

General Comment

From: [Anthony Avalos](#)
To: [Public Comment](#)
Subject: Non-agenda Public Comment 8/15/2023
Date: Tuesday, August 15, 2023 5:48:51 PM

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Greetings Councilmembers and Mayor and National City City Staff. My name is Anthony Avalos, I volunteer in National City and am a supporter of the National City Healthy Culturas Coalition.

Our mission is to ensure access to nutritious and culturally relevant food, land, and sea. Through arts & culture, advocacy, education, and community building, we will activate and create healthy spaces.

We meet every second Monday of the month at Olivewood Gardens. Other organizations are also a part of the NCHCC and we are joined by other residents and community members.

We invite you to join us and also to keep in touch with us about important developments that may impact our community health and our quality of life. We care deeply about food insecurity, nutrition in schools, air quality, water access, land use, art and culture. These are all important to our vision for a healthy life and healthy community.

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All the best,

Anthony Avalos



Item 11.2 - Cynthia Morgan Reed

September 5, 2023

Via Email: schapel@nationalcityca.gov

Mayor Ron Morrison
National City Councilmembers
City of National City
1243 National City Boulevard,
National City, CA 91950-4301

RE: September 5, 2023 Agenda Item 11.2: Certification of the Supplemental Program Environmental Impact Report: The Alternate Site Location Alternative Must be Selected to be Consistent with the General Plan and Comply with CEQA

Dear Mayor Morrison, Vice Mayor Molina, and City Councilmembers,

My firm represents the Webster Trust, owners of the property located at 121 E. 27th Street, National City, CA 91950 ("Property"). The Property is identified, with two other adjacent properties under separate ownership, as the Alternate Project Location Alternative ("APLA" or "Alternative Site") and the Environmentally Superior Alternative in the Supplemental Program Environmental Impact Report ("SPEIR") for National City's Focused General Plan Update ("FGPU").

We request City Council to certify the SPEIR with the selection of the Alternative Site for the FGPU. On August 21, 2023 the Planning Commission voted unanimously to recommend the City Council certify the SPEIR and select the Alternative Site. The Alternative Site allows the City to yield more density in a transit-rich location well away from the Interstate 5 ("I-5") freeway, thereby eliminating freeway air and noise pollution and health risks to future families. It also complies with the General Plan and the California Environmental Quality Act. We are pleased to see staff recommend the City Council certify the SPEIR by selecting the Alternative Site.

I. Alternative Site Does Not Conflict with City's Land Use Policies

The City's Findings on page 28 state that "[t]he Alternative would result in incrementally less impacts relating to consistency with local policies since it would not propose new residential development within 500 feet of the centerline of a freeway since the 24th Street Transit Center Focus Area of the Proposed Project would be replaced by the Alternate Site." Therefore, selection of the Alternative Site is consistent with Adopted General Plan Policy HEJ-2.3.

The use of "incremental" is misleading. By avoiding placement of sensitive receptors within 500 feet of the I-5, the Alternative Site is entirely consistent with General Plan Policy HEJ-2.3.¹ As such, the Alternative Site completely avoids the significant environmental impact and resulting conflict with the General Plan policy. Should the City not select the Alternative Site, the SPEIR would likely not be consistent with the General Plan and susceptible to a legal challenge.

"An action, program or project is consistent with the general plan if, considering all its aspects, it will further the objectives and policies of the general plan and not obstruct their attainment." See *Corona-Norco Unified School District vs. City of Corona*, 12 Cal. App. 4th 1577 (1993); *Irvine Citizens Against Overdevelopment*, 25 Cal. App. 4th at 879 (1994). To avoid conflict with its General Plan and CEQA, the City must select the Alternative Site.²

Furthermore, the positive attributes of the Alternative Site also better align with many of the City's proposed FGPU land use policies including:

¹ The adopted Health and Environmental Justice Element Policy HEJ-2.3 in the General Plan calls for the avoidance of "siting new sensitive land uses within 500 feet from the centerline of a freeway, unless such development contributes to smart growth, open space, or transit-oriented goals, in which case the development shall include feasible measures such as separation/setbacks, landscaping, barriers, ventilation systems, air filters/cleaners, and/or other effective measures to minimize potential impacts from air pollution". (See Final SPEIR Chapter 2, CEQA Compliance Recommendations Regarding Final SPEIR and APL Alternative Responses to Comments, Response to Comment KG-2.)

² State CEQA Guidelines Appendix G, Environmental Checklist Form, Section XI, Land Use and Planning, part b. "Would the project cause a significant environmental impact due to a conflict with any land use plan, policy, or regulation adopted for the purpose of avoiding or mitigating an environmental effect?" Yes because the Proposed Project would site residential dwellings within 200 feet from the centerline of the freeway (i.e. HEJ-2.3) resulting in a significant and unavoidable impact on human health.

1. Supporting the City's Climate Action Plan and other sustainability goals by encouraging high density development in Transit Priority Areas.
2. Prioritizing increasing housing in areas that have access to transit and resources.
3. Promoting the development of housing near employment, recreation, public services, shopping, transit, and active transportation facilities.
4. Encourage and incentivize strategic adaptive reuse and infill development of underutilized vacant land in commercial and mixed-use areas.

II. CEQA Requires Selection of Alternative Site

Under the California Environmental Quality Act ("CEQA"), the City must chose the Alternative Site, instead of the Project, because the Alternative Site is a feasible alternative that meets the project objectives and would lessen significant environmental effects. CA Public Resource Code Section 21002 and CEQA Guidelines Section 15021.

The City's environmental documents state that the Alternative Site has been determined to: i) meet all project objectives; ii) reduce unavoidable significant impact to less than significant (i.e., Impact AQ-4); and, iii) is considered feasible. Since it meets all of these criteria, if the City does not choose the Alternative Site, it will be in violation of CEQA and site housing for families immediately adjacent to the freeway in violation of the City's General Plan.

1. The Alternative Site Reduces Unavoidable Significant Impacts to Less than Significant

i. Air Quality

Final SPEIR Section 3.3.7.2, Mobile Sources, states:

The FGPU zoning designations for parcels within 500 feet of I-5 are generally Industrial and Commercial/Industrial. Parcels with a residential Specific Plan zoning designation that are entirely or partially within 500 feet of I-5 include the Focus Area 24th Street Transit Station. Therefore, future development consistent with FGPU may result in the exposure of sensitive receptors to substantial DPM concentrations from mobile

sources. Impacts of the FGPU relative to DPM exposure would be significant. (Impact AQ-4).[³]

The Findings state that “sensitive receptors within 500 feet of I-5 are likely to be subject to substantial diesel particulate matter concentrations from mobile sources.” The 500-foot threshold is based on California Air Resource Board’s Air Quality and Land Use Handbook: A Community Health Perspective. The Findings continue by stating that “[s]ince the Alternative Project Location Alternative would move density from the 24th Street Transit Center Focus Area away from this range of the I-5, it would result in less air quality impacts to sensitive receptors.” Final SPEIR Findings p. 28.

The City has identified that development of the 24th Street Transit Station will result in significant impacts to air quality. Conversely, the Final SPEIR states that the Alternative Site will reduce such impacts:

The Alternate Project Location Alternative would incrementally reduce the project’s significant impacts requiring mitigation associated with air quality emissions on sensitive receptors and would have less impacts in conflicting with land use plans, policies, and regulations, and in ambient noise impacts compared to the FPGU.

See Final SPEIR p. 28. However, classifying the reduction as “incremental” is incorrect and misleading. A more accurate way to characterize the reduced impact is to state that the Alternative Site, situated over 2,400 feet away from I-5, is outside the area considered to be hazardous to human health. The Final SPEIR identifies the 24th Street Focus Area as the only location proposing residential within 200 feet of the I-5. Consequently, the reduction to Impact AQ-4 is not simply incremental but would be avoided entirely if the Alternative Site is selected and approved by the City. Therefore, the Alternative Site would avoid the significant and unavoidable impact associated with Impact AQ-4 (i.e., health impacts from toxic air contaminants) that would occur if the 24th Street Focus Area is rezoned and developed with residential uses.

³ Impact AQ-4 is mistakenly referenced as Impact AQ-3 in other locations within the Final SPEIR, including within the Air Quality Section and the Executive Summary.

ii. Noise Impacts

Finally, the Final SPEIR and the Findings state that

[t]he Alternative would also have an incremental reduction in ambient noise impacts to sensitive receptors compared to the Proposed Project due to the location of the Alternate Site since freeways are sources of sustained vehicular noise that contributes to the ambient noise environment.

See Final SPEIR Findings p. 28. As such, the Alternative Site would ameliorate Impact NOI-2 since it is not located next to the freeway.

As stated repeatedly in the Final SPEIR and Findings, the Alternative Site meets all project objectives; avoids significant Impact AQ-4; avoids a conflict with Adopted General Plan Policy HEJ-2.3, and further reduces significant but mitigable impacts from mobile noise sources.

V. Conclusion

We request City Council select the Alternative Site under the SPEIR for the FGPU to avoid creating an inconsistency with its General Plan and comply with CEQA.

Sincerely,

A solid black rectangular redaction box covering the signature of Cynthia Morgan-Reed.

CYNTHIA MORGAN-REED

Cc: Carlos Aguirre, Director of Housing
Ben Martinez, Interim City Manager
Scott Huth, Interim Deputy City Manager
Martin Reeder, Planning Manager