 for-rent residential units, 41 of which would be designated as affordable units. The Project relies on the State's Density Bonus Law and the City's Concessions Menu.

## II. LEGAL STANDARD

As the California Supreme Court has held, “[i]f no EIR has been prepared for a nonexempt project, but substantial evidence in the record supports a fair argument that the project may result in significant adverse impacts, the proper remedy is to order preparation of an EIR.” (*Communities for a Better Env’t v. South Coast Air Quality Mgmt. Dist.* (2010) 48 Cal.4th 310, 319-320 (*CBE v. SCAQMD*) (citing *No Oil, Inc. v. City of Los Angeles* (1974) 13 Cal.3d 68, 75, 88; *Brentwood Assn. for No Drilling, Inc. v. City of Los Angeles* (1982) 134 Cal.App.3d 491, 504-505).) “Significant environmental effect” is defined very broadly as “a substantial or potentially substantial adverse change in the environment.” (Pub. Res. Code (“PRC”) § 21068; *see also* 14 CCR § 15382.) An effect on the environment need not be “momentous” to meet the CEQA test for significance; it is enough that the impacts are “not trivial.” (*No Oil, Inc.*, 13 Cal.3d at 83.) “The ‘foremost principle’ in interpreting CEQA is that the Legislature intended the act to be read so as to afford the fullest possible protection to the environment within the reasonable scope of the statutory language.” (*Communities for a Better Env’t v. Cal. Res. Agency* (2002) 103 Cal.App.4th 98, 109 (*CBE v. CRA*).)

The EIR is the very heart of CEQA. (*Bakersfield Citizens for Local Control v. City of Bakersfield* (2004) 124 Cal.App.4th 1184, 1214 (*Bakersfield Citizens*); *Pocket Protectors v. City of Sacramento* (2004) 124 Cal.App.4th 903, 927.) The EIR is an “environmental ‘alarm bell’ whose purpose is to alert the public and its responsible officials to environmental changes before they have reached the ecological points of no return.” (*Bakersfield Citizens*, 124 Cal.App.4th at 1220.) The EIR also functions as a “document of accountability,” intended to “demonstrate to an apprehensive citizenry that the agency has, in fact, analyzed and considered the ecological implications of its action.” (*Laurel Heights Improvements Assn. v. Regents of Univ. of Cal.* (1988) 47 Cal.3d 376, 392.) The EIR process “protects not only the environment but also informed self-government.” (*Pocket Protectors*, 124 Cal.App.4th at 927.)

An EIR is required if “there is substantial evidence, in light of the whole record before the lead agency, that the project may have a significant effect on the environment.” (PRC § 21080(d); *see also Pocket Protectors*, 124 Cal.App.4th at 927.) In very limited circumstances, an agency may avoid preparing an EIR by issuing a negative declaration, a written statement briefly indicating that a project will have no significant impact thus requiring no EIR (14 CCR § 15371), only if there is not even a “fair argument” that the project will have a significant environmental effect. (PRC §§ 21100, 21064.) Since “[t]he adoption of a negative declaration . . . has a terminal effect on the environmental review process,” by allowing the agency “to dispense with the duty [to prepare an EIR],” negative declarations are allowed only in cases where “the proposed project will not affect the environment at all.” (*Citizens of Lake Murray v.*

*San Diego* (1989) 129 Cal.App.3d 436, 440.)

Under the “fair argument” standard, an EIR is required if any substantial evidence in the record indicates that a project may have an adverse environmental effect—even if contrary evidence exists to support the agency’s decision. (14 CCR § 15064(f)(1); *Pocket Protectors*, 124 Cal.App.4th at 931; *Stanislaus Audubon Society v. County of Stanislaus* (1995) 33 Cal.App.4th 144, 150-51; *Quail Botanical Gardens Found., Inc. v. City of Encinitas* (1994) 29 Cal.App.4th 1597, 1602.) The “fair argument” standard creates a “low threshold” favoring environmental review through an EIR rather than through issuance of negative declarations or notices of exemption from CEQA. (*Pocket Protectors*, 124 Cal.App.4th at 928.)

### III. DISCUSSION

#### A. The MND’s Analysis of Energy Impacts Violates CEQA.

CEQA provides that all Projects must include “measures to reduce the wasteful, inefficient, and unnecessary consumption of energy.” (PRC § 21100(b)(3).) Energy conservation under CEQA is defined as the “wise and efficient use of energy.” (CEQA Guidelines, app. F, § I.) The “wise and efficient use of energy” is achieved by “(1) decreasing overall per capita energy consumption, (2) decreasing reliance on fossil fuels such as coal, natural gas and oil, and (3) increasing reliance on renewable energy resources.” (*Id.*) The MND’s analysis of the Project’s energy impacts is conclusory and fails to provide the analysis which CEQA requires. (*See*, MND, pp. 49-56.)

An analysis of a project’s energy use “should include the project’s energy use for all project phases and components, including transportation-related energy, during construction and operation. In addition to building code compliance, other relevant considerations include, among others, the project’s size, location, orientation, equipment use and *any renewable energy features that could be incorporated into the project.*” (14 CCR 15126.2(b) (emphasis added).) Even if energy use is not wasteful or otherwise subject to §15126.2(b), “feasible measures which could minimize significant adverse impacts, including where relevant, inefficient and unnecessary consumption of energy,” are to “be discussed and the basis for selecting a particular measure should be identified” and “mitigation measures shall not be deferred until some future time.” (14 C.C.R. §15126.4(a)(1)(B).)

The MND does not indicate how the project will affect per capita energy consumption, how it will affect dependence on fossil fuels, or whether it could increase reliance on renewable energy resources. Consequently, neither informed decisionmaking nor informed public participation was possible with respect to energy issues. (*Kings County Farm Bureau v. City of Hanford* (1990) 221 Cal.App.3d 692, 712.)

##### 1. The MND fails to analyze increased reliance on renewable energy.

Considering ways to reduce reliance on fossil fuels and to increase reliance on renewable energy is central to analyzing how a project can achieve the “wise and efficient use of energy.”

(CEQA Guidelines, app. F, § I.) To further this objective, CEQA requires a discussion of whether any renewable energy features could be incorporated into a project as part of its analysis of energy impacts - even if the impact is ultimately found to be less than significant. (*League to Save Lake Tahoe Mountain Area Preservation Foundation v. County of Placer* (2022) 75 Cal.App.5th 63, 167 (*League to Save Lake Tahoe*); *California Clean Energy Committee v. City of Woodland* (2014) 225 Cal.App.4th 173, 213 (failing to undertake “an investigation into renewable energy options that might be available or appropriate for a project” violates CEQA.))

The MND does not discuss whether any renewable energy features could be incorporated into the Project to increase renewable generation as part of its analysis of energy impacts. The MND merely states that the Project will have to comply with Title 24 and other building standards. (MND, pp. 52-54.) California courts have repeatedly rejected this type of energy analysis as insufficient. (*Ukiah Citizens for Safety First v. City of Ukiah* (2016) 248 Cal.App.4th 256, 264-65; *California Clean Energy Committee v. City of Woodland* (2014) 225 Cal.App.4th 173, 210-13.)

The City’s failure to evaluate the potential for renewable energy features in the Project is a significant omission that undermines its analysis of energy impacts. By not discussing whether any renewable energy features could be incorporated into the Project, the City is violating CEQA.

## **2. The MND fails to analyze ways to decrease reliance on fossil fuels.**

To achieve the “wise and efficient use of energy,” CEQA analyses must also analyze ways to decrease reliance on fossil fuels. (CEQA Guidelines, Appendix F, § I.) The MND does not fulfill this requirement.

The Project will generate more than 6.3 million vehicle miles traveled each year, and will increase petroleum demand by nearly 200,000 gallons per year. (MND, pp. 53-54.) The vast majority of these vehicles will have to use fossil fuels to run because the Project includes only a tiny number of electric vehicle (“EV”) chargers. (MND, p. 54.) Increasing the number of EV chargers would reduce reliance on fossil fuels. While 25% of parking spaces will be “capable of supporting future electric vehicle equipment,” (MND, p. 8), the Project will actually include only four EV chargers, out of 416 total parking spaces. (MND, p. 54.) There is no discussion of why such a small number of EV chargers is appropriate, or why installation of additional chargers is not feasible. Given the State’s current transition towards EVs, it would almost certainly be cheaper to install chargers while the parking garages are being constructed, rather than wait and do it later.

Moreover, the MND concedes that the majority of the energy used during construction would be petroleum-based, without undertaking any attempt to consider available renewable alternatives, as is required under CEQA. Instead, it merely states that “[P]etroleum would be used in a manner that is typical for construction.” (MND, p. 52). This unsupported conclusion does not constitute a sufficient analysis, and does not mean that project construction does not result in a wasteful, inefficient, and unnecessary use of energy.

The MND also failed to consider restricting the use of natural gas in the project, and instead requiring only electric water and space heating and appliances. Such policies are regularly implemented throughout the state, and there is no evidence that it is infeasible here. Requiring an all-electric building would reduce reliance on fossil fuels.

**3. The MND's analysis of energy conservation is inconsistent with CEQA and Appendix F of the CEQA Guidelines.**

Appendix F of the CEQA Guidelines provides guidance on information to include project descriptions and in an analysis of a project's energy use, and impacts and mitigation measures for agencies to consider. (Guidelines, Appendix F; 14 CCR 15126.2(b).) The MND fails to include much of this information.

For instance, the MND does not include the following information in its description of the Project, as required by Appendix F:

1. Energy consuming equipment and processes which will be used during construction, operation and/or removal of the project.
2. The energy intensiveness of materials and equipment required for the project.
3. Energy conservation equipment and design features.

Similarly, the MND does not include discussion of the following impacts:

1. The effects of the project on local and regional energy supplies and on requirements for additional capacity.
2. The effects of the project on peak and base period demands for electricity and other forms of energy.
3. The effects of the project on energy resources.
4. Decreasing overall per capita energy consumption.

The Project could be made far more energy efficient by including things like solar arrays on the roof, increasing the number of EV chargers installed, achieving energy efficiency at a percentage greater than that required by Title 24, requiring smart thermostats, increasing the frequency of public transit stops, or prohibiting new gas heaters and appliance. The City does not discuss any of these or many more options that would increase the Project's energy conservation.

This does not constitute a good faith effort to estimate the "[t]he project's energy requirements and its energy use efficiencies by amount and fuel type for each stage of the project including, construction, operation, maintenance, and/or removal." as required by Appendix F. "[A]n agency must use its best efforts to find out and disclose all that it reasonably can." (CEQA Guidelines § 15144.)

**B. There is Substantial Evidence that the Project will have a Significant Health Risk Impact from Indoor Air Emissions.**

One component of an air quality impact analysis under CEQA is evaluating the health risk impacts of toxic air contaminant (“TACs”) emissions contributed by a proposed project as well as cumulatively with other nearby TAC sources. Certified Industrial Hygienist, Francis “Bud” Offermann, PE, CIH, has conducted a review of the Project, the CEQA Analysis, and relevant appendices regarding the Project’s indoor air emissions. Indoor Environmental Engineering Comments (Jan. 13, 2021) (“Offermann Comment”) (attached hereto as Exhibit A). Mr. Offermann is one of the world’s leading experts on indoor air quality and has published extensively on the topic. As discussed below and set forth in Mr. Offermann’s comments, the Project’s emissions of formaldehyde to air will result in very significant cancer risks to future residents. As a result of this significant effect, the Project requires preparation of an EIR to analyze and mitigate this significant impact.

The MND’s analysis includes a discussion of the Project’s anticipated TAC emissions. *Id.* at 39. The MND concludes that while TACs will be generated during Project construction, “the duration of the proposed construction activities would only constitute a small percentage of the total 30-year exposures period,” and therefore TACs from construction “would not result in concentrations causing significant health risks.” *Id.* The MND also concludes that “the proposed Project would not involve operational activities that would generate TAC emissions.” *Id.*

The MND identifies the significance thresholds established by the South Coast Air Quality Management District (“SCAQMD”) for a project’s TAC emissions as “an incremental cancer risk threshold of 10 in 1 million. ‘Incremental cancer risk’ is the net increased likelihood that a person continuously exposed to concentrations of TACs resulting from a Project over a 9-, 30-, and 70-year exposure period will contract cancer based on the use of standard Office of Environmental Health Hazard Assessment (OEHHA) risk-assessment methodology (OEHHA 2015).” *Id.* at 39.

Although the MND identifies TAC emissions associated with the Project’s construction equipment, the analysis fails to acknowledge the significant indoor air emissions that also will result from the Project. Specifically, there is no discussion, analysis, or identification of mitigation measures to reduce significant emissions of formaldehyde to the air from the Project.

Mr. Offermann explains that many composite wood products typically used in home and apartment building construction contain formaldehyde-based glues which off-gas formaldehyde over a very long time period. He states, “The primary source of formaldehyde indoors is composite wood products manufactured with urea-formaldehyde resins, such as plywood, medium density fiberboard, and particle board. These materials are commonly used in residential building construction for flooring, cabinetry, baseboards, window shades, interior doors, and window and door trims.” Offermann Comment, pp. 2-3.

Formaldehyde is a known human carcinogen. Mr. Offermann states that there is a fair argument that future residents of the Project will be exposed to a cancer risk from formaldehyde of approximately 120 per million, assuming all materials are compliant with the California Air Resources Board’s formaldehyde airborne toxics control measure. *Id.*, p. 3. This is 12 times the

SCAQMD's CEQA significance threshold for airborne cancer risk of 10 per million. Mr. Offermann concludes that this significant environmental impact should be analyzed in an EIR and mitigation measures should be imposed to reduce the risk of formaldehyde exposure. *Id.*, p. 2. Mr. Offermann suggests several feasible mitigation measures, such as requiring the use of no-added-formaldehyde composite wood products, which are readily available. Offermann Comments, pp. 12-13. Mr. Offermann also suggests requiring air ventilation systems which would reduce formaldehyde levels. *Id.* Since the CEQA Analysis does not analyze this impact at all, none of these or other mitigation measures are considered.

When a Project exceeds a duly adopted CEQA significance threshold, as here, this alone establishes a fair argument that the project will have a significant adverse environmental impact and an EIR is required. Indeed, in many instances, such air quality thresholds are the only criteria reviewed and treated as dispositive in evaluating the significance of a project's air quality impacts. See, e.g. *Schenck v. County of Sonoma* (2011) 198 Cal.App.4th 949, 960 (County applies BAAQMD's "published CEQA quantitative criteria" and "threshold level of cumulative significance"). See also *Communities for a Better Environment v. California Resources Agency* (2002) 103 Cal.App.4th 98, 110-111 ("A 'threshold of significance' for a given environmental effect is simply that level at which the lead agency finds the effects of the project to be significant"). The California Supreme Court made clear the substantial importance that an air district significance threshold plays in providing substantial evidence of a significant adverse impact. *Communities for a Better Environment v. South Coast Air Quality Management Dist.* (2010) 48 Cal.4th 310, 327 ("As the [South Coast Air Quality Management] District's established significance threshold for NOx is 55 pounds per day, these estimates [of NOx emissions of 201 to 456 pounds per day] constitute substantial evidence supporting a fair argument for a significant adverse impact"). Since expert evidence demonstrates that the Project will exceed the SCAQMD's CEQA significance threshold, there is a fair argument that the Project will have significant adverse impacts and an EIR is required.

Mr. Offermann also notes that the high cancer risk that may be posed by the Project's indoor air emissions will be exacerbated by the additional cancer risk that exists from vehicle emissions from the adjacent and nearby roadways such as I-210, E Green Street, Hudson Street, Colorado Boulevard, S. Lake Avenue, and Oak Knoll Avenue. *Id.* at 10.

He observes that the Project is located in south Coast Air Basin, which is a State and Federal non-attainment area for PM2.5, and that "[a]n air quality analysis should be conducted to determine the concentrations of PM2.5 in the outdoor and indoor air that people inhale each day. *Id.* at 11. Because the City's analysis of the cumulative health risk impacts of the Project fails to include these sources as well as the TAC emissions to air from the Project itself, the cumulative impact analysis and conclusion is not supported by substantial evidence. Mr. Offermann concludes that:

It is my experience that based on the projected high traffic noise levels, the concentration of PM2.5 will exceed the California and National PM2.5 annual and 24-hour standards and warrant installation of high efficiency air filters (i.e.



MERV 13 or higher) in all mechanically supplied outdoor air ventilation systems

*Id.*

The failure of the CEQA Analysis to address the Project's formaldehyde emissions is contrary to California Supreme Court decision in *California Building Industry Ass'n v. Bay Area Air Quality Mgmt. Dist.* (2015) 62 Cal.4th 369, 386 (“*CBIA*”). In that case, the Supreme Court expressly holds that potential adverse impacts to future users and residents from pollution generated by a proposed project ***must be addressed*** under CEQA. At issue in *CBIA* was whether the Air District could enact CEQA guidelines that advised lead agencies that they must analyze the impacts of adjacent environmental conditions on a project. The Supreme Court held that CEQA does not generally require lead agencies to consider the environment's effects on a project. *CBIA*, 62 Cal.4th at 800-801. However, to the extent a project may exacerbate existing environmental conditions at or near a project site, those would still have to be considered pursuant to CEQA. *Id.* at 801. In so holding, the Court expressly held that CEQA's statutory language required lead agencies to disclose and analyze “impacts on ***a project's users or residents*** that arise ***from the project's effects*** on the environment.” (*Id.* at 800 (emphasis added).)

The carcinogenic formaldehyde emissions identified by Mr. Offermann are not an existing environmental condition. Those emissions to the air will be from the Project. People will be residing in and using the Project once it is built and begins emitting formaldehyde. Once built, the Project will begin to emit formaldehyde at levels that pose significant health risks. The Supreme Court in *CBIA* expressly finds that this type of air emission and health impact by the project on the environment and a “project's users and residents” must be addressed in the CEQA process.

The Supreme Court's reasoning is well-grounded in CEQA's statutory language. CEQA expressly includes a project's effects on human beings as an effect on the environment that must be addressed in an environmental review. “Section 21083(b)(3)'s express language, for example, requires a finding of a ‘significant effect on the environment’ (§ 21083(b)) whenever the ‘environmental effects of a project will cause substantial adverse effects *on human beings*, either directly or indirectly.” (*CBIA*, 62 Cal.4th at 800 (emphasis in original).) Likewise, “the Legislature has made clear—in declarations accompanying CEQA's enactment—that public health and safety are of great importance in the statutory scheme.” (*Id.*, citing e.g., §§ 21000, subds. (b), (c), (d), (g), 21001, subds. (b), (d).) It goes without saying that the hundreds of future residents at the Project are human beings and the health and safety of those residents is as important to CEQA's safeguards as nearby residents currently living adjacent to the Project site.

In its Response to Comments, the City provides a number of responses to Mr. Offerman's comments, but none avoid the need for an EIR. First, the City claims that “[d]iscussion of impacts on indoor air quality is not specified or required by the State CEQA Guidelines or California's air district guidelines.” (Response to Comments, p. 59.) Whether or not “indoor air quality” is mentioned in CEQA is irrelevant. CEQA requires an analysis of both air quality impacts and impacts to human health. (See Pub. Res. Code §21083(b)(3) [project has a

“significant effect on the environment” if “the environmental effects of a project will cause substantial adverse effects on human beings”].)

Second, the City claims Mr. Offermann’s comments are wrong because “the Project will need to comply with the 2019 CalGreen Code, which specifies that composite wood products (such as hardwood plywood and particleboard) meet the requirements for formaldehyde as specified in CARB’s Air Toxic Control Measures.” (Response to Comments, p. 60.) However, as explained by Mr. Offermann, his calculations *assume compliance* with all applicable regulations, and are based on studies that analyzed emissions from CARB-compliant materials.

Third, the City dismisses Mr. Offermann’s comments on the grounds that “the commenter is speculating in the assertion that composite wood materials would be used in the interior of the building. Indoor building materials will not be known until the building permit stage.” (Response to Comments, p. 60.) This comment ignores the City’s obligation to investigate the Project’s environmental impacts. For permitting purposes, the City may not require an applicant to submit information about its building materials until the building permit stage, but that does not relieve the City of its obligation to investigate the Project’s potential impacts *now*, during the CEQA process. If the City has not *asked* the applicant for information on building materials, it must do so. Otherwise, the City has no grounds to oppose Mr. Offermann’s comments based on the limited facts in the record. (See *County Sanitation Dist. No. 2 v County of Kern* (2005) 127 CA4th 1544, 1597 (failure of lead agency to evaluate issue enlarged the scope of the fair argument).)

Finally, the City ignores the potential cumulative impact of indoor and outdoor emissions on human health, merely reiterating the MND’s conclusions that the “Project’s PM2.5 emissions are not expected to cause any increase in related regional health effects for these pollutants” and that the “Project would not result in a potentially significant contribution to regional concentrations of non-attainment pollutants and would not result in a significant contribution to the adverse health effects associated with those pollutants.” (Response to Comments, p. 60.) These conclusions do not amount to an analysis of the Project’s cumulative impacts to human health and ignores the California Supreme Court’s interpretation that “CEQA calls upon an agency to evaluate existing conditions in order to assess whether a project could exacerbate hazards that are already present.” (*California Bldg. Indus. Assn. v. Bay Area Air Quality Mgmt. Dist.*, 62 Cal. 4th 369, 388 (2015).)

Because Mr. Offermann’s expert comments constitute substantial evidence of a fair argument of a significant environmental impact to future users of the project, an EIR must be prepared to disclose and mitigate those impacts.

**C. The MND Fails to Establish a Baseline for Hazardous Substances and its Conclusion that the Project will not have a Significant Impact on Related to Hazardous Substances is not Supported by Substantial Evidence.**

It is well-established that CEQA requires analysis of toxic soil contamination that may be disturbed by a Project, and that the effects of this disturbance on human health and the

environment. (*California Bldg. Indus. Assn. v. BAAQMD.*, 62 Cal. 4th at 389; see Pub. Res. Code §21083(b)(3).) Yet the MND fails to fully analyze and mitigate the existing soil conditions and the project's potential to exacerbate those conditions.

The existence of toxic soil contamination at a project site is a significant impact requiring review and mitigation in an EIR. (*Id.*; *McQueen v. Bd. of Dirs.* (1988) 202 Cal.App.3d 1136, 1149; *Assoc. For A Cleaner Env't v. Yosemite Comm. College Dist.* (“*ACE v. Yosemite*”) (2004) 116 Cal.App.4th 629.) This analysis and formulation of mitigation may not be deferred until a future time after Project approval. (*Sundstrom v. County of Mendocino* (1988) 202 Cal. App. 3d 296, 306; *Citizens for Responsible Equitable Env't'l Dev. v. City of Chula Vista* (“*CREED*”) (2011) 197 Cal.App.4th 327, 330-31.)

The Project site has the potential to be significantly impacted with hazardous substances as a result of past land use. A Phase I Environmental Site Assessment (“ESA”) was conducted and found numerous recognized environmental conditions (“RECs”) including, according to the MND:

- The eastern portion of the Project site was formerly used as a gasoline service station from some times prior to 1931 to at least 1952. Car and battery repair and greasing also took place on site. There is no regulatory agency documentation of tank removal or soil sampling and analysis.
- The adjacent properties to the north of the Project site were used historically for auto repair since 1932. Based on the close proximity to new residential units (within 100-feet) and the long-term utilization of the property for auto repair purposes, the north adjacent property poses a potential vapor encroachment concerns.

MND, p. 70.

Only limited steps were taken to investigate these potentially harmful RECs. A Vapor Intrusion Risk Assessment was performed, but it was far from sufficient. First, it only included seven vapor probes for the entire 2.33-acre property. While six of the probes were taken to the rear of existing commercial structures to assess the former onsite auto repair and gas station, only one probe was taken in the northeastern corner of the Project site to assess the potential for soil contamination and vapor encroachment from the former gas station and auto repair operations just north of the Project site. EFI Global, Vapor Intrusion Assessment (Dec. 22, 2016), p. 2. Moreover, these probes were only taken to a depth of 5 feet below ground, while the two -story subterranean parking garage proposed for the majority of the site will require excavation far below this level. In addition, the vapor sampling was conducted more than seven years ago, and is therefore now long out of date. The sampling no longer tells the public or decision makers how a contamination plume may have migrated since the sampling. Also concerning is the City's failure to analyze the extent of soil condition and failure to determine if underground storage tanks are still on the Project site.

The MND notes that “Should construction occur in an area where a UST was/is located or contaminated soils are found, this could result in an upset or accident resulting in a release of

hazardous materials.” *Id.* at 72-73.

Failing to investigate the existing contamination means the City has not established the site’s baseline conditions, has shirked its duty to investigate the Project’s potential environmental impacts, and has no evidence to support the MND’s finding that “a threat to human health was not identified as a result of the former gasoline and auto repair operations at the Project site and at the north adjacent property. Therefore, potential risks associated with the vapor encroachment REC are less than significant.” MND, p. 72.

The MND does admit that “[t]here are still potential impacts associated with the presence of the former gasoline service station, including potential underground storage tanks and impacts to subsurface soils. Potential contaminants of concern associated with former automotive and gasoline service station activities include, but are not limited to, petroleum hydrocarbons (gasoline, diesel, heavy oil), and volatile organic compounds (VOCs).” MND, p. 72. Rather than investigate, analyze, disclose, and mitigate those potential impacts, the MND merely adopts Mitigation Measure HAZ-1, deferring both the analysis and formulation of mitigation until long after the CEQA process is complete. This is counter to the requirements of CEQA.

Mitigation Measure HAZ-1 is a classic example of deferred mitigation, but goes a step further by actually deferring the investigation and analysis of impacts until after the MND and Project are already approved. The Hazardous Materials Contingency Plan (“HMCP”) required by MM HAZ-1 “shall describe the procedures for assessment, characterization, management, and disposal of contaminated soils,” and the “assessment, characterization, and management of soil vapor.” MND, p. 73. In other words, the City has included the entire CEQA analysis of potential impacts related to soil and soil vapor in the mitigation measure, and deferred it to a later time, when the public will have no opportunity to review or comment on the adequacy of the analysis.

The City’s intent to defer impact analysis until after Project approval is also evidence from its Response to Comments, where the City claims that SAFER’s concerns about the lack of investigation and analysis of this potential impact “are addressed through the required implementation of Mitigation Measure (MM) HAZ-1.” (Response to Comments, p. 62.)

Without having disclosed the baseline, analyzed the impacts, or requiring specific measures to mitigate the identified impacts, the MND concludes that, with implementation of MM HAZ-1, the Project’s contaminated soil and soil vapor impacts will be less-than-significant. This conclusion is not supported by substantial evidence, and MM HAZ-1 does not constitute adequate mitigation under CEQA.

CEQA disallows deferring the formulation of mitigation measures to post-approval studies. 14 CCR § 15126.4(a)(1)(B); *Sundstrom v. County of Mendocino* (1988) 202 Cal.App.3d 296, 308-309. An agency may only defer the formulation of mitigation measures when it possesses “‘meaningful information’ reasonably justifying an expectation of compliance.” *Sundstrom* at 308; *see also Sacramento Old City Association v. City Council of Sacramento* (1991) 229 Cal.App.3d 1011, 1028-29 (mitigation measures may be deferred only “for kinds of

impacts for which mitigation is known to be feasible”). A lead agency is precluded from making the required CEQA findings unless the record shows that all uncertainties regarding the mitigation of impacts have been resolved; an agency may not rely on mitigation measures of uncertain efficacy or feasibility. *Kings County Farm Bureau v. City of Hanford* (1990) 221 Cal.App.3d 692, 727 This approach helps “insure the integrity of the process of decisionmaking by precluding stubborn problems or serious criticism from being swept under the rug.” *Concerned Citizens of Costa Mesa, Inc. v. 32nd Dist. Agricultural Assn.* (1986) 42 Cal.3d 929, 935.

In addition to deferring the “assessment” and “characterization” of contaminated soil and soil vapor, and the impacts the project will have on those conditions, the MND also defers the development of concrete mitigation measures to address impacts that may be found as part of the later-conducted analysis.

MM HAZ-1 requires that:

Should soil vapor contamination be identified above applicable regulatory levels...soil vapor instruction methods will e outlined in the final report based on the findings on site and in accordance with February 2023 DTSC Final Draft Supplemental Guidance for Screening and Evaluating Vapor Intrusion. Proposed engineering methods for attenuation of vapor intrusion will be prepared and submitted with building plans and approved by the permitting agency prior to issuance of construction permits.

MND, p. 73. There are numerous problems with this mitigation measure.

First, an agency must have, and must articulate, a good reason for deferring the formulation of mitigation. *San Joaquin Raptor*, 149 Cal.App.4th at 670, 684. Absent such a reason, deferral is simply not acceptable. “[R]eliance on tentative plans for future mitigation after completion of the CEQA process significantly undermines CEQA’s goals of full disclosure and informed decisionmaking; and[,] consequently, these mitigation plans have been overturned on judicial review as constituting improper deferral of environmental assessment.” *Comtys. for a Better Env’t v. City of Richmond* (2010) 184 Cal.App.4th 70, 92. The City has given no reason why it could not now analyze the Project’s impact from soil and soil vapor contamination, and devise and commit to mitigation measures. Deferral of mitigation without justification violates CEQA.

Second, deferral of mitigation is also impermissible if it removes the CEQA decision-making body from its decision-making role. The City may not delegate the formulation and approval of mitigation measures to address environmental impacts because an agency’s legislative body must ultimately review and vouch for all environmental analysis mandated by CEQA. *Sundstrom v County of Mendocino* (1988) 202 Cal.App.3d 296, 306-308. Thus, the MND may not rely on programs to be developed and implemented later without approval by the City Council. MM HAZ-1 claims the HMCP will be “approved by the permitting agency prior to issuance of construction permits.” While the MND makes unclear which permitting agency is

being referred to, regardless, it will not be approved by the City's decision making body, in violation of CEQA.

Moreover, in the limited circumstances where deferring mitigation is justified, the EIR must (1) commit itself to the mitigation, (2) adopt specific performance standards the mitigation will achieve, and (3) identify the types of potential actions that can feasibly achieve that performance standard. (Guidelines § 15126.4, subd. (a)(1)(B).) MM HAZ-1 includes no specific performance standards that the mitigation will achieve, and does not identify the types of potential actions that can feasibly achieve that performance standard. Without CEQA-compliant mitigation, the Project's potential impacts related to soil and soil vapor contamination remain unmitigated.

Construction workers, such as the members of SAFER, will be at the highest risk from exposure to previously discharged contaminations because they will be directly disturbing and excavating potentially contaminated soil during Project construction. Rather than investigate these potentially dangerous conditions, the MND simply defers that analysis and mitigation.

The City may not approve the Project until it has analyzed and implemented mitigation measures to reduce the Project's hazard impacts. Since the City admits there may be an impact but has not mitigated such impact, an EIR is required.

#### **D. The MND's Greenhouse Gas Analysis is Based on Unsupported Assumptions.**

In support of its greenhouse gas analysis, the MND states:

CalEEMod default values for energy consumption assume compliance with the 2016 Title 24 Building Energy Efficiency Standards. However, since the Project would be required to comply with the more stringent 2019 Title 24 Building Energy Efficiency Standards that became effective January 1, 2020, a 30% reduction was applied in CalEEMod based on the California Energy Commission's estimate that compared to the 2016 standards, "nonresidential buildings [built to 2019 standards] will use about 30% less energy due mainly to lighting upgrades" (CEC 2018).

MND, p. 61.

The assumption that compliance with 2019 Title 24 Building Standards will result in a 30% reduction in GHG emissions compared to 2016 Building Standards is not supported by substantial evidence. The MND states that the 30% reduction is based on the California Energy Commission's estimate that compared to the 2016 standards, "nonresidential buildings [built to 2019 standards] will use about 30% less energy due mainly to lighting upgrades." *Id.* The problem with the assumption is that the CEC's determination was based on *non-residential* buildings, while the Project here consists mainly of residential uses. The MND provides no evidence that a 30% reduction is warranted in such a case. As a result, the City lacks evidence to support its finding that the Project's GHG impacts will be less than

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significant.

#### **IV. CONCLUSION**

In light of the above comments, the City must prepare an EIR for the Project and the draft EIR should be circulated for public review and comment in accordance with CEQA. Thank you for considering these comments.

Sincerely,

A handwritten signature in black ink, appearing to read 'R. L. Davis', with a long horizontal flourish extending to the right.

Rebecca L. Davis

# EXHIBIT A





## INDOOR ENVIRONMENTAL ENGINEERING



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Date: January 13, 2021

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From: Francis J. Offermann PE CIH

Subject: Indoor Air Quality: 740 E Green Street Project – Pasadena, CA  
(IEE File Reference: P-4416)

Pages: 19

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### **Indoor Air Quality Impacts**

Indoor air quality (IAQ) directly impacts the comfort and health of building occupants, and the achievement of acceptable IAQ in newly constructed and renovated buildings is a well-recognized design objective. For example, IAQ is addressed by major high-performance building rating systems and building codes (California Building Standards Commission, 2014; USGBC, 2014). Indoor air quality in homes is particularly important because occupants, on average, spend approximately ninety percent of their time indoors with the majority of this time spent at home (EPA, 2011). Some segments of the population that are most susceptible to the effects of poor IAQ, such as the very young and the elderly, occupy their homes almost continuously. Additionally, an increasing number of adults are working from home at least some of the time during the workweek. Indoor air quality also is a serious concern for workers in hotels, offices and other business establishments.

The concentrations of many air pollutants often are elevated in homes and other buildings relative to outdoor air because many of the materials and products used indoors contain and release a variety of pollutants to air (Hodgson et al., 2002; Offermann and Hodgson,

2011). With respect to indoor air contaminants for which inhalation is the primary route of exposure, the critical design and construction parameters are the provision of adequate ventilation and the reduction of indoor sources of the contaminants.

**Indoor Formaldehyde Concentrations Impact.** In the California New Home Study (CNHS) of 108 new homes in California (Offermann, 2009), 25 air contaminants were measured, and formaldehyde was identified as the indoor air contaminant with the highest cancer risk as determined by the California Proposition 65 Safe Harbor Levels (OEHHA, 2017a), No Significant Risk Levels (NSRL) for carcinogens. The NSRL is the daily intake level calculated to result in one excess case of cancer in an exposed population of 100,000 (i.e., ten in one million cancer risk) and for formaldehyde is 40  $\mu\text{g}/\text{day}$ . The NSRL concentration of formaldehyde that represents a daily dose of 40  $\mu\text{g}$  is 2  $\mu\text{g}/\text{m}^3$ , assuming a continuous 24-hour exposure, a total daily inhaled air volume of 20  $\text{m}^3$ , and 100% absorption by the respiratory system. All of the CNHS homes exceeded this NSRL concentration of 2  $\mu\text{g}/\text{m}^3$ . The median indoor formaldehyde concentration was 36  $\mu\text{g}/\text{m}^3$ , and ranged from 4.8 to 136  $\mu\text{g}/\text{m}^3$ , which corresponds to a median exceedance of the 2  $\mu\text{g}/\text{m}^3$  NSRL concentration of 18 and a range of 2.3 to 68.

Therefore, the cancer risk of a resident living in a California home with the median indoor formaldehyde concentration of 36  $\mu\text{g}/\text{m}^3$ , is 180 per million as a result of formaldehyde alone. The CEQA significance threshold for airborne cancer risk is 10 per million, as established by the South Coast Air Quality Management District (SCAQMD, 2015).

Besides being a human carcinogen, formaldehyde is also a potent eye and respiratory irritant. In the CNHS, many homes exceeded the non-cancer reference exposure levels (RELs) prescribed by California Office of Environmental Health Hazard Assessment (OEHHA, 2017b). The percentage of homes exceeding the RELs ranged from 98% for the Chronic REL of 9  $\mu\text{g}/\text{m}^3$  to 28% for the Acute REL of 55  $\mu\text{g}/\text{m}^3$ .

The primary source of formaldehyde indoors is composite wood products manufactured with urea-formaldehyde resins, such as plywood, medium density fiberboard, and

particleboard. These materials are commonly used in building construction for flooring, cabinetry, baseboards, window shades, interior doors, and window and door trims.

In January 2009, the California Air Resources Board (CARB) adopted an airborne toxics control measure (ATCM) to reduce formaldehyde emissions from composite wood products, including hardwood plywood, particleboard, medium density fiberboard, and also furniture and other finished products made with these wood products (California Air Resources Board 2009). While this formaldehyde ATCM has resulted in reduced emissions from composite wood products sold in California, they do not preclude that homes built with composite wood products meeting the CARB ATCM will have indoor formaldehyde concentrations below cancer and non-cancer exposure guidelines.

A follow up study to the California New Home Study (CNHS) was conducted in 2016-2018 (Singer et. al., 2019), and found that the median indoor formaldehyde in new homes built after 2009 with CARB Phase 2 Formaldehyde ATCM materials had lower indoor formaldehyde concentrations, with a median indoor concentrations of  $22.4 \mu\text{g}/\text{m}^3$  (18.2 ppb) as compared to a median of  $36 \mu\text{g}/\text{m}^3$  found in the 2007 CNHS. Unlike in the CNHS study where formaldehyde concentrations were measured with pumped DNPH samplers, the formaldehyde concentrations in the HENGH study were measured with passive samplers, which were estimated to under-measure the true indoor formaldehyde concentrations by approximately 7.5%. Applying this correction to the HENGH indoor formaldehyde concentrations results in a median indoor concentration of  $24.1 \mu\text{g}/\text{m}^3$ , which is 33% lower than the  $36 \mu\text{g}/\text{m}^3$  found in the 2007 CNHS.

Thus, while new homes built after the 2009 CARB formaldehyde ATCM have a 33% lower median indoor formaldehyde concentration and cancer risk, the median lifetime cancer risk is still 120 per million for homes built with CARB compliant composite wood products. This median lifetime cancer risk is more than 12 times the OEHHA 10 in a million cancer risk threshold (OEHHA, 2017a).

With respect to the 740-790 East Green Street, Mixed-Use Project – Pasadena, the buildings consists of residential and commercial spaces.

The residential occupants will potentially have continuous exposure (e.g. 24 hours per day, 52 weeks per year). These exposures are anticipated to result in significant cancer risks resulting from exposures to formaldehyde released by the building materials and furnishing commonly found in residential construction.

Because these residences will be constructed with CARB Phase 2 Formaldehyde ATCM materials, and be ventilated with the minimum code required amount of outdoor air, the indoor residential formaldehyde concentrations are likely similar to those concentrations observed in residences built with CARB Phase 2 Formaldehyde ATCM materials, which is a median of 24.1  $\mu\text{g}/\text{m}^3$  (Singer et. al., 2020)

Assuming that the residential occupants inhale 20  $\text{m}^3$  of air per day, the average 70-year lifetime formaldehyde daily dose is 482  $\mu\text{g}/\text{day}$  for continuous exposure in the residences. This exposure represents a cancer risk of 120 per million, which is more than 12 times the CEQA cancer risk of 10 per million. For occupants that do not have continuous exposure, the cancer risk will be proportionally less but still substantially over the CEQA cancer risk of 10 per million (e.g. for 12/hour/day occupancy, more than 6 times the CEQA cancer risk of 10 per million).

The employees of the commercial spaces are expected to experience significant indoor exposures (e.g., 40 hours per week, 50 weeks per year). These exposures for employees are anticipated to result in significant cancer risks resulting from exposures to formaldehyde released by the building materials and furnishing commonly found in offices, warehouses, residences and hotels.

Because the commercial spaces will be constructed with CARB Phase 2 Formaldehyde ATCM materials, and be ventilated with the minimum code required amount of outdoor air, the indoor formaldehyde concentrations are likely similar to those concentrations observed in residences built with CARB Phase 2 Formaldehyde ATCM materials, which is a median of 24.1  $\mu\text{g}/\text{m}^3$  (Singer et. al., 2020)

Assuming that the employees of commercial spaces work 8 hours per day and inhale 20 m<sup>3</sup> of air per day, the formaldehyde dose per work-day at the offices is 161 µg/day.

Assuming that these employees work 5 days per week and 50 weeks per year for 45 years (start at age 20 and retire at age 65) the average 70-year lifetime formaldehyde daily dose is 70.9 µg/day.

This is 1.77 times the NSRL (OEHHA, 2017a) of 40 µg/day and represents a cancer risk of 17.7 per million, which exceeds the CEQA cancer risk of 10 per million. This impact should be analyzed in an environmental impact report (“EIR”), and the agency should impose all feasible mitigation measures to reduce this impact. Several feasible mitigation measures are discussed below and these and other measures should be analyzed in an EIR.

Appendix A, Indoor Formaldehyde Concentrations and the CARB Formaldehyde ATCM, provides analyses that show utilization of CARB Phase 2 Formaldehyde ATCM materials will not ensure acceptable cancer risks with respect to formaldehyde emissions from composite wood products.

Even composite wood products manufactured with CARB certified ultra low emitting formaldehyde (ULEF) resins do not insure that the indoor air will have concentrations of formaldehyde that meet the OEHHA cancer risks that substantially exceed 10 per million. The permissible emission rates for ULEF composite wood products are only 11-15% lower than the CARB Phase 2 emission rates. Only use of composite wood products made with no-added formaldehyde resins (NAF), such as resins made from soy, polyvinyl acetate, or methylene diisocyanate can insure that the OEHHA cancer risk of 10 per million is met.

The following describes a method that should be used, prior to construction in the environmental review under CEQA, for determining whether the indoor concentrations resulting from the formaldehyde emissions of specific building materials/furnishings selected exceed cancer and non-cancer guidelines. Such a design analyses can be used to identify those materials/furnishings prior to the completion of the City’s CEQA review and project approval, that have formaldehyde emission rates that contribute to indoor

concentrations that exceed cancer and non-cancer guidelines, so that alternative lower emitting materials/furnishings may be selected and/or higher minimum outdoor air ventilation rates can be increased to achieve acceptable indoor concentrations and incorporated as mitigation measures for this project.

#### Pre-Construction Building Material/Furnishing Formaldehyde Emissions Assessment

This formaldehyde emissions assessment should be used in the environmental review under CEQA to assess the indoor formaldehyde concentrations from the proposed loading of building materials/furnishings, the area-specific formaldehyde emission rate data for building materials/furnishings, and the design minimum outdoor air ventilation rates. This assessment allows the applicant (and the City) to determine, before the conclusion of the environmental review process and the building materials/furnishings are specified, purchased, and installed, if the total chemical emissions will exceed cancer and non-cancer guidelines, and if so, allow for changes in the selection of specific material/furnishings and/or the design minimum outdoor air ventilations rates such that cancer and non-cancer guidelines are not exceeded.

1.) Define Indoor Air Quality Zones. Divide the building into separate indoor air quality zones, (IAQ Zones). IAQ Zones are defined as areas of well-mixed air. Thus, each ventilation system with recirculating air is considered a single zone, and each room or group of rooms where air is not recirculated (e.g. 100% outdoor air) is considered a separate zone. For IAQ Zones with the same construction material/furnishings and design minimum outdoor air ventilation rates. (e.g. hotel rooms, apartments, condominiums, etc.) the formaldehyde emission rates need only be assessed for a single IAQ Zone of that type.

2.) Calculate Material/Furnishing Loading. For each IAQ Zone, determine the building material and furnishing loadings (e.g., m<sup>2</sup> of material/m<sup>2</sup> floor area, units of furnishings/m<sup>2</sup> floor area) from an inventory of all potential indoor formaldehyde sources, including flooring, ceiling tiles, furnishings, finishes, insulation, sealants, adhesives, and any products constructed with composite wood products containing urea-formaldehyde resins (e.g., plywood, medium density fiberboard, particleboard).

3.) Calculate the Formaldehyde Emission Rate. For each building material, calculate the formaldehyde emission rate ( $\mu\text{g}/\text{h}$ ) from the product of the area-specific formaldehyde emission rate ( $\mu\text{g}/\text{m}^2\text{-h}$ ) and the area ( $\text{m}^2$ ) of material in the IAQ Zone, and from each furnishing (e.g. chairs, desks, etc.) from the unit-specific formaldehyde emission rate ( $\mu\text{g}/\text{unit-h}$ ) and the number of units in the IAQ Zone.

NOTE: As a result of the high-performance building rating systems and building codes (California Building Standards Commission, 2014; USGBC, 2014), most manufacturers of building materials furnishings sold in the United States conduct chemical emission rate tests using the California Department of Health “Standard Method for the Testing and Evaluation of Volatile Organic Chemical Emissions for Indoor Sources Using Environmental Chambers,” (CDPH, 2017), or other equivalent chemical emission rate testing methods. Most manufacturers of building furnishings sold in the United States conduct chemical emission rate tests using ANSI/BIFMA M7.1 Standard Test Method for Determining VOC Emissions (BIFMA, 2018), or other equivalent chemical emission rate testing methods.

CDPH, BIFMA, and other chemical emission rate testing programs, typically certify that a material or furnishing does not create indoor chemical concentrations in excess of the maximum concentrations permitted by their certification. For instance, the CDPH emission rate testing requires that the measured emission rates when input into an office, school, or residential model do not exceed one-half of the OEHHA Chronic Exposure Guidelines (OEHHA, 2017b) for the 35 specific VOCs, including formaldehyde, listed in Table 4-1 of the CDPH test method (CDPH, 2017). These certifications themselves do not provide the actual area-specific formaldehyde emission rate (i.e.,  $\mu\text{g}/\text{m}^2\text{-h}$ ) of the product, but rather provide data that the formaldehyde emission rates do not exceed the maximum rate allowed for the certification. Thus, for example, the data for a certification of a specific type of flooring may be used to calculate that the area-specific emission rate of formaldehyde is less than  $31 \mu\text{g}/\text{m}^2\text{-h}$ , but not the actual measured specific emission rate, which may be 3, 18, or  $30 \mu\text{g}/\text{m}^2\text{-h}$ . These area-specific emission rates determined from the product certifications of CDPH, BIFA, and other certification programs can be used as an initial estimate of the formaldehyde emission rate.

If the actual area-specific emission rates of a building material or furnishing is needed (i.e. the initial emission rates estimates from the product certifications are higher than desired), then that data can be acquired by requesting from the manufacturer the complete chemical emission rate test report. For instance if the complete CDPH emission test report is requested for a CDHP certified product, that report will provide the actual area-specific emission rates for not only the 35 specific VOCs, including formaldehyde, listed in Table 4-1 of the CDPH test method (CDPH, 2017), but also all of the cancer and reproductive/developmental chemicals listed in the California Proposition 65 Safe Harbor Levels (OEHHA, 2017a), all of the toxic air contaminants (TACs) in the California Air Resources Board Toxic Air Contamination List (CARB, 2011), and the 10 chemicals with the greatest emission rates.

Alternatively, a sample of the building material or furnishing can be submitted to a chemical emission rate testing laboratory, such as Berkeley Analytical Laboratory (<https://berkeleyanalytical.com>), to measure the formaldehyde emission rate.

4.) Calculate the Total Formaldehyde Emission Rate. For each IAQ Zone, calculate the total formaldehyde emission rate (i.e.  $\mu\text{g/h}$ ) from the individual formaldehyde emission rates from each of the building material/furnishings as determined in Step 3.

5.) Calculate the Indoor Formaldehyde Concentration. For each IAQ Zone, calculate the indoor formaldehyde concentration ( $\mu\text{g/m}^3$ ) from Equation 1 by dividing the total formaldehyde emission rates (i.e.  $\mu\text{g/h}$ ) as determined in Step 4, by the design minimum outdoor air ventilation rate ( $\text{m}^3/\text{h}$ ) for the IAQ Zone.

$$C_{in} = \frac{E_{total}}{Q_{oa}} \quad (\text{Equation 1})$$

where:

$C_{in}$  = indoor formaldehyde concentration ( $\mu\text{g/m}^3$ )

$E_{total}$  = total formaldehyde emission rate ( $\mu\text{g/h}$ ) into the IAQ Zone.

$Q_{oa}$  = design minimum outdoor air ventilation rate to the IAQ Zone ( $\text{m}^3/\text{h}$ )

The above Equation 1 is based upon mass balance theory, and is referenced in Section



3.10.2 “Calculation of Estimated Building Concentrations” of the California Department of Health “Standard Method for the Testing and Evaluation of Volatile Organic Chemical Emissions for Indoor Sources Using Environmental Chambers”, (CDPH, 2017).

6.) Calculate the Indoor Exposure Cancer and Non-Cancer Health Risks. For each IAQ Zone, calculate the cancer and non-cancer health risks from the indoor formaldehyde concentrations determined in Step 5 and as described in the OEHHA Air Toxics Hot Spots Program Risk Assessment Guidelines; Guidance Manual for Preparation of Health Risk Assessments (OEHHA, 2015).

7.) Mitigate Indoor Formaldehyde Exposures of exceeding the CEQA Cancer and/or Non-Cancer Health Risks. In each IAQ Zone, provide mitigation for any formaldehyde exposure risk as determined in Step 6, that exceeds the CEQA cancer risk of 10 per million or the CEQA non-cancer Hazard Quotient of 1.0.

Provide the source and/or ventilation mitigation required in all IAQ Zones to reduce the health risks of the chemical exposures below the CEQA cancer and non-cancer health risks.

Source mitigation for formaldehyde may include:

- 1.) reducing the amount materials and/or furnishings that emit formaldehyde
- 2.) substituting a different material with a lower area-specific emission rate of formaldehyde

Ventilation mitigation for formaldehyde emitted from building materials and/or furnishings may include:

- 1.) increasing the design minimum outdoor air ventilation rate to the IAQ Zone.

NOTE: Mitigating the formaldehyde emissions through use of less material/furnishings, or use of lower emitting materials/furnishings, is the preferred mitigation option, as mitigation with increased outdoor air ventilation increases initial and operating costs associated with the heating/cooling systems.

Further, we are not asking that the builder “speculate” on what and how much composite materials be used, but rather at the design stage to select composite wood materials based on the formaldehyde emission rates that manufacturers routinely conduct using the California Department of Health “Standard Method for the Testing and Evaluation of Volatile Organic Chemical Emissions for Indoor Sources Using Environmental Chambers,” (CDPH, 2017), and use the procedure described earlier above (i.e. Pre-Construction Building Material/Furnishing Formaldehyde Emissions Assessment) to insure that the materials selected achieve acceptable cancer risks from material off gassing of formaldehyde.

**Outdoor Air Ventilation Impact.** Another important finding of the CNHS, was that the outdoor air ventilation rates in the homes were very low. Outdoor air ventilation is a very important factor influencing the indoor concentrations of air contaminants, as it is the primary removal mechanism of all indoor air generated contaminants. Lower outdoor air exchange rates cause indoor generated air contaminants to accumulate to higher indoor air concentrations. Many homeowners rarely open their windows or doors for ventilation as a result of their concerns for security/safety, noise, dust, and odor concerns (Price, 2007). In the CNHS field study, 32% of the homes did not use their windows during the 24-hour Test Day, and 15% of the homes did not use their windows during the entire preceding week. Most of the homes with no window usage were homes in the winter field session. Thus, a substantial percentage of homeowners never open their windows, especially in the winter season. The median 24-hour measurement was 0.26 air changes per hour (ach), with a range of 0.09 ach to 5.3 ach. A total of 67% of the homes had outdoor air exchange rates below the minimum California Building Code (2001) requirement of 0.35 ach. Thus, the relatively tight envelope construction, combined with the fact that many people never open their windows for ventilation, results in homes with low outdoor air exchange rates and higher indoor air contaminant concentrations.

The 740-790 East Green Street, Mixed-Use Project - Pasadena is close to roads with moderate to high traffic (e.g., I-210, E Green Street, Hudson Street, Colorado Boulevard, S Lake Avenue, Oak Knoll Avenue). As a result of the outdoor vehicle traffic noise, the Project site is likely to be a sound impacted site.

According to the Draft Initial Study/Mitigated Negative Declaration, 740-790 East Green Street, Mixed-Use Project (Dudek, 2020) the existing roadway noise level in Table 2.13-1, range from 65 to 71 dBA Leq at 4 locations on one day over a 1.5 hour period (9:49-11:06).

As a result of the high outdoor noise levels, the current project will require a mechanical supply of outdoor air ventilation to allow for a habitable interior environment with closed windows and doors. Such a ventilation system would allow windows and doors to be kept closed at the occupant's discretion to control exterior noise within building interiors.

**PM<sub>2.5</sub> Outdoor Concentrations Impact.** An additional impact of the nearby motor vehicle traffic associated with this project, are the outdoor concentrations of PM<sub>2.5</sub>. According to the Draft Initial Study/Mitigated Negative Declaration, 740-790 East Green Street (Dudak, 2020) the Project is located in South Coast Air Basin, which is a State and Federal non-attainment area for PM<sub>2.5</sub>.

An air quality analyses should be conducted to be conducted to determine the concentrations of PM<sub>2.5</sub> in the outdoor and indoor air that people inhale each day. This air quality analyses needs to consider the cumulative impacts of the project related emissions, existing and projected future emissions from local PM<sub>2.5</sub> sources (e.g. stationary sources, motor vehicles, and airport traffic) upon the outdoor air concentrations at the Project site. If the outdoor concentrations are determined to exceed the California and National annual average PM<sub>2.5</sub> exceedance concentration of 12 µg/m<sup>3</sup>, or the National 24-hour average exceedance concentration of 35 µg/m<sup>3</sup>, then the buildings need to have a mechanical supply of outdoor air that has air filtration with sufficient removal efficiency, such that the indoor concentrations of outdoor PM<sub>2.5</sub> particles is less than the California and National PM<sub>2.5</sub> annual and 24-hour standards.

It is my experience that based on the projected high traffic noise levels, the annual average concentration of PM<sub>2.5</sub> will exceed the California and National PM<sub>2.5</sub> annual and 24-hour standards and warrant installation of high efficiency air filters (i.e. MERV 13 or higher) in all mechanically supplied outdoor air ventilation systems.

## **Indoor Air Quality Impact Mitigation Measures**

The following are recommended mitigation measures to minimize the impacts upon indoor quality:

Indoor Formaldehyde Concentrations Mitigation. Use only composite wood materials (e.g. hardwood plywood, medium density fiberboard, particleboard) for all interior finish systems that are made with CARB approved no-added formaldehyde (NAF) resins (CARB, 2009). CARB Phase 2 certified composite wood products, or ultra-low emitting formaldehyde (ULEF) resins, do not insure indoor formaldehyde concentrations that are below the CEQA cancer risk of 10 per million. Only composite wood products manufactured with CARB approved no-added formaldehyde (NAF) resins, such as resins made from soy, polyvinyl acetate, or methylene diisocyanate can insure that the OEHHA cancer risk of 10 per million is met.

Alternatively, conduct the previously described Pre-Construction Building Material/Furnishing Chemical Emissions Assessment, to determine that the combination of formaldehyde emissions from building materials and furnishings do not create indoor formaldehyde concentrations that exceed the CEQA cancer and non-cancer health risks.

It is important to note that we are not asking that the builder “speculate” on what and how much composite materials be used, but rather at the design stage to select composite wood materials based on the formaldehyde emission rates that manufacturers routinely conduct using the California Department of Health “Standard Method for the Testing and Evaluation of Volatile Organic Chemical Emissions for Indoor Sources Using Environmental Chambers”, (CDPH, 2017), and use the procedure described above (i.e. Pre-Construction Building Material/Furnishing Formaldehyde Emissions Assessment) to insure that the materials selected achieve acceptable cancer risks from material off gassing of formaldehyde.

Outdoor Air Ventilation Mitigation. Provide each habitable room with a continuous mechanical supply of outdoor air that meets or exceeds the California 2016 Building Energy Efficiency Standards (California Energy Commission, 2015) requirements of the greater of 15 cfm/occupant or 0.15 cfm/ft<sup>2</sup> of floor area. Following installation of the system conduct testing and balancing to insure that required amount of outdoor air is entering each habitable room and provide a written report documenting the outdoor airflow rates. Do not use exhaust only mechanical outdoor air systems, use only balanced outdoor air supply and exhaust systems or outdoor air supply only systems. Provide a manual for the occupants or maintenance personnel, that describes the purpose of the mechanical outdoor air system and the operation and maintenance requirements of the system.

PM<sub>2.5</sub> Outdoor Air Concentration Mitigation. Install air filtration with sufficient PM<sub>2.5</sub> removal efficiency (e.g. MERV 13 or higher) to filter the outdoor air entering the mechanical outdoor air supply systems, such that the indoor concentrations of outdoor PM<sub>2.5</sub> particles are less than the California and National PM<sub>2.5</sub> annual and 24-hour standards. Install the air filters in the system such that they are accessible for replacement by the occupants or maintenance personnel. Include in the mechanical outdoor air ventilation system manual instructions on how to replace the air filters and the estimated frequency of replacement.

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## APPENDIX A

### INDOOR FORMALDEHYDE CONCENTRATIONS AND THE CARB FORMALDEHYDE ATCM

With respect to formaldehyde emissions from composite wood products, the CARB ATCM regulations of formaldehyde emissions from composite wood products, do not assure healthful indoor air quality. The following is the stated purpose of the CARB ATCM regulation - *The purpose of this airborne toxic control measure is to “reduce formaldehyde emissions from composite wood products, and finished goods that contain composite wood products, that are sold, offered for sale, supplied, used, or manufactured for sale in California”*. In other words, the CARB ATCM regulations do not “assure healthful indoor air quality”, but rather “reduce formaldehyde emissions from composite wood products”.

Just how much protection do the CARB ATCM regulations provide building occupants from the formaldehyde emissions generated by composite wood products? Definitely some, but certainly the regulations do not “*assure healthful indoor air quality*” when CARB Phase 2 products are utilized. As shown in the Chan 2019 study of new California homes, the median indoor formaldehyde concentration was of 22.4  $\mu\text{g}/\text{m}^3$  (18.2 ppb), which corresponds to a cancer risk of 112 per million for occupants with continuous exposure, which is more than 11 times the CEQA cancer risk of 10 per million.

Another way of looking at how much protection the CARB ATCM regulations provide building occupants from the formaldehyde emissions generated by composite wood products is to calculate the maximum number of square feet of composite wood product that can be in a residence without exceeding the CEQA cancer risk of 10 per million for occupants with continuous occupancy.

For this calculation I utilized the floor area (2,272  $\text{ft}^2$ ), the ceiling height (8.5 ft), and the number of bedrooms (4) as defined in Appendix B (New Single-Family Residence Scenario) of the Standard Method for the Testing and Evaluation of Volatile Organic Chemical Emissions for Indoor Sources Using Environmental Chambers, Version 1.1, 2017, California Department of Public Health,

Richmond, CA.  
DEODC/EHLB/IAQ/Pages/VOC.aspx.

<https://www.cdph.ca.gov/Programs/CCDPHP/>

For the outdoor air ventilation rate I used the 2019 Title 24 code required mechanical ventilation rate (ASHRAE 62.2) of 106 cfm (180 m<sup>3</sup>/h) calculated for this model residence. For the composite wood formaldehyde emission rates I used the CARB ATCM Phase 2 rates.

The calculated maximum number of square feet of composite wood product that can be in a residence, without exceeding the CEQA cancer risk of 10 per million for occupants with continuous occupancy are as follows for the different types of regulated composite wood products.

Medium Density Fiberboard (MDF) – 15 ft<sup>2</sup> (0.7% of the floor area), or  
Particle Board – 30 ft<sup>2</sup> (1.3% of the floor area), or  
Hardwood Plywood – 54 ft<sup>2</sup> (2.4% of the floor area), or  
Thin MDF – 46 ft<sup>2</sup> (2.0 % of the floor area).

For offices and hotels the calculated maximum amount of composite wood product (% of floor area) that can be used without exceeding the CEQA cancer risk of 10 per million for occupants, assuming 8 hours/day occupancy, and the California Mechanical Code minimum outdoor air ventilation rates are as follows for the different types of regulated composite wood products.

Medium Density Fiberboard (MDF) – 3.6 % (offices) and 4.6% (hotel rooms), or  
Particle Board – 7.2 % (offices) and 9.4% (hotel rooms), or  
Hardwood Plywood – 13 % (offices) and 17% (hotel rooms), or  
Thin MDF – 11 % (offices) and 14 % (hotel rooms)

Clearly the CARB ATCM does not regulate the formaldehyde emissions from composite wood products such that the potentially large areas of these products, such as for flooring, baseboards, interior doors, window and door trims, and kitchen and bathroom cabinetry, could be used without causing indoor formaldehyde concentrations that result in CEQA

cancer risks that substantially exceed 10 per million for occupants with continuous occupancy.

Even composite wood products manufactured with CARB certified ultra low emitting formaldehyde (ULEF) resins do not insure that the indoor air will have concentrations of formaldehyde that meet the OEHHA cancer risks that substantially exceed 10 per million. The permissible emission rates for ULEF composite wood products are only 11-15% lower than the CARB Phase 2 emission rates. Only use of composite wood products made with no-added formaldehyde resins (NAF), such as resins made from soy, polyvinyl acetate, or methylene diisocyanate can insure that the OEHHA cancer risk of 10 per million is met.

If CARB Phase 2 compliant or ULEF composite wood products are utilized in construction, then the resulting indoor formaldehyde concentrations should be determined in the design phase using the specific amounts of each type of composite wood product, the specific formaldehyde emission rates, and the volume and outdoor air ventilation rates of the indoor spaces, and all feasible mitigation measures employed to reduce this impact (e.g. use less formaldehyde containing composite wood products and/or incorporate mechanical systems capable of higher outdoor air ventilation rates). See the procedure described earlier (i.e. Pre-Construction Building Material/Furnishing Formaldehyde Emissions Assessment) to insure that the materials selected achieve acceptable cancer risks from material off gassing of formaldehyde.

Alternatively, and perhaps a simpler approach, is to use only composite wood products (e.g. hardwood plywood, medium density fiberboard, particleboard) for all interior finish systems that are made with CARB approved no-added formaldehyde (NAF) resins.

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### **Education**

M.S. Mechanical Engineering (1985)  
Stanford University, Stanford, CA.

Graduate Studies in Air Pollution Monitoring and Control (1980)  
University of California, Berkeley, CA.

B.S. in Mechanical Engineering (1976)  
Rensselaer Polytechnic Institute, Troy, N.Y.

### **Professional Experience**

President: Indoor Environmental Engineering, San Francisco, CA. December, 1981 - present.

Direct team of environmental scientists, chemists, and mechanical engineers in conducting State and Federal research regarding indoor air quality instrumentation development, building air quality field studies, ventilation and air cleaning performance measurements, and chemical emission rate testing.

Provide design side input to architects regarding selection of building materials and ventilation system components to ensure a high quality indoor environment.

Direct Indoor Air Quality Consulting Team for the winning design proposal for the new State of Washington Ecology Department building.

Develop a full-scale ventilation test facility for measuring the performance of air diffusers; ASHRAE 129, Air Change Effectiveness, and ASHRAE 113, Air Diffusion Performance Index.

Develop a chemical emission rate testing laboratory for measuring the chemical emissions from building materials, furnishings, and equipment.

Principle Investigator of the California New Homes Study (2005-2007). Measured ventilation and indoor air quality in 108 new single family detached homes in northern and southern California.

Develop and teach IAQ professional development workshops to building owners, managers, hygienists, and engineers.

Air Pollution Engineer: Earth Metrics Inc., Burlingame, CA, October, 1985 to March, 1987.

Responsible for development of an air pollution laboratory including installation a forced choice olfactometer, tracer gas electron capture chromatograph, and associated calibration facilities. Field team leader for studies of fugitive odor emissions from sewage treatment plants, entrainment of fume hood exhausts into computer chip fabrication rooms, and indoor air quality investigations.

Staff Scientist: Building Ventilation and Indoor Air Quality Program, Energy and Environment Division, Lawrence Berkeley Laboratory, Berkeley, CA. January, 1980 to August, 1984.

Deputy project leader for the Control Techniques group; responsible for laboratory and field studies aimed at evaluating the performance of indoor air pollutant control strategies (i.e. ventilation, filtration, precipitation, absorption, adsorption, and source control).

Coordinated field and laboratory studies of air-to-air heat exchangers including evaluation of thermal performance, ventilation efficiency, cross-stream contaminant transfer, and the effects of freezing/defrosting.

Developed an *in situ* test protocol for evaluating the performance of air cleaning systems and introduced the concept of effective cleaning rate (ECR) also known as the Clean Air Delivery Rate (CADR).

Coordinated laboratory studies of portable and ducted air cleaning systems and their effect on indoor concentrations of respirable particles and radon progeny.

Co-designed an automated instrument system for measuring residential ventilation rates and radon concentrations.

Designed hardware and software for a multi-channel automated data acquisition system used to evaluate the performance of air-to-air heat transfer equipment.

Assistant Chief Engineer: Alta Bates Hospital, Berkeley, CA, October, 1979 to January, 1980.

Responsible for energy management projects involving installation of power factor correction capacitors on large inductive electrical devices and installation of steam meters on physical plant steam lines. Member of Local 39, International Union of Operating Engineers.

Manufacturing Engineer: American Precision Industries, Buffalo, NY, October, 1977 to October, 1979.

Responsible for reorganizing the manufacturing procedures regarding production of shell and tube heat exchangers. Designed customized automatic assembly, welding, and testing equipment. Designed a large paint spray booth. Prepared economic studies justifying new equipment purchases. Safety Director.

Project Engineer: Arcata Graphics, Buffalo, N.Y. June, 1976 to October, 1977.

Responsible for the design and installation of a bulk ink storage and distribution system and high speed automatic counting and marking equipment. Also coordinated material handling studies which led to the purchase and installation of new equipment.

### **PROFESSIONAL ORGANIZATION MEMBERSHIP**

American Society of Heating, Refrigeration and Air Conditioning Engineers (ASHRAE)

- Chairman of SPC-145P, Standards Project Committee - Test Method for Assessing the Performance of Gas Phase Air Cleaning Equipment (1991-1992)
- Member SPC-129P, Standards Project Committee - Test Method for Ventilation Effectiveness (1986-97)
  - Member of Drafting Committee
- Member Environmental Health Committee (1992-1994, 1997-2001, 2007-2010)
  - Chairman of EHC Research Subcommittee
  - Member of Man Made Mineral Fiber Position Paper Subcommittee
  - Member of the IAQ Position Paper Committee
  - Member of the Legionella Position Paper Committee
  - Member of the Limiting Indoor Mold and Dampness in Buildings Position Paper Committee
- Member SSPC-62, Standing Standards Project Committee - Ventilation for Acceptable Indoor Air Quality (1992 to 2000)
  - Chairman of Source Control and Air Cleaning Subcommittee
- Chairman of TC-4.10, Indoor Environmental Modeling (1988-92)
  - Member of Research Subcommittee
- Chairman of TC-2.3, Gaseous Air Contaminants and Control Equipment (1989-92)
  - Member of Research Subcommittee

American Society for Testing and Materials (ASTM)

- D-22 Sampling and Analysis of Atmospheres
  - Member of Indoor Air Quality Subcommittee
- E-06 Performance of Building Constructions

American Board of Industrial Hygiene (ABIH)

American Conference of Governmental Industrial Hygienists (ACGIH)

- Bioaerosols Committee (2007-2013)

American Industrial Hygiene Association (AIHA)

Cal-OSHA Indoor Air Quality Advisory Committee

International Society of Indoor Air Quality and Climate (ISIAQ)

- Co-Chairman of Task Force on HVAC Hygiene

U. S. Green Building Council (USGBC)

- Member of the IEQ Technical Advisory Group (2007-2009)
- Member of the IAQ Performance Testing Work Group (2010-2012)

Western Construction Consultants (WESTCON)

### **PROFESSIONAL CREDENTIALS**

Licensed Professional Engineer - Mechanical Engineering

Certified Industrial Hygienist - American Board of Industrial Hygienists

### **SCIENTIFIC MEETINGS AND SYMPOSIA**

Biological Contamination, Diagnosis, and Mitigation, Indoor Air'90, Toronto, Canada, August, 1990.

Models for Predicting Air Quality, Indoor Air'90, Toronto, Canada, August, 1990.

Microbes in Building Materials and Systems, Indoor Air '93, Helsinki, Finland, July, 1993.

Microorganisms in Indoor Air Assessment and Evaluation of Health Effects and Probable Causes, Walnut Creek, CA, February 27, 1997.

Controlling Microbial Moisture Problems in Buildings, Walnut Creek, CA, February 27, 1997.

Scientific Advisory Committee, Roomvent 98, 6<sup>th</sup> International Conference on Air Distribution in Rooms, KTH, Stockholm, Sweden, June 14-17, 1998.

Moisture and Mould, Indoor Air '99, Edinburgh, Scotland, August, 1999.

Ventilation Modeling and Simulation, Indoor Air '99, Edinburgh, Scotland, August, 1999.

Microbial Growth in Materials, Healthy Buildings 2000, Espoo, Finland, August, 2000.

Co-Chair, Bioaerosols X- Exposures in Residences, Indoor Air 2002, Monterey, CA, July 2002.

Healthy Indoor Environments, Anaheim, CA, April 2003.

Chair, Environmental Tobacco Smoke in Multi-Family Homes, Indoor Air 2008, Copenhagen, Denmark, July 2008.

Co-Chair, ISIAQ Task Force Workshop; HVAC Hygiene, Indoor Air 2002, Monterey, CA, July 2002.

Chair, ETS in Multi-Family Housing: Exposures, Controls, and Legalities Forum, Healthy Buildings 2009, Syracuse, CA, September 14, 2009.

Chair, Energy Conservation and IAQ in Residences Workshop, Indoor Air 2011, Austin, TX, June 6, 2011.

Chair, Electronic Cigarettes: Chemical Emissions and Exposures Colloquium, Indoor Air 2016, Ghent, Belgium, July 4, 2016.

#### **SPECIAL CONSULTATION**

Provide consultation to the American Home Appliance Manufacturers on the development of a standard for testing portable air cleaners, AHAM Standard AC-1.

Served as an expert witness and special consultant for the U.S. Federal Trade Commission regarding the performance claims found in advertisements of portable air cleaners and residential furnace filters.

Conducted a forensic investigation for a San Mateo, CA pro se defendant, regarding an alleged homicide where the victim was kidnapped in a steamer trunk. Determined the air exchange rate in the steamer trunk and how long the person could survive.

Conducted *in situ* measurement of human exposure to toluene fumes released during nailpolish application for a plaintiffs attorney pursuing a California Proposition 65 product labeling case. June, 1993.

Conducted a forensic *in situ* investigation for the Butte County, CA Sheriff's Department of the emissions of a portable heater used in the bedroom of two twin one year old girls who suffered simultaneous crib death.

Consult with OSHA on the 1995 proposed new regulation regarding indoor air quality and environmental tobacco smoke.



Consult with EPA on the proposed Building Alliance program and with OSHA on the proposed new OSHA IAQ regulation.

Johnson Controls Audit/Certification Expert Review; Milwaukee, WI. May 28-29, 1997.

Winner of the nationally published 1999 Request for Proposals by the State of Washington to conduct a comprehensive indoor air quality investigation of the Washington State Department of Ecology building in Lacey, WA.

Selected by the State of California Attorney General's Office in August, 2000 to conduct a comprehensive indoor air quality investigation of the Tulare County Court House.

Lawrence Berkeley Laboratory IAQ Experts Workshop: "Cause and Prevention of Sick Building Problems in Offices: The Experience of Indoor Environmental Quality Investigators", Berkeley, California, May 26-27, 2004.

Provide consultation and chemical emission rate testing to the State of California Attorney General's Office in 2013-2015 regarding the chemical emissions from e-cigarettes.

#### **PEER-REVIEWED PUBLICATIONS :**

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F.J.Offermann, "Ventilation Effectiveness and ADPI Measurements of a Forced Air Heating System," *ASHRAE Transactions* , Volume 94, Part 1, pp 694-704, 1988.

F.J.Offermann and D. Int-Hout "Ventilation Effectiveness Measurements of Three Supply/Return Air Configurations," *Environment International* , Volume 15, pp 585-592 1989.

F.J. Offermann, S.A. Loiselle, M.C. Quinlan, and M.S. Rogers, "A Study of Diesel Fume Entrainment in an Office Building," *IAQ '89*, The Human Equation: Health and Comfort, pp 179-183, ASHRAE, Atlanta, GA, 1989.

R.G.Sextro and F.J.Offermann, "Reduction of Residential Indoor Particle and Radon Progeny Concentrations with Ducted Air Cleaning Systems," submitted to *Indoor Air*, 1990.

S.A.Loiselle, A.T.Hodgson, and F.J.Offermann, "Development of An Indoor Air Sampler for Polycyclic Aromatic Compounds", *Indoor Air* , Vol 2, pp 191-210, 1991.

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F.J. Offermann, "Standard Method of Measuring Air Change Effectiveness," *Indoor Air*, Vol 1, pp.206-211, 1999.

F. J. Offermann, A. T. Hodgson, and J. P. Robertson, "Contaminant Emission Rates from PVC Backed Carpet Tiles on Damp Concrete", Healthy Buildings 2000, Espoo, Finland, August 2000.

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M. J. Mendell, T. Brennan, L. Hathon, J.D. Odom, F.J. Offermann, B.H. Turk, K.M. Wallingford, R.C. Diamond, W.J. Fisk, "Causes and prevention of Symptom Complaints

in Office Buildings: Distilling the Experience of Indoor Environmental Investigators”, submitted to Indoor Air 2005, Beijing, China, September 4-9, 2005.

F.J. Offermann, “Ventilation and IAQ in New Homes With and Without Mechanical Outdoor Air Systems”, Healthy Buildings 2009, Syracuse, CA, September 14, 2009.

F.J. Offermann, “ASHRAE 62.2 Intermittent Residential Ventilation: What’s It Good For, Intermittently Poor IAQ”, IAQVEC 2010, Syracuse, CA, April 21, 2010.

F.J. Offermann and A.T. Hodgson, “Emission Rates of Volatile Organic Compounds in New Homes”, Indoor Air 2011, Austin, TX, June, 2011.

P. Jenkins, R. Johnson, T. Phillips, and F. Offermann, “Chemical Concentrations in New California Homes and Garages”, Indoor Air 2011, Austin, TX, June, 2011.

W. J. Mills, B. J. Grigg, F. J. Offermann, B. E. Gustin, and N. E. Spingarm, “Toluene and Methyl Ethyl Ketone Exposure from a Commercially Available Contact Adhesive”, Journal of Occupational and Environmental Hygiene, 9:D95-D102 May, 2012.

F. J. Offermann, R. Maddalena, J. C. Offermann, B. C. Singer, and H. Wilhelm, “The Impact of Ventilation on the Emission Rates of Volatile Organic Compounds in Residences”, HB 2012, Brisbane, AU, July, 2012.

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NV, October 1-2, 1992; New York City, NY, October 26-27, 1992, Las Vegas, NV, March 18-19, 1993; Lake Tahoe, CA, July 14-15, 1994; Las Vegas, NV, April 3-4, 1995; Lake Tahoe, CA, July 11-12, 1996; Miami, FL, December 9-10, 1996.

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"Operating Healthy Buildings", Association of Plant Engineers, Oakland, CA, November 14, 1991.

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"Duct Cleaning: The Role of the Environmental Hygienist," ASHRAE Annual Meeting, Anaheim, CA, January 29, 1992.

"Emerging IAQ Issues", Fifth National Conference on Indoor Air Pollution, University of Tulsa, Tulsa, OK, April 13-14, 1992.

"International Symposium on Room Air Convection and Ventilation Effectiveness", Member of Scientific Advisory Board, University of Tokyo, July 22-24, 1992.

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"Techniques for Airborne Disease Control", EPRI Healthcare Initiative Symposium; San Francisco, CA; June 7, 1994.

"Diagnosing and Mitigating Indoor Air Quality Problems", CIHC Conference; San Francisco, September 29, 1994.

"Indoor Air Quality: Tools for Schools," an EPA one day air quality management workshop for school officials, teachers, and maintenance personnel; San Francisco, October 18-20, 1994; Cerritos, December 5, 1996; Fresno, February 26, 1997; San Jose, March 27, 1997; Riverside, March 5, 1997; San Diego, March 6, 1997; Fullerton, November 13, 1997; Santa Rosa, February 1998; Cerritos, February 26, 1998; Santa Rosa, March 2, 1998.

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"Experimental Validation of ASHRAE SPC 129, Standard Method of Measuring Air Change Effectiveness", 16th AIVC Conference, Palm Springs, USA, September 19-22, 1995.

"Diagnostic Protocols for Building IAQ Assessment", American Society of Safety Engineers Seminar: 'Indoor Air Quality - The Next Door'; San Jose Chapter, September 27, 1995; Oakland Chapter, 9, 1997.

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"Demonstrating Compliance with ASHRAE 62-1989 Ventilation Requirements", AIHA; October 25, 1995.

"IAQ Diagnostics: Hands on Assessment of Building Ventilation and Pollutant Transport", EPA Region IX; Phoenix, AZ, March 12, 1996; San Francisco, CA, April 9, 1996; Burbank, CA, April 12, 1996.

"Experimental Validation of ASHRAE 129P: Standard Method of Measuring Air Change Effectiveness", Room Vent '96 / International Symposium on Room Air Convection and Ventilation Effectiveness"; Yokohama, Japan, July 16-19, 1996.

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"The Practical Side of Indoor Air Quality Assessments", California Industrial Hygiene Conference '96, San Diego, CA, September 2, 1996.

“ASHRAE Standard 62: Improving Indoor Environments”, Pacific Gas and Electric Energy Center, San Francisco, CA, October 29, 1996.

“Operating and Maintaining Healthy Buildings”, April 3-4, 1996, San Jose, CA; July 30, 1997, Monterey, CA.

“IAQ Primer”, Local 39, April 16, 1997; Amdahl Corporation, June 9, 1997; State Compensation Insurance Fund’s Safety & Health Services Department, November 21, 1996.

“Tracer Gas Techniques for Measuring Building Air Flow Rates”, ASHRAE, Philadelphia, PA, January 26, 1997.

“How to Diagnose and Mitigate Indoor Air Quality Problems”; Women in Waste; March 19, 1997.

“Environmental Engineer: What Is It?”, Monte Vista High School Career Day; April 10, 1997.

“Indoor Environment Controls: What’s Hot and What’s Not”, Shaklee Corporation; San Francisco, CA, July 15, 1997.

“Measurement of Ventilation System Performance Parameters in the US EPA BASE Study”, Healthy Buildings/IAQ’97, Washington, DC, September 29, 1997.

“Operations and Maintenance for Healthy and Comfortable Indoor Environments”, PASMA; October 7, 1997.

“Designing for Healthy and Comfortable Indoor Environments”, Construction Specification Institute, Santa Rosa, CA, November 6, 1997.

“Ventilation System Design for Good IAQ”, University of Tulsa 10<sup>th</sup> Annual Conference, San Francisco, CA, February 25, 1998.

“The Building Shell”, Tools For Building Green Conference and Trade Show, Alameda County Waste Management Authority and Recycling Board, Oakland, CA, February 28, 1998.

“Identifying Fungal Contamination Problems In Buildings”, The City of Oakland Municipal Employees, Oakland, CA, March 26, 1998.

“Managing Indoor Air Quality in Schools: Staying Out of Trouble”, CASBO, Sacramento, CA, April 20, 1998.

“Indoor Air Quality”, CSOOC Spring Conference, Visalia, CA, April 30, 1998.

“Particulate and Gas Phase Air Filtration”, ACGIH/OSHA, Ft. Mitchell, KY, June 1998.

“Building Air Quality Facts and Myths”, The City of Oakland / Alameda County Safety Seminar, Oakland, CA, June 12, 1998.

“Building Engineering and Moisture”, Building Contamination Workshop, University of California Berkeley, Continuing Education in Engineering and Environmental Management, San Francisco, CA, October 21-22, 1999.

“Identifying and Mitigating Mold Contamination in Buildings”, Western Construction Consultants Association, Oakland, CA, March 15, 2000; AIG Construction Defect Seminar, Walnut Creek, CA, May 2, 2001; City of Oakland Public Works Agency, Oakland, CA, July 24, 2001; Executive Council of Homeowners, Alamo, CA, August 3, 2001.

“Using the EPA BASE Study for IAQ Investigation / Communication”, Joint Professional Symposium 2000, American Industrial Hygiene Association, Orange County & Southern California Sections, Long Beach, October 19, 2000.

“Ventilation,” Indoor Air Quality: Risk Reduction in the 21<sup>st</sup> Century Symposium, sponsored by the California Environmental Protection Agency/Air Resources Board, Sacramento, CA, May 3-4, 2000.

“Workshop 18: Criteria for Cleaning of Air Handling Systems”, Healthy Buildings 2000, Espoo, Finland, August 2000.

“Closing Session Summary: ‘Building Investigations’ and ‘Building Design & Construction’”, Healthy Buildings 2000, Espoo, Finland, August 2000.

“Managing Building Air Quality and Energy Efficiency, Meeting the Standard of Care”, BOMA, MidAtlantic Environmental Hygiene Resource Center, Seattle, WA, May 23<sup>rd</sup>, 2000; San Antonio, TX, September 26-27, 2000.

“Diagnostics & Mitigation in Sick Buildings: When Good Buildings Go Bad,” University of California Berkeley, September 18, 2001.

“Mold Contamination: Recognition and What To Do and Not Do”, Redwood Empire Remodelers Association; Santa Rosa, CA, April 16, 2002.

“Investigative Tools of the IAQ Trade”, Healthy Indoor Environments 2002; Austin, TX; April 22, 2002.

“Finding Hidden Mold: Case Studies in IAQ Investigations”, AIHA Northern California Professionals Symposium; Oakland, CA, May 8, 2002.

“Assessing and Mitigating Fungal Contamination in Buildings”, Cal/OSHA Training; Oakland, CA, February 14, 2003 and West Covina, CA, February 20-21, 2003.

“Use of External Containments During Fungal Mitigation”, Invited Speaker, ACGIH Mold Remediation Symposium, Orlando, FL, November 3-5, 2003.

Building Operator Certification (BOC), 106-IAQ Training Workshops, Northwest Energy Efficiency Council; Stockton, CA, December 3, 2003; San Francisco, CA, December 9, 2003; Irvine, CA, January 13, 2004; San Diego, January 14, 2004; Irwindale, CA, January 27, 2004; Downey, CA, January 28, 2004; Santa Monica, CA, March 16, 2004; Ontario, CA, March 17, 2004; Ontario, CA, November 9, 2004, San Diego, CA, November 10, 2004; San Francisco, CA, November 17, 2004; San Jose, CA, November 18, 2004; Sacramento, CA, March 15, 2005.

“Mold Remediation: The National QUEST for Uniformity Symposium”, Invited Speaker, Orlando, Florida, November 3-5, 2003.

“Mold and Moisture Control”, Indoor Air Quality workshop for The Collaborative for High Performance Schools (CHPS), San Francisco, December 11, 2003.

“Advanced Perspectives In Mold Prevention & Control Symposium”, Invited Speaker, Las Vegas, Nevada, November 7-9, 2004.

“Building Sciences: Understanding and Controlling Moisture in Buildings”, American Industrial Hygiene Association, San Francisco, CA, February 14-16, 2005.

“Indoor Air Quality Diagnostics and Healthy Building Design”, University of California Berkeley, Berkeley, CA, March 2, 2005.

“Improving IAQ = Reduced Tenant Complaints”, Northern California Facilities Exposition, Santa Clara, CA, September 27, 2007.

“Defining Safe Building Air”, Criteria for Safe Air and Water in Buildings, ASHRAE Winter Meeting, Chicago, IL, January 27, 2008.

“Update on USGBC LEED and Air Filtration”, Invited Speaker, NAFA 2008 Convention, San Francisco, CA, September 19, 2008.

“Ventilation and Indoor air Quality in New California Homes”, National Center of Healthy Housing, October 20, 2008.

“Indoor Air Quality in New Homes”, California Energy and Air Quality Conference, October 29, 2008.

“Mechanical Outdoor air Ventilation Systems and IAQ in New Homes”, ACI Home Performance Conference, Kansas City, MO, April 29, 2009.

“Ventilation and IAQ in New Homes with and without Mechanical Outdoor Air Systems”, Healthy Buildings 2009, Syracuse, CA, September 14, 2009.

“Ten Ways to Improve Your Air Quality”, Northern California Facilities Exposition, Santa Clara, CA, September 30, 2009.

“New Developments in Ventilation and Indoor Air Quality in Residential Buildings”, Westcon meeting, Alameda, CA, March 17, 2010.

“Intermittent Residential Mechanical Outdoor Air Ventilation Systems and IAQ”, ASHRAE SSPC 62.2 Meeting, Austin, TX, April 19, 2010.

“Measured IAQ in Homes”, ACI Home Performance Conference, Austin, TX, April 21, 2010.

“Respiration: IEQ and Ventilation”, AIHce 2010, How IH Can LEED in Green buildings, Denver, CO, May 23, 2010.

“IAQ Considerations for Net Zero Energy Buildings (NZEB)”, Northern California Facilities Exposition, Santa Clara, CA, September 22, 2010.

“Energy Conservation and Health in Buildings”, Berkeley High School Green Career Week, Berkeley, CA, April 12, 2011.

“What Pollutants are Really There?”, ACI Home Performance Conference, San Francisco, CA, March 30, 2011.

“Energy Conservation and Health in Residences Workshop”, Indoor Air 2011, Austin, TX, June 6, 2011.

“Assessing IAQ and Improving Health in Residences”, US EPA Weatherization Plus Health, September 7, 2011.

“Ventilation: What a Long Strange Trip It’s Been”, Westcon, May 21, 2014.

“Chemical Emissions from E-Cigarettes: Direct and Indirect Passive Exposures”, Indoor Air 2014, Hong Kong, July, 2014.

“Infectious Disease Aerosol Exposures With and Without Surge Control Ventilation System Modifications”, Indoor Air 2014, Hong Kong, July, 2014.

“Chemical Emissions from E-Cigarettes”, IMF Health and Welfare Fair, Washington, DC, February 18, 2015.

“Chemical Emissions and Health Hazards Associated with E-Cigarettes”, Roswell Park Cancer Institute, Buffalo, NY, August 15, 2014.

“Formaldehyde Indoor Concentrations, Material Emission Rates, and the CARB ATCM”, Harris Martin’s Lumber Liquidators Flooring Litigation Conference, WQ Minneapolis Hotel, May 27, 2015.

“Chemical Emissions from E-Cigarettes: Direct and Indirect Passive Exposure”, FDA Public Workshop: Electronic Cigarettes and the Public Health, Hyattsville, MD June 2, 2015.

“Creating Healthy Homes, Schools, and Workplaces”, Chautauqua Institution, Athenaeum Hotel, August 24, 2015.

“Diagnosing IAQ Problems and Designing Healthy Buildings”, University of California Berkeley, Berkeley, CA, October 6, 2015.

“Diagnosing Ventilation and IAQ Problems in Commercial Buildings”, BEST Center Annual Institute, Lawrence Berkeley National Laboratory, January 6, 2016.

“A Review of Studies of Ventilation and Indoor Air Quality in New Homes and Impacts of Environmental Factors on Formaldehyde Emission Rates From Composite Wood Products”, AIHce2016, May, 21-26, 2016.

“Admissibility of Scientific Testimony”, Science in the Court, Proposition 65 Clearinghouse Annual Conference, Oakland, CA, September 15, 2016.

“Indoor Air Quality and Ventilation”, ASHRAE Redwood Empire, Napa, CA, December 1, 2016.



RECEIVED

2023 SEP 18 PM 4: 39

September 18, 2023

City of Pasadena  
City Council  
175 North Garfield Avenue  
Pasadena, CA 91109

CITY CLERK  
CITY OF PASADENA

**RE: APPEAL OF THE DESIGN COMMISSION'S APPROVAL OF AN APPLICATION FOR CONCEPT DESIGN REVIEW (DHP2022-00248) FOR A NEW THREE-TO FIVE-STORY MIXED-USE PROJECT INCLUDING 14,346 SQUARE FEET OF OFFICE SPACE, 263 RESIDENTIAL UNITS, SUBTERRANEAN PARKING AND 4,033-SQUARE-FEET OF PUBLICLY ACCESSIBLE OPEN SPACE AT 740-790 EAST GREEN STREET**

The Mitigated Negative Declaration (MND) originally completed for Planned Development #37 (proposed for the 2.33 acre site on the south side of E. Green Street between S. Oak Knoll Avenue and S. Hudson Avenue) was insufficient and inadequate because the traffic and mobility considerations were incomplete and the mitigations unfounded.

INCREMENTAL SCENARIO RESULTS					
Pop	Emp	VMT	VT	VMT/Cap	VT/Cap
537	-227	5,711	1,187	18.5	3.8
				PASS	FAIL

- 1) The original (VT) metric showed *significant impact* that should have automatically required an EIR.
- 2) The developer played a numbers game and reduced the project sizing in strange ways to make the VT pass for this meeting tonight. Just by reducing the office space by 2,135 ft, the numbers for VT pass!

Table 1-1. Proposed Project Floor Area

Level	4-Story Building	5-Story Building	Total
1	26,506 <del>25,069</del>	34,100 <del>33,506</del>	60,606 <del>58,575</del>
2	26,390 <del>24,850</del>	34,980 <del>35,222</del>	61,370 <del>60,072</del>
3	26,390 <del>24,850</del>	34,980 <del>35,222</del>	61,370 <del>60,072</del>
4	8,134 <del>11,433</del>	34,980 <del>35,222</del>	43,114 <del>46,655</del>
5	- <del>266</del>	21,421 <del>21,455</del>	21,421 <del>21,721</del>
P1	-	-	4,304 <del>4,589</del>
P2	-	-	1,732 <del>2,468</del>
<b>Total</b>	<b>87,420 <del>86,468</del></b>	<b>160,461 <del>160,627</del></b>	<b>253,947 <del>254,152</del></b>

The 253,947 ~~254,152~~-sf development includes 263 for-rent units (including 41 units designated as affordable housing), 46,481 ~~14,346~~ sf of commercial-office use (e.g., retail, café), lobby area, a leasing office, business center, fitness center, and pool lounge, as well as bicycle parking and mechanical equipment areas within the parking garage. The Project also includes 27,180 ~~27,795~~ sf of outdoor community open space (i.e. 4,140 ~~4,033~~-sf publicly available pocket park, breezeways, swimming pool courtyard, roof terraces), 600 sf of indoor community open space, and 41,703 ~~11,585~~ sf of private open space (i.e. balconies), for a total of 39,483 ~~39,980~~ sf of community open space.

### VMT per Capita Analysis

Considering the demolition of the existing commercial office structures on the site and constructing 263 residential units, ~~16,481-16,229~~ square feet of ~~commercial-office~~ space with a pocket park and subterranean parking, the TDF model calculation results determined that the Project's population would increase while number of employees would decrease. The TDF model calculations determined the Project's net capita (population + employment) is ~~340-332~~ and the Project's VMT is ~~5,711-3,418~~. As such, the incremental VMT per capita change is ~~18.5-10.3~~<sup>20</sup>, which does not exceed the adopted threshold of significance under the VMT per capita of 22.6. Therefore, impacts related to VMT would be less than significant.

### VT Analysis

The TDF model calculation results determined that the Project's net capita is ~~340-332~~ (population + employment) and the Project's VT is ~~4,187-917~~. As such, the incremental VT per capita change is ~~3.8-2.8~~<sup>21</sup>, which indicates that the Project's incremental VT per capita change would not exceed the adopted threshold of significance of 2.8 VT per capita. Therefore, impacts related to VT would be ~~potentially significant, before mitigation~~ less than significant.

MM TRA-1 is ~~required~~ designed to reduce the Project's VT per capita and requires the Project Applicant to develop and implement a TDM Plan that results in a reduction of the project's vehicle trips by a minimum of 27% or implements a mix of uses that achieves a minimum of 27% reduction of VT as the Project described in the Revised IS/MND does. Implementation of MM-TRA-1, would ensure that the proposed Project would not conflict with the City's policies related to circulation.

- 3) A full EIR is needed to assure local residents that the reduction in VT is possible with the removal of 2,135 ft of office space.
- 4) How is it the VMT goes down so drastically from 5,711 to 3,418 with the removal of small this office space?

Will we see more backup on Lake Street and South Los Robles, resulting in traffic being pushed into neighborhoods considering three massive developments within this area are coming in unmitigated? While updated study being proposed says the reduction of 2,135 feet of office space reduces the VT threshold from 3.8 to 2.8, ***more studies beyond simple math equations and number games need to be conducted through a full EIR with updated traffic studies conducted by an outside resource.***

The current discussion surrounding traffic and new development needs perfect transparency, public engagement, and engineering discipline so that we can grow our city without creating a hopeless mess of congestion. The collection of massive projects within this few block vicinity must be considered on how in combination it will affect our streets as a whole. An issue as important as this should have the benefit of unique solutions that only an EIR can provide so that a project of this size can be developed while still maintaining a high quality of life and safe streets for current residents.

On a another note, I did see Julianna Delgado submitted a letter of support for this project. I would encourage you to listen to the last Design Commission meeting on 8/22/23 where she verbally states the commission is not responsible for traffic analysis. It is upsetting and should disqualify her letter if she is not aware of her responsibilities to certify the traffic analysis as a commissioner.

Thank you,

Erika Foy