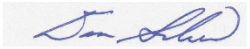
COMMENTS	RESPONSES
Comment Letter No. PCO2 ENDANGERED HABITATS LEAGUE DEDICATED TO ECOSYSTEM PROTECTION AND SUSTAINABLE LAND USE May 18, 2018 *VIA ELECTRONIC MAIL* San Diego County Planning Commission ATTN: Je'Rae Bailey 5510 Overland Ave Suite 310 San Diego CA 92123 **RE: Harmony Grove Village South Specific Plan and General Plan Amendment; Hearing Date, May 24, 2018, Item 1** Dear Chairman Pallinger and Member of the Commission: Endangered Habitats League (EHL) *opposes* this proposed General Plan Amendment. For your reference, EHL is a long-term stakeholder in County planning endeavors and a Southern California regional conservation group. As an initial remark, we strongly object to the aggressive "bundling" of GPAs now in progress. EHL is concerned that it circumvents and violates the letter and intent of State law regarding the maximum number of GPAs per year. The agglomeration within a short time period of large and complex projects also creates a rush which limits the thoroughness of your own review and the ability of the public to effectively participate. And under CEQA, last minute bundling has precluded a proper cumulative impacts analysis. PCO2-1 We urge denial of this project for many reasons including the following: **1) Housing capacity** The current General Plan accommodates the County's fair share of regional population growth and identifies towns and villages within whose boundaries the great bulk of such growth will be accommodated. These boundaries were devised after extensive community input. In the case of Harmony Grove, the community accepted a new village core. But that village came with boundaries that *also* identified the locations for continued rural uses. Without any showing that there is now a deficit in housing capacity, or that the project would alleviate a shortage of housing affordable to these with median incomes—the actual source of the region's housing shortage—this project proposes to nullify the village boundary of the General Plan. EHL opposes this change. PCO2-2 8424 SANTA MONICA BLVD SUITE A 592 LOS ANGELES CA 90069-4267 ♦ WWW.EHLEAGUE.ORG ♦ PHONE 213.804.2750	**Response to Comment PC02-1** Opposition to the Project is noted, is part of the administrative record, and will be before decision makers during consideration of the Project. The comment incorrectly asserts that "bundling" the Project's General Plan Amendment (GPA) together with amendments for other development projects is inconsistent with the purpose and intent of State law. However, there is no such limitation. In particular, Government Code Section 65358 prohibits the County from amending a mandatory element of its general plan more frequently than four times during any calendar year. However, Government Code Section 65358(b) specifically states that "[e]ach amendment may include more than one change to the general plan." The rationale behind limiting amendments to no more than four times during the calendar year was first explained in Karlson v. City of Camarillo (1980) 100 CA3d 789, as one of promoting public participation in the general plan amendment process. The court also explained that this policy would not be thwarted by permitting the consideration of more than one parcel in a general plan amendment (Id at 808). In other words, there are no other limitations under Government Code Section 65358 other than limiting the number of occasions in each calendar year that an amendment can be considered. If the Legislature had intended other limitations such as suggested by commenter relating to number of projects or parcels that could be considered in one amendment, it would have been a simple matter for the legislature to indicate this by narrowing the scope of the subject matter, or the number or size of the amendments. In DeVita v. County of Napa, 9 Cal.4th 763, the Court subsequently interpreted Government Code Section 65358(b) as a way to curb excessive "ad hoc planning" by limiting the number of general plan amendments that could occur each calendar year to four such amendments to the mandatory elements of the General Plan (id at 716). Again, the limitation is related to only the number of occasions in each year an amendment to the mandatory elements of the General Plan could be made, not the number of parcels that could be considered in one amendment. The Court believed that the planning law leaves it largely to each locality to balance the competing values of flexibility and stability in the planning process. The commenter also incorrectly asserts that the "agglomeration within a short time period of large and complex projects also creates a rush which limits the thoroughness" of the County's review and the ability of the public to effectively participate. However, both this Project and the other projects being considered have been processed by the County in accordance with State law

COMMENTS	RESPONSES
	and County requirements for years. In fact, this Project has taken over four years to arrive at the Board of Supervisors. Each project has been environmentally analyzed and the draft EIR was publicly circulated for public comment in accordance with the requirements of CEQA. The project documentation has been prepared within its own timeline over a period of several years. Similarly, each project was heard by the Planning Commission, with focused discussion and consideration at a duly noticed public hearing in which the public has had ample opportunity to participate. The County Board of Supervisors is expected to consider the Project at a noticed public hearing in which the public will again have an opportunity to comment on the Project prior to any decision being made by the Board of Supervisors. There has been no rush, and the public has had an opportunity to participate in full compliance with California state law and County standards at every stage of the process. Please also note that the order and date in which projects come before the decision makers has no effect on proper cumulative projects analyses. Each project contains cumulative evaluation assessed as adequate for CEQA purposes prior to assignment of Board action dates. **Response to Comment PC02-2** These comments were previously provided during public review of the DEIR. The comment does not raise any new issues that would require additional response. No new information has been provided that requires further discussion. Please refer to DEIR Response to Comment O2-2.

COMMENTS	RESPONSES
Comment Letter No. PCO2 **2) DEIR deficiencies** The manifold deficiencies of the DEIR are documented in comments from the Elfin Forest Town Council. Among the deficiencies are General Plan and Community Plan inconsistency, violation of Land Use Policy 1.4, failure to use the proper baseline of existing conditions for analysis, fire safety, traffic, biological impacts, and greenhouse gas emissions. PCO2-3 **3) Fire hazard** Community members have brought forward serious concerns over fire safety. Specifically, why is this project receiving a variance from California Fire Code regulations that requires a secondary access when there is a dead end road more than 800 feet. This project is on a dead end road that is 5200 feet long (6.5 times longer). In the face of the tragic deaths in Santa Rosa when people could not evacuate, how is this conscionable? PCO2-4 **4) GHG emissions** The new GHG analysis section adopts the approach of the recently adopted Climate Action Plan (CAP). Instead of better land use planning and vehicle miles traveled reduction, and by supplying an accompanying threshold of significance, the CAP targets the "smart growth" framework of the 2011 General Plan Update for dismantling. The Harmony Grove Village South DEIR contains all the faults under CEQA inherent in his flawed approach. • The prioritization scheme is a sham. No criteria or methods are provided for determining when carbon offsets move from local to national to offshore. It is a hierarchy without meaning or accountability. Is "feasibility" involved, and if so, how? PCO2-5 • Because the County has no access to a company's internal balance sheets, no means or standards to determine an adequate profit margin, and no history of ever retaining an independent development economist to expertly sort through these issues, the prioritization will actually depend on an applicants' own financial representations, which are likely to be self-serving and not subject to meaningful verification. • There are no tests, methods, or standards for determining if a proposed offset is beyond what is otherwise required by law. And beyond that, there are no tests, methods, or standards for determining whether the GHG reduction would have otherwise occurred *absent* the "offset," and thus actually be "additional." If a forest would not otherwise have been cut down, there is no GHG benefit to "saving" it.	**Response to Comment PC02-3** This comment was previously provided during public review of the DEIR. The comment does not raise any new issues that would require additional response. No new information has been provided that requires further discussion. Please refer to DEIR Responses to Comments O2-3 and O2-4. **Response to Comment PC02-4** The Project is not requesting a variance from regulations requiring secondary access. Rather, a request for a modification from Section 503.1.3 of the CCR with respect to dead-end road lengths was accepted by the Fire Code Official. The Fire Code Official may grant a modification from such requirements pursuant to CCR Section 96.1.104.8. A modification may be granted when the modification is in compliance with the intent and purpose of the code, and such modification does not lessen health, life, and fire safety requirements. The Fire Code Official granted the Project a modification from the dead- end length requirements of the CCR based on the findings that are described in Section 5.2.1.2 of the Project's FPP (Dudek 2016). Secondary access was also thoroughly evaluated within the Project's FPP (Dudek 2016), the Wildfire Risk Analysis report (Rohde & Associates 2016), and by SDCFA, RSFFPD, and the County. As described in the FPP and FEIR Section 3.1.3, the Project would provide alternative fire protection features that are site specific and are designed specifically to address both the modification from the dead-end road length requirements and the secondary access constraints of the site. The Project is providing emergency access/egress through a code-adequate approach that is equivalent to secondary access (another code-adequate approach). The Project provides 25 measures that result in a system of fire protection and vehicle movement facilitation that has been found to justify the modification finding. The comment on the Santa Rosa fire is noted. The Project planning satisfies California and local standards. Please see the Global Responses to Adequacy of Emergency Evacuation and Access. **Response to Comment PC02-5** CEQA provides that the determination of whether or not a project has a significant effect on the environment is based on the thresholds described in the environmental document. These thresholds of significance can be adopted by the local agency or can be based upon those standards set forth in Appendix G of the CEQA Guidelines (14 Cal Code Regs ["CEQA Guidelines"] Section 15064). The Project's Greenhouse Gas Analyses Report was updated to reflect the decision in Sierra Club v. County of San Diego, Case No. 2012-0101054/Golden Door Properties LLC v. County of San Diego, Case No.

COMMENTS	RESPONSES
	2016-0037402 (April 28, 2017). Therefore, a supplemental analysis was prepared that utilized the significance criteria in Appendix G of the CEQA Guidelines as related to GHG emissions. The Project was determined to have less than significant impacts as mitigated based on Appendix G of the CEQA Guidelines and did not rely or tier from the Climate Action Plan (CAP). The CAP was adopted by the County's Board of Supervisors approximately one week before the Project's Revised GHG Analysis was recirculated on February 22, 2018. Given the Project's unique situation of being processed while the County's CAP has been in constant flux and is still the subject of litigation; the most appropriate and conservative way for the Project to achieve less than significant impacts is for the Applicant to commit to achieve carbon neutrality through all feasible on-site design measures and off-site mitigation, such as through purchase of carbon credits. Because the CAP is still under challenge, and it is uncertain if the CAP will remain exactly as currently proposed, the analysis takes a conservative approach and proves the Project achieves less than significant impacts independently rather than relying on CAP consistency alone as a basis for Project approval. Nonetheless, the Project does not conflict with the CAP because it would achieve a no net increase in GHG emissions (i.e., carbon neutrality). Please refer to Response to Comment RO4-2 and FEIR Section 8.3.7.5 "Global Response Geographic Hierarchy and On-site Feasible Mitigation" for comments provided in the first three bullets of this current comment. Please note that only upon exhaustion of all on-site feasible mitigation options can an applicant consider off-site mitigation options. International offsets are last on the geographic hierarchy and would only be allowed if an applicant demonstrates infeasibility of the other options in the order of hierarchy. Only after all on-site feasible measures have been incorporated and analyzed can the purchase of carbon offsets be considered. This geographic hierarchy does not depend on an applicants' financial representations or profit margins, although mitigation measures must be feasible in accordance with the requirements of CEQA. Please note that the County disagrees with the comment that the GHG Mitigation measures do not have performance standards as asserted in bullet item 4. See Response to Comment RO4-3 and FEIR Section 8.3.7.5 "Global Response Geographic Hierarchy and On-site Feasible Mitigation" for bullet item 4. See Response to Comment RO4-4 and

COMMENTS	RESPONSES
Comment Letter No. PCO2 • Application of the hierarchy and offset purchases will occur at the building permit state, after the project is approved. There will be no public input or CEQA process; it is wholly a staff determination. Absent set performance standards and criteria for feasibility, for additionality, etc., the offsets scheme constitutes deferred mitigation. • Studies have soundly discredited carbon offsets, showing them to be ineffective in the first instance and lacking enforcement thereafter. Even the most sophisticated offset programs have failed. A 2016 report prepared for the EU Directorate General for Climate Action concluded that nearly 75% of the potential certified offset projects had a low likelihood of actually contributing additive GHG reductions, and less than 10% of such projects had a high likelihood of additive reductions. Partly in recognition of these flaws, offsets are typically permitted to constitute only a very small part of an overall emission reduction program—for example, California's cap and trade program allows no more than 8 percent reductions come from offsets. There is simply no evidence that the undefined, unenforceable offsets proposed by the DEIR will cause any meaningful reduction to mitigate the permanent increase in GHG caused by the proposed sprawl development. PCO2-5 What is the County's budget for inspecting offsets in distant parts of the nation or globe? If the offsets go awry, the County may never know, let alone be able to effect a remedy on distant soil or exact alternative measures from a developer long exited from the project. • As a practical matter, carbon offsets will *not* be available locally. The DSEIR admits that *no* local "off the shelf" carbon registry projects are ready for use. Furthermore, the County's own Direct Investment Program will likely consume all future local credits for its own use. Thus, offsets for GPAs will have to be in more distant and far less accountable locations. • The use of a 30-year project life span does not correspond with the reality that people will live in homes and GHGs will be emitted by the project far beyond 30 years. • The DEIR asserts consistency with San Diego Forward but fails to actually analyze the impact of its huge auto trips on the RTP/SCS, which does not include this project. The RTP/SCS calls for an approximate 15% reduction in vehicle miles traveled from cars and light trucks. How does this high VMT per capita project affect regional VMT reduction goals? PCO2-6 In conclusion, we urge denial of this GPA which attacks the progress of the 2011 Update. Developers should build out the current General Plan rather than undermine it by speculating on rural land. We furthermore urge the Department of Planning and PCO2-7	FEIR Section 8.3.7.5 "Global Response Geographic Hierarchy and On-site Feasible Mitigation" for issues raised in the following three bullets of this comment. The above comments contained one new element, regarding County budget for inspecting offsets in distant locales. It is not anticipated that costs would vary based on locale of the offset creation. This is because the County would be referring to and purchasing credits from California Air Resources Board (CARB) approved registries, as detailed in the Global Responses to Carbon Offsets, and specifically in the discussion of FEIR Section 8.3.7.4, "The GHG Mitigation Measures are Feasible and Effective Mitigation Measures." **Response to Comment PC02-6** This comment was previously provided during public review of the Revised DEIR. The comment does not raise any new issues that would require additional response. No new information has been provided that require further discussion. Please refer to Response to Comment RO4-5. **Response to Comment PC02-7** Opposition to the Project is noted, is part of the administrative record, and will be before decision makers during consideration of the Project. The remainder of this comment was previously provided during public review of the DEIR. The comment does not raise any new issues that would require additional response. No new information has been provided that require further discussion. Please refer to DEIR Response to Comment O2-5.

COMMENTS	RESPONSES
Comment Letter No. PCO2 Development Services to expeditiously complete Community Plans for all the towns and villages, a task woefully delayed. If trends continue, the current General Plan's sustainable vision for discrete towns and greenbelts could transform into the worst of both worlds—loss of rural lands as well as loss of higher density villages. PCO2-7 Thank you for considering our comments. Yours truly,  Dan Silver Executive Director	