

MEMORANDUM

To: Leila Carver, PTP, Planner, City of Carson
From: Collin Ramsey, Senior Project Manager, Dudek
Subject: Victoria Greens – Response to Comments Provided in Letter from J. Michael Goolsby Dated April 25, 2019
Date: June 11, 2019
cc: Saied Naaseh, Director of Community Development
Attachment(s): Comment Letter from J. Michael Goolsby Dated April 25, 2019

An Initial Study (IS)/Mitigated Negative Declaration (IS/MND) was prepared for the proposed Victoria Greens project (Project) and made available for public comment for a 30-day public review period from January 17, 2019 through February 15, 2019. In accordance with the California Environmental Quality Act (CEQA) Guidelines, Section 15074(b) (14 CCR 15074(b)), before approving the project, the City of Carson (City), as the lead agency under CEQA, will consider the IS/MND with any comments received during this public review period. Specifically, Section 15074(b) of the CEQA Guidelines (14 CCR 15074(b)) states the following:

Prior to approving a project, the decision-making body of the lead agency shall consider the proposed negative declaration or mitigated negative declaration together with any comments received during the public review process. The decision-making body shall adopt the proposed negative declaration or mitigated negative declaration only if it finds on the basis of the whole record before it (including the initial study and any comments received), that there is no substantial evidence that the project will have a significant effect on the environment and that the negative declaration or mitigated negative declaration reflects the lead agency's independent judgment and analysis.

While CEQA (California Public Resources Code, Section 21000 et seq.) and the CEQA Guidelines (14 CCR 15000 et seq.) do not explicitly require a lead agency to provide written responses to comments received on a proposed IS/MND, the lead agency may do so voluntarily. The City received a comment letter from J. Michael Goolsby dated April 25, 2019, a little more than two months following the end of the public review period for the IS/MND. Although received well outside the public review period, the City has still elected to provide the following responses to the comments in the letter. Individual comments within this letter are numbered so comments can be cross-referenced with responses. The comment letter is included in Appendix A.

Responses to comments are made in the following text to further supplement, clarify, or expand upon information already presented in the IS/MND. These responses do not change the significance determinations made or the severity of potential environmental impacts evaluated in the IS/MND. Section 15073.5(c)(4) of the CEQA Guidelines (14 CCR 15073.5(c)(4)) permits the inclusion of new information within an MND if the additional information “merely clarifies, amplifies, or makes insignificant modifications to the negative declaration.”

EXHIBIT NO. 7

Responses to Comments

Comment Letter 1 J. Michael Goolsby, President and CEO, Better Neighborhoods Inc.

Comment A-1

Comment

The Commenter notes that in 2008, the Los Angeles Regional Water Quality Control Board (RWQCB) issued a No-Further-Action letter for the Project site, and required the recordation of a covenant against the Project site prohibiting residential uses of the site due to the condition of the soil at that point. The Commenter asserts that “nothing in the [MND] convinces us that the site would be sufficiently remediated by the applicant to support the removal of the restricted covenant imposed by the [RWQCB] in 2008 prohibiting use of the site for residential development.” (Comment Letter, p. 1.)

Response

The Project site was historically used for oil exploration and production activities, which ceased in the 1990s. There is no dispute that the current conditions of the Project site do not meet standards for residential occupancy, which is why a land use restriction was recorded following the completion of the original remediation work in 2008. However, the land use covenant includes a termination clause allowing the RWQCB to release the covenant if further remediation work is conducted to make the Project site suitable for residential uses.

Accordingly, a Remediation Action Plan (RAP) was prepared for the Project site (Appendix D to the IS/MND). This RAP has been reviewed by the RWQCB – which, as acknowledged by the Commenter, is the very same agency that required the recordation of the land use covenant and the lead agency for approving the environmental remediation of the Project site – and its sister agency, the California Department of Toxic Substances Control (DTSC). The RAP was approved by RWQCB on April 23, 2019.

The IS/MND’s Mitigation Measure HAZ-1 requires implementation of the RAP, and both the RWQCB and DTSC have confirmed that implementation of the RAP prior to commencement of the Project will render the site safe for future residents. The RWQCB specifically confirmed via correspondence dated January 15, 2019, that the land use covenant will be terminated by RWQCB following successful completion of the RAP, prior to residential occupancy.

Further, the DTSC also reviewed and approved the Human Health Risk Assessment (HHRA) prepared for the Project (Appendix D to the IS/MND). The HHRA demonstrated that the removal of 6,100 cubic yards of impacted soil as required by the RAP will render the site safe for residential occupancy. DTSC toxicologists and risk assessors confirmed those conclusions in approving the HHRA on December 5, 2018.

Finally, it bears noting that the IS/MND requires Mitigation Measure HAZ-2, which provides protection to earthwork contractors handling subsurface soils during the Project construction phase.

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Comment A-2

Comment

The Commenter asserts that, based on the existing restrictive covenant prohibiting residential uses, the IS/MND must be mistaken that “[n]one of the soil gas sample results from the Haley & Aldrich 2017 sampling event exceeded the calculated respective RBTCs for either the construction worker or residential scenario. Therefore, additional action related to soil gas impacts at the site is not required.” Specifically, the Commenter asks what changed from 2008 to the present to support this conclusion. The Commenter also requests a plan for continued monitoring of toxins on the Project site. (Comment Letter, pp. 1–2.)

Response

See response provided to Comment A-1. As discussed therein, the land use covenant recorded in 2008 was based on soil and soil gas data collected prior to that time. Haley & Aldrich conducted a comprehensive investigation of soil and soil gas in 2017. The 2017 soil gas data confirmed that remaining concentrations of volatile chemicals did not exceed residential screening thresholds. DTSC confirmed those conclusions when it reviewed Haley & Aldrich’s report and when DTSC approved the HHRA prepared for the Project. Other constituents such as petroleum hydrocarbons, lead and arsenic are still present in soil in concentrations that exceed residential screening levels, which is why the RAP calls for the removal and off-site disposal of 6,100 cubic yards of soil impacted by those constituents. Post-remediation monitoring of toxins is not required since all impacted soil that doesn’t comply with residential standards will be removed from the Project site.

Comment A-3

Comment

The Commenter cites a document from the DTSC’s website regarding solidification and stabilization of hazardous waste with a long block quotation, adding emphasis to statements about “long-term stewardship,” inquiring as to whether the Project applicant and the City are “prepared” to take on (unclear) long-term obligations. The Commenter also asks if these parties or the future HOA will engage in sufficient monitoring to allow RWQCB to release the restrictive covenant, which the Commenter suggests is unlikely. (Comment Letter, pp. 2–3.)

Response

The remedial approach for the Project site is excavation of impacted soil and off-site disposal, as documented in the RAP. There has never been consideration of any on-site treatment such as solidification and stabilization. Accordingly, the document cited and block quote has no application here. All soil exceeding residential cleanup levels will be removed from the Project site and transported to a facility licensed to accept it prior to grading. As such, there is no “treated mass” or any need for long-term stewardship, engineering controls, groundwater monitoring, or any other monitoring or maintenance obligations associated with remediation, since the affected soil will not remain on site.

Further, as stated in Response to Comment A-1, the RWQCB has already agreed, in writing, to remove the covenant, provided the RAP is implemented, which is required by the IS/MND’s Mitigation Measure HAZ-1. As

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such, the covenant currently in place restricting residential use of the Project site will be terminated by the RWQCB upon the completion of remedial work, prior to occupancy by any resident.

Comment A-4

Comment

The Commenter asks if there is any precedent for the removal of a restrictive covenant similar to the covenant here, and whether housing can successfully be built on formerly contaminated, remediated sites. (Comment Letter, p. 3.)

Response

There are many examples of sites in California that were impacted by historical contamination and subsequently remediated to regulatory standards that allow residential redevelopment to occur. Many of those sites involved the termination of a recorded land use covenant. Article IV of the land use covenant recorded for the Project site provides for future termination of the use restrictions and under California law, a state-imposed use restriction may be terminated when the restriction is no longer needed. The RWQCB has confirmed that the use restrictions can be terminated upon the satisfactory completion of remedial work set forth in the RAP.

Comment A-5

Comment

The Commenter asserts that nothing “rebutts” the presumption based on the RWQCB’s covenant that the Project site would result in an unacceptable health and safety risk, and that the RWQCB is unlikely to remove the covenant. (Comment Letter, p. 4.)

Response

See responses provide to Comments A-1 through A-4.

Comment A-6

Comment

The Commenter discusses the historical uses of the Project site, the remediation work that occurred in the 1990s, and the fact that the RWQCB determined that no further action was required for commercial or industrial land uses, but that at that time, VOC concentrations in soil gas exceeded the California Human Health Screening Levels (CHSSLs) for residential uses. (Comment Letter, p. 3.)

Response

The CHSSLs cited in historical reports are no longer used by California agencies to assess health risk. The current standards are those published by DTSC’s Health and Ecological Risk Office (HERO) and referred to as HERO Note 3. Both state and federal guidance was utilized to prepare the site-specific HHRA, which calculated risk-based

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target concentrations protective of construction workers and future residents that served as cleanup standards for the remediation. As noted, the HHRA was approved by DTSC and appended to the IS/MND. Moreover, concentrations of VOCs naturally attenuate over time, so the IS/MND did not rely on historical data. Instead, a comprehensive investigation of soil and soil gas was conducted by Haley & Aldrich in 2017, nearly two decades after the earlier remedial work. The HHRA concluded that the current concentrations of VOCs do not exceed residential screening levels. That conclusion was ratified by DTSC in the HHRA approval letter issued in December 2018. See responses provide to Comments A-1 through A-4.

Comment A-7

Comment

The Commenter states that investigations confirmed the presence of contaminants, which requires a cleanup plan, but states that the IS/MND “offers little assurance remediation of the site is even possible.” (Comment Letter, pp. 3–4.)

Response

The 2017-2018 site investigations by Haley & Aldrich and Ramboll determined that concentrations of petroleum hydrocarbons, lead and arsenic in soil exceed residential thresholds. Therefore, the RAP requires the removal of 6,100 cubic yards of soil. The IS/MND’s Mitigation measure HAZ-1 requires implementation of the RWQCB-RAP. The IS/MND’s Mitigation Measure HAZ-2 minimizes risk to earthwork contractors handling subsurface soils during the Project construction phase. The incorporation of these mitigation measures assures that impacts associated with hazardous materials at the Project site will be less than significant. These mitigation measures identified in the IS/MND – and subsequently imposed in the Mitigation Monitoring and Reporting Program adopted for the Project – require remediation; if remediation is not possible, then the Project would not proceed. See responses provide to Comments A-1 through A-4.

Comment A-8

Comment

The Commenter inquires whether or not the Project site requires methane mitigation as a result of the abandoned oil wells on the Project site. (Comment Letter, p. 4.)

Response

Haley & Aldrich conducted a comprehensive soil gas investigation at the Project site. No methane was detected in any samples collected at the Project site. The report documenting those results was appended to the IS/MND and reviewed by the DTSC and RWQCB as a part of the regulatory approvals for the HHRA and RAP. In addition, the eight abandoned oil wells were unearthed and tested for methane leakage in the presence of an inspector from the Department of Oil, Gas and Geothermal Resources. No methane was detected from any of the oil wells.

Comment A-9

Comment

The Commenter raises concerns about the impacts of an earthquake on the Project, questioning if compliance with the California Building Code is enough. (Comment Letter, p. 4.)

Response

Virtually all development projects in Southern California are located in seismically active areas. Accordingly, standards required by the California Building Code (which the Project must adhere to) are aimed at directly minimizing impacts from earthquakes, including specific provisions pertaining to seismic load and design. (IS/MND, pp. 48–49.) Considering its adherence to the most recently updated version of the CBC, the Project will be much safer than many older buildings located throughout Southern California.

To the extent this comment relates to concerns over an earthquake resulting in contamination issues, the Project will actually result in less contamination by removing contaminated soils from the Project Site. See responses provide to Comments A-1 through A-8, and A-9 through A-13.

Comment A-10

Comment

The Commenter acknowledges that the Construction General Permit requires implementation of a stormwater pollution prevention plan, but questions how its sufficiency can be assessed.

Response

The Project approvals require compliance with the Construction General Permit for Stormwater (General Permit) issued by the California State Water Resources Control Board. As the Commenter notes, the General Permit requires a site-specific Stormwater Pollution Prevention Plan (SWPPP). Under California law, the SWPPP is prepared by a Qualified SWPPP Developer (QSD). A QSD must be a California registered civil engineer, a California registered geologist, engineering geologist, professional hydrologist or have substantially similar professional certification. A Qualified SWPPP Practitioner (QSP) is responsible for the implementation of the SWPPP, including compliance with best management practices, water quality sampling and other SWPPP requirements. The QSP must hold professional certification in erosion and sediment control. The state certification requirements for the QSD and QSP assure that the effects of stormwater, runoff, and erosion (if any) associated with the Project will be properly mitigated in compliance with applicable law.

Standard procedure is for the SWPPP to be prepared concurrent with the grading plan, and it is not required to be published in the IS/MND. In fact, similar to all other development projects within the City and across the state, no SWPPP would be prepared until after the approval of entitlements and associated CEQA document, and instead would be prepared prior to issuance of a grading permit.

Comment A-11

Comment

The Commenter assumes there will be a treated mass on the Project site, and then based on that assumption, poses questions concerning impacts to groundwater from that treated mass. (Comment Letter, p. 4.)

Response

As stated in the response provided to Comment A-3, there will be no “treated mass” of soil contaminants; instead, impacted soil will be removed from the site, not treated on site. Moreover, groundwater at the Project site is 205 feet below ground surface (RWQCB 2008), and therefore, the conclusion that construction workers and future residents will not be in contact with groundwater is based on the substantial physical separation between the groundwater and the nearest Project activities. The Project will have a municipal water supply; no groundwater will be used for the Project and groundwater at that depth is not a source of vapor intrusion. Further, the RWQCB concluded in its No-Further-Action letter issued in 2008 that soil contamination at the site had not impacted the groundwater.

Comment A-12

Comment

The Commenter questions how the plan will comport with the National Oil and Hazardous Substances Pollution Contingency Plan (NCP) requirements, and whether or not DTSC has been consulted. (Comment Letter, p. 4)

Response

The Project site remediation is being overseen by state rather than federal authorities, which is precisely why DTSC has, in fact, been consulted. The NCP provides a federal blueprint for responding to a hazardous substance release. The NCP assumes that state and local authorities will exert local oversight in many cases. California has promulgated its own environmental laws and regulations, pursuant to which the RWQCB and DTSC are authorized to oversee site remediation, including for the Project site. The RWQCB is the lead agency for the remediation and DTSC is a consulting agency. DTSC toxicologists and risk assessors reviewed the environmental reports and approved the HHRA, which concluded that the proposed remedial work will render the Project site safe for construction workers and future residents. The RAP and HHRA were appended to the IS/MND and made available for public review.

Comment A-13

Comment

The Commenter asserts that the IS/MND does not disclose the potential risk to human health, the potential environmental risks of disturbing the Project site, and whether contamination can be mitigated sufficiently to allow the covenant to be removed.

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Response

See responses provide to Comments A-1 through A-12. DTSC toxicologists and risk assessors reviewed the environmental reports and approved the HHRA, which concluded that the proposed remedial work will render the site safe for construction workers and future residents. The RAP and HHRA were appended to the IS/MND and made available for public review. As required by the IS/MND’s Mitigation Measures HAZ-1 and HAZ-2, the RAP must be carried out to the satisfaction of the RWQCB for the Project to proceed, at which point, the RWQCB will remove the restriction on residential uses.

Comment A-14

Comment

The Commenter generally describes the Project, and questions how the proposed grading cut and fill would be conducted. (Comment Letter, p. 5)

Response

The grading required for the Project is described in the IS/MND, along with the types of trucks that will be required. (IS/MND, pp. 8–9.) Dust control and other measures to reduce impacts of grading activities are discussed and required in the Air Quality section of the IS/MND. (*Id.*, pp. 29–42.) To the extent the Commenter is concerned about contaminated soils, all contaminated soils are required to be removed from the Project site before grading begins, pursuant to the RAP and the IS/MND’s Mitigation Measure HAZ-1. See responses provided to Comments A-3 and A-11.

Further, the IS/MND analyzed the Project’s impacts on aesthetics and determined that they are less than significant. (IS/MND, pp. 26–28.)

Comment A-15

Comment

The Commenter argue that the proposed unit mix would not accomplish the goals of the Housing Element of the City’s General Plan because it would not specifically provide housing for the elderly, the disabled, extreme low income, large families, female-headed households, farmworkers or homeless persons. (Comment Letter, pp. 5–6.)

Response

The Project will actually greatly assist the City in complying with its Housing Element by fulfilling a portion of the City’s Regional Housing Needs Allocation (RHNA) requirement to develop 1,698 new housing units during the current housing cycle, as set forth therein. (IS/MND, pp. 81–82.)

Further, as cited by the Commenter, the City’s Housing Element sets forth a goal of providing adequate housing supply for all economic segments of the City. The Project proposes a multifamily development consisting of 175

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total units, with both townhome and stacked flat units containing four two- and three-bedroom floor plans ranging from approximately 1,400 square feet to 2,100 square feet. The Project also includes a clubhouse, pool, linear park, and a dog park contained in a secured, gated community. The proposed units are the precise types of attainable housing that are needed in the context of the State of California’s housing crisis generally, and the extreme need for additional housing stock in Los Angeles County, specifically.

The state Legislature has recognized this need, and is continuing to encourage the development of additional housing all over the state through the adoption of many different measures that make the approval and development process easier, and has particularly encouraged higher density infill development, such as the Project here.

While the Commenter cites the housing needs for special needs individuals, it omits the fact that the total housing need is 24,730 people, including 19,255 housing owners. (Housing Element, p. 29.) Finally, each individual project cannot be expected provide housing for all of the diverse categories of individuals listed by the Commenter. If every project was required to provide every type of housing, no projects would be approved. See response provided to Comment A-28.

Comment A-16

Comment

The Commenter provides further general comments about the proposed Project’s design, including questions concerning whether or not the Project would comply with HCD’s Guide to California Housing Construction Codes, accessibility requirements, and other state building standards. (Comment Letter, pp. 6–7.)

Response

In addition to compliance with the Specific Plan’s own design guidelines, the Project is required by law to comply with all California Building Code requirements, all ADA and Fair Housing Act accessibility requirements, and all other state and federal law. The proposed density of the Project – slightly less than 22 dwelling units per acre – is well within normal ranges for multifamily developments both generally, and in the City specifically. (See, General Plan, LU-3.)

Comment A-17

Comment

The Commenter states that the IS/MND and Appendix A of the IS/MND are flawed because it does not consider the impacts of disturbing the contaminated Project site where there is a restrictive covenant prohibiting its use for residential housing. (Comment Letter, p. 6.)

Response

All contaminated soil will be removed from the Project site before any Project activities begin pursuant to the RAP and the IS/MND’s Mitigation Measure HAZ-1, at which time the RWQCB will remove the covenant. The MND’s

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HAZ-2 further reduces any impacts during construction. See responses provided to Comments A-1 through A-13, and Comment A-19.

Comment A-18

Comment

The Commenter questions if cumulative impacts of similar projects approved at the same time were considered. (Comment Letter, p. 6.)

Response

Potential air quality impacts from cumulative projects are discussed on pages 35-36 and 40-42 of the IS/MND. As stated therein, Air pollution is largely a cumulative impact. The nonattainment status of regional pollutants is a result of past and present development, and the SCAQMD develops and implements plans for future attainment of ambient air quality standards. Based on these considerations, project-level thresholds of significance for criteria pollutants are relevant in the determination of whether a project's individual emissions would have a cumulatively significant impact on air quality.

In considering cumulative impacts from the project, the analysis must specifically evaluate a project's contribution to the cumulative increase in pollutants for which the SCAB is designated as nonattainment for the CAAQS and NAAQS. If a project's emissions would exceed the SCAQMD significance thresholds, it would be considered to have a cumulatively considerable contribution to nonattainment status in the SCAB. If a project does not exceed thresholds and is determined to have less-than-significant project-specific impacts, it may still contribute to a significant cumulative impact on air quality. The basis for analyzing the project's cumulatively considerable contribution is if the project's contribution accounts for a significant proportion of the cumulative total emissions (i.e., it represents a "cumulatively considerable contribution" to the cumulative air quality impact) and consistency with the SCAQMD 2016 AQMP, which addresses the cumulative emissions in the SCAB.

Cumulative localized impacts would potentially occur if a construction project were to occur concurrently with another off-site project. Construction schedules for potential future projects near the project site are currently unknown; therefore, potential construction impacts associated with two or more simultaneous projects would be considered speculative. However, future projects would be subject to CEQA and would require air quality analysis and, where necessary, mitigation if the project would exceed SCAQMD thresholds. Criteria air pollutant emissions associated with construction activity of future projects would be reduced through implementation of control measures required by the SCAQMD. Cumulative PM10 and PM2.5 emissions would be reduced because all future projects would be subject to SCAQMD Rule 403 (Fugitive Dust), which sets forth general and specific requirements for all construction sites in the SCAQMD.

Based on the previous considerations, the project would not result in a cumulatively considerable increase in emissions of nonattainment pollutants, as stated in the IS/MND. (IS/MND, pp. 35–36)

Comment A-19

Comment

The Commenter questions the difference between the Residential Maximum Individual Cancer Risk and Residential Chronic Hazard Index, and questions the findings.

Response

The South Coast Air Quality Management District (SCAQMD), the relevant expert government agency with jurisdiction over the Project, promulgates thresholds of significance for emissions of criteria pollutants during the construction and operation of all projects. The Project's maximum construction and operational emissions are all below these thresholds, without mitigation. (IS/MND, pp. 33–34) These criteria pollutants specifically include VOC and NO_x emissions. The Project's construction period emissions are also below the SCAQMD's localized significance thresholds (LSTs) without mitigation. (*Id.* at 37.)

The Project's only potentially significant impact on air quality relates to Maximum Individual Cancer Risk during Project construction and from cumulative sources surrounding the Project site during operation. Specifically, the health risk assessment (HRA) prepared in conjunction with the IS/MND determined that the Maximum Individual Cancer Risk would be 13.79 and 29.50 per million, respectively, exceeding the 10 per million threshold of significance. (IS/MND, pp. 38–41; Appendix A.) However, after the implementation of the IS/MND's MM-AQ-1 and MM-AQ-2, all the Project's construction and operational/cumulative impacts are reduced well below the Maximum Individual Cancer Risk threshold. (*Id.*) As noted by the Commenter, the Project's health risk impacts under the Chronic Hazard Index are less than significant before mitigation for both construction and operation of the Project, and virtually non-existent after. (*Id.*)

Maximum Individual Cancer Risk “is the estimated probability of a maximally exposed individual potentially contracting cancer as a result of exposure to TACs over a period of 30 years for residential receptor locations and 25 years for off-site worker receptor locations. For the construction HRA, the TAC exposure period was assumed to be 3 years for all receptor locations (i.e., the assumed duration of Project construction). While construction of the Project would last approximately 1.5 years, average annual construction emissions estimated over 1.5 years were conservatively assumed to occur continuously over 3 years based on the HARP2 input options.” (Appendix A of the IS/MND, pp. 38, 41.) In other words, the HRA relies on assumptions concerning a theoretical “maximally exposed individual,” even though it is extremely unlikely any actual individual would ever be exposed to Project or cumulative TACs continuously, and for as long as assumed in the HRA.

The Project's impacts are less than significant even before mitigation under the Chronic Hazard Index because it measures different, *noncarcinogenic* health risks as compared to the Maximum Individual Cancer Risk. Specifically, noncarcinogenic risks are quantified by calculating a hazard index, expressed as the ratio between the ambient pollutant concentration and its toxicity or Reference Exposure Level, which is a concentration at or below which health effects are not likely to occur. The Chronic Hazard Index is the sum of the individual substance chronic hazard indices for all TACs affecting the same target organ system. (Appendix A of the IS/MND, pp. 38–39.)

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Notwithstanding the foregoing, the HRA and the IS/MND’s analysis of the Project’s operational/cumulative health risks – which is based on surrounding emissions on the future residents of the Project – is not even required by law, but was nonetheless conducted in order to disclose and mitigate *all* possible impacts. Analyzing impacts on future Project residents is an example of “reverse CEQA” analysis – or analysis of the environment’s impacts on the Project, rather than the Project’s impacts on the environment – which is not legally required. (See, *California Building Industry Association v. Bay Area Air Quality Management District* (2015) 62 Cal.4th 369.)

Comment A-20

Comment

The Commenter takes issue with the content of MM-AQ-1 and MM-AQ-2, alleging these measures would not actually mitigate the potentially significant impacts from the Project’s construction relating to Maximum Individual Cancer Risk.

Response

The MND’s MM-AQ-1 is not “discretionary,” but instead requires the Project applicant to use certain construction equipment to reduce construction period emissions. While MM-AQ-1 anticipates a situation where certain Tier 4 or Tier 3 equipment might not be available, even in that case, this mitigation measure still requires upgrades to existing equipment. As made clear by the IS/MND, implementation of MM-AQ-1 reduces construction period impacts on health risk well below the applicable threshold of significance. (IS/MND, p. 39.)

The Commenter appears to misunderstand the intent of the IS/MND’s MM-AQ-2, which mitigates cumulative health risk impacts on future Project residents during Project operation. (IS/MND, p. 40.) Accordingly, the Commenter’s questions about how MM-AQ-2 mitigates construction impacts are misplaced.

Comment A-21

Comment

The Commenter questions how VOC and NOX emissions associated with the Project construction and operation be considered less than significant.

Response

See response provided to A-19. The Project’s construction and operation emissions of VOC and NOX – which were modeled using universally accepted approach – are all below the SCAQMD’s published thresholds of significance, even without mitigation. (IS/MND, pp. 33–34.)

Comment A-22

Comment

The Commenter questions the Scoping Plan’s (defined below) measures for reducing GHG emissions and the Project’s consistency with the same. The Commenter cites the allowable GHG thresholds for significance set forth

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in the Public Resources Code, and inquires what threshold is applicable here considering the covenant prohibiting residential uses on the site due to “hydrocarbon toxicity.” (Comment Letter, p. 8.)

Response

The Project complies with the regulations and requirements adopted to implement the statewide, regional and local plans for the reduction and/or mitigation of GHG emissions, including the City’s climate action plan (CAP), which was developed in partnership with the South Bay Cities Council of Governments and Southern California Edison, and was prepared to follow the guidance of California’s Long Term Energy Efficiency Strategic Plan, and the statewide Climate Change Scoping Plan (Scoping Plan) approved by CARB. (IS/MND, p. 53) Despite its approval of the CAP, the City has not yet adopted a qualified GHG reduction plan that could be used in the IS/MND. (*Id.*)

Accordingly, the IS/MND analyzes the Project’s consistency with the Scoping Plan’s measures for reducing GHG emissions statewide. As set forth therein, the Project is consistent with every single applicable measure. (IS/MND, pp. 54–58.) The Project is also consistent with all other potentially applicable statewide, regional and local regulations. (*Id.*, pp. 58–60.)

The IS/MND also quantifies both the Project’s construction and operational GHG emissions, which total 2,367 MT CO_{2e} per year when amortizing the construction-period GHG emissions over the life of the Project, which when divided by future residents, results in 3.75 MT CO_{2e} per service population per year. (IS/MND, pp. 51–53.) These emissions are well below the applicable numerical threshold of significance promulgated by SCAQMD, which is 4.8 MT CO_{2e} per service population per year. (*Id.* at 53.)

To the extent the Commenter is concerned about “hydrocarbon toxicity,” see responses provided to comments A-1 through A-13.

Comment A-23

Comment

The Commenter states that the IS/MND’s conclusion that the Project will not have a significant impact relating to hazardous materials on sensitive receptors, including the nearby school, is unsupported because there is insufficient information to determine if it is even possible to remediate the Project sufficient to “overcome” the RWQCB’s restrictive land use covenant. The Commenter also cites provisions of CEQA and case law standing for the proposition that the Project’s impacts on people must be considered.

Response

The RAP has been approved by the RWQCB, and must be implemented before the Project can proceed, as required by the IS/MND’s Mitigation Measure HAZ-1. (See, MND, pp. 60–63.) The RWQCB has stated in writing that the restrictive covenant will be removed following compliance with the RAP. The MND’s Mitigation Measure HAZ-2 provides further protection during Project construction, including requiring preparation of the Hazardous Materials Contingency Plan (HMCP). (*Id.*, pp. 60–63.) See responses provided to comments A-1 through A-13.

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A comprehensive health risk assessment was also prepared, analyzed and included in the IS/MND. All related impacts are less than significant after mitigation. See response provided to Comment A-19.

Comment A-24

Comment

The Commenter asserts that the IS/MND fails to set out the test for overcoming the RWQCB's covenant, whether the RAP meets federal and state requirements, and how health and safety will be monitored at the Project site moving forward. (Comment Letter, p. 9.)

Response

The RWQCB has already approved the RAP and indicated that it will remove the covenant after the remediation work required therein is complete. The DTSC has also reviewed and approved the RAP. See responses provided to Comments A-1 through A-13.

Comment A-25

Comment

The Commenter questions where the plan is for ongoing groundwater monitoring. (Comment Letter, p. 9.)

Response

See Responses to Comments A-3 and A-11. Additionally, the only groundwater present at the site is very deep, well below any of the oil wells that formerly operated on the Project site. The RWQCB issued a case closure determination for groundwater in its 2008 No-Further-Action letter.

Further, there is no requirement for development projects to include a requirement for ongoing groundwater monitoring to ensure the Project does not contaminate the groundwater at some point in the future. Indeed, such a requirement would be utterly infeasible and grind development to a halt, and nothing in CEQA Appendix G indicates that this is an impact category that the IS/MND was required to analyze or is somehow a requirement.

With respect to water quality, the Project is required to implement low impact development (LID) best management practices (BMPs) to ensure that any impacts related to stormwater runoff caused by the development of the site will be less than significant, including on-site storage and detention. (IS/MND, pp. 68–69; Appendix E.)

Comment A-26

Comment

The Commenter asserts that the City does not have the power to remove the RWQCB's restrictive covenant preventing residential use, and therefore, residential uses are not permitted on the Project site. (Comment Letter, p. 9.)

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Response

See response provided to Comment A-1. The RWQCB has approved the RAP and agreed to release the restrictive covenant. Also see responses to Comments A-2 through A-13.

Further, residential uses are allowed on the Project site under the City's General Plan. However, there is no dispute that Project requires a specific plan amendment to allow the Project, and there also can be no dispute that the City Council has the sole and complete discretion to approve such an amendment to its own land use document. (IS/MND, p. 70.)

Comment A-27

Comment

The Commenter asserts that the IS/MND fails to describe the area surrounding the City, including noise generated by nearby industrial uses and airplane noise. (Comment Letter, p. 9.)

Response

As a general matter, concerns about the impact of existing surrounding noise on future residents of the Project site, which is a "reverse CEQA" argument, and therefore, must be disregarded. (*California Building Industry Association v. Bay Area Air Quality Management District* (2015) 62 Cal.4th 369; *South Orange County Wastewater Authority v. City of Dana Point* (2011) 196 Cal. App. 4th 1604 [rejecting arguments concerning noise and other impacts on future project residents from an existing wastewater facility].) CEQA is generally concerned about impacts of the Project on the environment, not impacts of the environment on the future Project residents.

Notwithstanding the foregoing, the IS/MND includes an *acoustical analysis of the Project's noise generation, existing noise from surrounding areas, and projected future noise from traffic*. (IS/MND, pp. 74–75; Appendix F.) Contrary to the Commenter's assertion, noise from surrounding uses has been disclosed and analyzed in the IS/MND.

Comment A-28

Comment

The Commenter cites measurements for existing noise levels from the City General Plan, and states that noise levels are above 65 CNEL, the maximum acceptable for residential uses. The Commenter questions whether or not mitigation will be effective. (Comment Letter, p. 9.)

Response

See response provided to Comment A-27. Mitigation has been imposed to ensure that exterior noise levels at the Project site – and specifically, at the swimming pool area – are reduced to 65 CNEL or below, the relevant threshold of significance. (IS/MND, pp. 76–77; Mitigation Measure NOI-1.) Similarly, Mitigation Measure NO-2 ensures that interior noise levels will be below the applicable 45 CNEL threshold of significance. (IS/MND, pp.

78–79.) Mitigation has also been imposed to reduce vibration impacts and shield surrounding uses from construction noise during the Project’s construction period. (IS/MND, pp. 79–81.) By definition, the Project’s design and eventual construction is legally required to follow all the requirements imposed by these mitigation measures.

Comment A-29

Comment

The Commenter assumes that Project construction will require a vibratory roller for compaction of fill, points out the Mitigation Measure NOI-3 prohibits the use of vibratory rollers, and asks if this is consistent with the RAP. (Comment Letter, p. 10.)

Response

A vibratory roller will not be used during construction of the Project. The Project applicant has agreed to all mitigation measures, including Mitigation Measure NO-3, and confirmed that they are feasible to implement. Also see responses provided to Comments A-11 through A-13.

Comment A-30

Comment

The Commenter notes the number of new dwelling units proposed (175), potential number of new residents, and the City’s RHNA allocation set forth in its Housing Element (1,608 residential units). The Commenter questions how many “in need of housing” would be able to afford the Project, and whether or not the City is meeting its housing targets. (Comment Letter, p. 10.)

Response

See response provided to Comment A-15. The Project would result in 175 new residential units at approximately 22 units per acre, helping the City fulfill a portion of its RHNA requirement to develop 1,698 new housing units during the current housing cycle, as set forth in the City’s General Plan Housing Element (and noted by the Commenter). (IS/MND, pp. 81–82.) The addition of this number of units assists the City to meet its RHNA numbers, but is still relatively small, and therefore, by no means induces “substantial population growth” that would result in a significant impact. (*Id.*) Further, the Project consists of the redevelopment of an infill site, and therefore, it will not induce growth in a previously undeveloped area.

As further explained in Response to Comment A-15, residential projects like the Project here, which propose attainable, higher density, infill housing, are desperately needed in the context of the State of California’s housing crisis generally, and the extreme need for additional housing stock in Los Angeles County, specifically. The Project would certainly assist the City in meeting its housing targets by developing more housing, at a high density, as has been repeatedly encouraged by the State of California.

Comment A-31

Comment

The Commenter questions whether or not the Project site can be remediated to allow residential uses, and questions what would happen if post-construction monitoring reveals an increase in contamination. (Comment Letter, p. 10.)

Response

The contaminated soil is being removed from the site pursuant to the RAP approved by the RWQCB. See responses provided to Comments A-1 through A-13.

Comment A-32

Comment

The Commenter asserts that the IS/MND and Traffic Impact Analysis (TIA) do not describe how increased traffic generated by the Project would affect traffic flow in the area, and what conclusions have been made. (Comment Letter, p. 10.)

Response

The IS/MND and the TIA (included as Appendix G to the IS/MND) clearly explain how increased traffic generated by the Project would “affect traffic flow in the area.” Specifically, the IS/MND shows existing traffic (p. 88), expected traffic to be generated by the Project (p. 89), existing plus Project traffic (p. 90), and the level of service (LOS) for all relevant nearby intersections under all of these conditions. (*Id.*) The IS/MND goes on to do the same analysis under future year plus Project traffic, including analysis of the projected traffic flow at nearby intersection and freeway ramps. (*Id.*, pp. 91–96.) In fact, the IS/MND summarizes all of the Project-generated traffic’s impacts on nearby traffic flow for easy consumption. (*Id.*, at 97.)

Comment A-33

Comment

The Commenter states that no facts support the statement in the TIA that “a signal warrant analysis concluded that the addition of the primary project driveway to the existing three-legged intersection of S. Central Avenue and Aspen Hill Road would not warrant installation of a traffic signal.” (Comment Letter, p. 11.)

Response

Page 22 of the TIA states that the signal warrant analysis was conducted in conformance with the California Manual on Uniform Traffic Control Devices procedures using the peak hour warrant. Traffic volumes used to conduct these analyses were collected on February 20, 2018. Because the AM peak hour was identified as the peak hour with the highest volumes through the existing three-legged intersection of S. Central Avenue and Aspen Hill Road, morning peak hour volumes at the unsignalized intersection were analyzed under Existing, Existing Plus

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Project, Future Base, and Future Plus Project conditions. Appendix E to Appendix G of the IS/MND presents the results of the analysis and shows that the unsignalized intersection does not meet the signal warrant thresholds during the AM peak hour under any of the analysis scenarios. (see MND, pp. 93–94.)

Comment A-34

Comment

The Commenter questions whether or not the fire department has approved the layout of the Project, and how prospective residents may feel about emergency vehicle ingress and egress. (Comment Letter, p. 11.)

Response

The Project’s site plan must be approved by the City’s Fire Department before the Project can proceed, and the Project applicant will be required to implement any conditions imposed by the same. Furthermore, as acknowledged by the Commenter, satisfactory tests were actually performed using a fire truck. (IS/MND, p. 100.) Any concerns about impacts to future residents are classic examples of “reverse CEQA” impacts that do not need to be considered under the authority cited above. The City, through the IS/MND, has done its legal duty by publically disclosing the methods required for emergency vehicle ingress and egress.

Comment A-35

Comment

The Commenter expresses concerns about “the dispersal of toxins as a result of the site’s previous use if the site is disturbed during construction” through wastewater.

Response

It is unclear how “toxins” would enter wastewater – i.e., the sewer pipes coming from the proposed residential units, which as stated in the IS/MND, will not result in a significant impact on wastewater capacity. (IS/MND, pp. 103–104.) In any event, the contamination on the Project site is being properly handled through the RAP, under the oversight of the relevant regulatory agencies, including the RWQCB and DTSC. See responses provide to Comments A-1 through A-13.

Comment A-36

Comment

The Commenter takes issue with the fact that plans regarding solid waste disposal have not yet submitted plans to the City’s Public Works Department for review and approval.

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Response

The IS/MND clearly indicates that the Project applicant is required to submit such plans to the Public Works Department for approval, and such approval will only be granted if the plan complies with AB 939. (IS/MND, p. 107.) The Project cannot proceed without such approval.

Comment A-37

Comment

The Commenter states the Project will contaminate the area during construction and operation.

Response

See responses provide to Comments A-1 through A-13.

Comment A-38

Comment

With respect to cumulative impacts, the Commenter repeats concerns about the “dull, drab” design of the Project and that does not provide housing to all of the special needs groups identified in the Housing Element.

Response

See response provided to Comment A-15. The IS/MND analyzed the Project’s impacts on aesthetics, and determined that they are less than significant. (IS/MND, pp. 26–28.)

Comment A-39

Comment

The Commenter asserts the Project will increase noise beyond maximums, particularly during construction.

Response

The IS/MND analyzed both construction and operation noise, imposed mitigation measures, and concluded that all noise impacts are reduced to a less than significant level after implementation of mitigation – *i.e.*, all noise levels will be below applicable maximum noise thresholds. (IS/MND, pp. 71–81; Appendix F.) The required mitigation includes measures that will reduce construction noise. (*Id.*, pp. 79–81; Mitigation Measures NO-3 and NO-4.) See responses provided to Comments A-28 and A-29.

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Comment A-40

Comment

The Commenter states that the Project should not be allowed unless the RWQCB removes the restrictive land use covenant.

Response

The Project will not proceed unless the RWQCB removes the restrictive land use covenant, which it has already agreed to do. See response provided to Comment A-1.



Attachment A

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