Coun

Date: July 15, 2019

TO: Mayor and Council

FROM: Michael Codron, Community Development Director

VIA: Derek Johnson, City Manager DJ

SUBJECT: Item #14 NWC Assisted Living and Commercial-Retail Project
Recirculated Initial Study-Mitigated Negative Declaration

As discussed in the Council Agenda Report, this item was previously reviewed by the Council on May 7, 2019 (Environmental Review discussion, Council Agenda packet page 208). This correspondence provides a summary of how comments were addressed from the previously circulated IS-MND reviewed by Council on May 7, 2019. The City Council report provides a brief summary of the revisions made to the IS-MND for recirculation.

Mark Wolfe & Associates (May 6, 2019)

Air Quality

The commenter's letter references air quality analysis from the firm Autumn Wind Associates. It is stated that the IS-MND did not appropriately evaluate potential impacts to sensitive receptors from toxic air contaminant (TAC) emissions since the project is in proximity to Tank Farm Road and State Hwy 227 (Broad Street). The commenter also contends that the necessary cumulative air quality effects from the project TAC emissions and TAC emissions from other sources in the vicinity were not evaluated properly. The commenter also raises that the air quality analysis did not sufficiently include baseline, project, and cumulative project emissions for cumulative impact analysis.

Staff Response: Staff retained Rincon consultants to evaluate Mr. Wolfe's comments to see if any additional analysis should be prepared in response. Rincon Consultants prepared a letter (attached) which provides a detailed response to the assertions made in Mr. Wolfe's letter. Rincon Consultants found that Mr. Wolfe incorrectly summarized the IS-MND's conclusions and that the level of analysis in the IS-MND is adequate including the approach used for determining cumulative impacts. Rincon Consultants explained that the analysis properly included an evaluation and findings that potential air-quality impacts from TACs, including existing and future impacts, would be less than significant pursuant to applicable guidelines and thresholds. The commenter incorrectly references a standard of "no possibility of health-related impacts" which is not warranted or appropriate based on CEQA thresholds which appropriately evaluate projects under a "less than significant" standard.

Biological Resources

The commenter asserts that mitigation measures for Biological resources are inappropriately applied.

Staff Response: Mitigation Measure BIO-1 relates to the timing of vegetation removal in order to protect nesting birds, and is directly related to habitat protection, which is at the heart of the proposed 3:1 wetland replacement included in the project design. It is incorrect to say the measure is "inapposite completely".

The commenter states that Mitigation Measure BIO-3, which requires obtainment of California Department of Fish and Game Streambed Alteration Agreement does not have a "hook" to make sure development is contingent on the permit.

Staff Response: In fact, the mitigation monitoring plan clearly requires that no grading or building permits may be issued until all the necessary permitting and certification requirements have been met. The monitoring program (B-1 through B-3) further requires that all improvement plans, landscaping plans, and/or relevant construction permits include the required measures for mitigation plantings, creek enhancement, and any compensatory mitigation measures for impacts to Waters of the U.S. as required by the Corps of Engineers and RWQCB. The IS-MND appropriately points the way toward other resource regulatory permitting are required outside the CEQA process. Other regulatory permitting is discussed in Mitigation Measure BIO-2 in the context of permitting under the Clean Water Act (CWA) via the US Army Corps of Engineers and related water quality certification through the Regional Water Quality Control Board (RWQCB).

Land Use and Planning

The commenter contends that the finding of a less than significant impacts related to land use and planning are not supported by substantial evidence.

Staff Response: The project staff report and associated findings go into detail as to why the project is consistent with the General Plan and Specific Plan as amended. The CEQA document itself did not include the same level of information on this issue as the associated project staff report. Staff acknowledges that additional information needed to be provided directly in the IS-MND document. Although no additional analysis is required, Staff included an updated discussion of Land Use and Planning in the recirculated IS-MND to reflect the key issues that were already discussed in the staff report.

Noise

The commenter contends the noise analysis failed to consider the effects of the project on surrounding noise sensitive uses.

Staff Response: Staff agrees that the analysis lacked sufficient analysis of the project's potential noise impacts to sensitive receptors offsite. This issue was addressed in the recirculated IS-MND. Rincon Associates prepared a Technical Noise Analysis report (IS-

MND, Attachment 9) to assess issues the commenter raised as discussed in the attached Rincon Consultants response to comments. The analysis found that there were potential impacts to offsite sensitive receptors and that mitigation measures are required to reduce potential impacts to less than significant levels. Mitigation measures N-2 and N-3 were included in the recirculated IS-MND to address potential impacts to offsite receptors during construction activities.

Transportation/Traffic

The commenter contends that mitigation measures related to "fair share" contributions must explicitly state where the funds will be used and show how and when the required improvements will be built.

Staff response: The IS-MND appropriately used the related traffic study (IS-MND Attachment 10, Multimodal Transportation Impact Study) to describe the nature of potential impacts using methodology consistent with standard industry practice. Specific mitigation measures were developed based on the traffic analysis including a discussion of cumulative impacts. As appropriate the project will also participate in a Citywide Impact Fee Program, or for needed improvements not covered under the program, a fair share contribution based on quantified impacts. These contributions address the project's potential cumulative impacts and creates a legally and practically feasible mechanism to ensure that larger capital improvement projects that will address cumulative impacts can be built that require the contribution of many cumulative projects. The projects identified in Mitigation Measure T-4 will be completed through the Capital Improvement Program through the Capital Improvement Program.

The commenter contends that the traffic study contains a misclassification because the project contains a "big box" grocer, but traffic estimates for a "shopping center" are instead used.

Staff Response: The retail-commercial component of the project is in fact a shopping center with six separate buildings, the largest of which is the anchor tenant with approximately 22,000 square feet. This is not classified as a big box store, which are generally more than 50,000 square feet. Additionally, the ITE Trip Generation Manual 10th edition, the most current edition, does not have a "Big Box" designation. Based on the ITE trip generation definitions, the appropriate Land Use designation for this project is used in the traffic study. ITE has not released an 11th edition of the Trip Generation Manual.

The commenter contends that the baseline assumptions used in the traffic analysis are potentially out of date and that the IS-MND improperly assumed that the Prado Road/US 101 interchange and Victoria Avenue extension improvements would be completed.

Staff Response: The project submittal and environmental review was conducted prior to the availability of 2018 traffic counts. Per CEQA section 15125(a) the 2016 counts used in the traffic study are the appropriate baseline for use in the IS-MND. The traffic analysis was based on the information available at the time the traffic study was scoped in 2017. Baseline as included in the IS-MND is appropriate. Furthermore, the traffic analysis appropriately assumed that the Prado Road/US 101 interchange would be completed

because completion is required as a condition of the approved San Luis Ranch entitlements and Phase 1 construction documents have been submitted for approval. It was appropriate to assume that the Victoria Avenue extension will be completed because it is currently under construction.

Department of Transportation, Caltrans District 5 (May 6, 2019 & July 8)

The commenter raises three main issue areas: (1) study of impacts to intersections and interchanges, (2) dates of traffic counts used for analysis, (3) methodology for trip generation.

Staff Response: The Public Works Department previously fully responded to these comments via Agenda Correspondence (attached) on May 7, 2019 from Daryl Grigsby, Public Works Director. No changes to the traffic analysis were deemed necessary in the recirculated IS-MND. Cal Trans again provided the same comments on July 8, 2019. Staff's previous May 7, 2019 Agenda Correspondence again adequately addresses these same comments.

Air Pollution Control District (May 3, 2019)

The commenter noted support for the project as an urban infill project that is consistent with the goals and policies of the Clean Air Plan (CAP). APCD also noted a number of action items for various permit requirements which should be addressed.

Staff Response: Staff has included the APCD recommended permit requirements in the discussion of the recirculated IS-MND and included in project conditions of approval. No comments have been received from APCD regarding the recirculated IS-MND.

Evan Chechopoulos, May 5, 2019

The commenter requests that a Mitigated Negative Declaration not be accepted and notes that an Environmental Impact Report (EIR) should be prepared. The commenter also contends that the abandonment of proper procedure may put senior's safety at risk.

Staff Response: The IS-MND found that all potential impacts can be mitigated to less than significant levels. Preparation of an EIR is not warranted or appropriate under CEQA. There is no substantial evidence in the record that the project would result in potentially significant impacts affecting senior population safety.

Kathy Borland (Protect CEQA), May 6, 2019

The commenter reiterated a previous letter to the Planning Commission dated April 10, 2019. The commenter appears to assume that the Planning Commission was going to make a final decision on the project and that it was improper procedure to hear the item before the conclusion of the public comment period.

Staff Response: CEQA does not require that the public comment period on an IS-MND be closed prior to advisory body review and recommendations (CEQA section 15074). It was

fully consistent with CEQA and is common practice to have advisory body hearings and recommendations during the IS-MND public review period.

Lea Brooks, May 6, 2019

The commenter raises concerns that the City's Active Transportation Committee (ATC) did not review the project. The commenter also raises a number of issues regarding Transportation Mitigation measures T-1 through T-4, stating that the improvements do not adequately address pedestrian and bicycle modes of travel.

Staff Response: A comprehensive response was provided by the Public Works Department on May 7, 2019 via agenda correspondence (attached). The commenter is incorrect that the Active Transportation Committee should review this development proposal or any other specific development proposals. The purpose of the ATC is accurately described as providing advisory comment on policies related to active transportation. Review of development projects for conformance with adopted plans and policies is not within the purview of the ATC. The proposed project will require the project to develop the ultimate cross sections identified in the Airport Area Specific Plan which includes design components to accommodate bicycle and pedestrian modes of travel and discussed in the Public Works agenda correspondence.

Dale Sutliff, May 7, 2019

The commenter references the Lea Brooks correspondence above and raises similar concerns regarding the safety of bicycle facilities.

Staff Response: See above Lea Brooks response.

Stephanie Teaford, Heal SLO, May 6, 2019

The commenter recommends an alteration in the project design to reduce exposure of residents to truck exhaust from the loading dock of building 1.

Staff Response: There is no substantial evidence in the record that the loading dock would result in potentially significant impacts to sensitive receptors. SLOAPCD defines stationary sources of TACs as "fixed facilities such as: power plants wastewater treatment plants, auto body shops, and landfills. No such uses are proposed or are allowed uses in the project. The Rincon Associates Response to Comments (attached) dated June 15, 2019 explains significance thresholds and appropriate analysis of this issue under CEQA. Also, see the Air Quality staff response in the Wolfe and Associates response above.

Council Agenda Correspondence

Received
5/7/2019
SLO CITY CLERK

MEETING DATE: 5/7/2019
ITEM NO: 15

Date: May 7, 2019

TO: Mayor and Council

FROM: Daryl Grigsby, Public Works Director
Prepared By: Luke Schwartz, Interim Transportation Manager

VIA: Derek Johnson, City Manager DJ

SUBJECT: 5/7/19 Council Agenda; Public Hearing Item #15, Northwest-West Corner Mixed-Use Development Project – Response to Caltrans Comments

Council received a letter from Caltrans regarding Item 15: Tank Farm Road and Broad Street Mixed-use Development on the May 7th Council meeting agenda. This memorandum provides responses to each of the items mentioned in the Caltrans letter.

Comment #1: Caltrans intersections that could be affected by the project were not included in the Multimodal Draft Transportation Impact Study (transportation study, Appendix of the Draft IS-MND). The commenter requests analysis of trip distribution and fair share calculations be included for potential impacts at the SR 227/Buckley Road intersection, the Los Osos Valley Road/Higuera Street intersection, and the U.S. 101/Los Osos Valley Road interchange.

Caltrans was included in the scoping of the traffic study; in the State's response, no additional intersection or segments were requested (Attachment A: September 18th, 2017 Caltrans Scoping Response). Based on the project trip generation and distribution provided in the transportation study, project traffic would cause insignificant or no increase in traffic at the U.S. 101/Los Osos Valley Road Interchange. The project would contribute to the Citywide traffic impact fee program, which funds multiple local transportation projects identified to alleviate Citywide traffic, most notably the Prado Road Interchange, which is forecasted to improve operations at the U.S. 101/Los Osos Valley Road Interchange.

The project trip generation and distribution provided in the transportation study, including the planned transportation improvement projects identified in the January 2017 State Route 227 Operations Study, which have been adopted into the County SR 227 transportation improvement fee program, identify that project traffic would not contribute to a substantial increase in traffic at SR 227 intersections. The project is proposed to be conditioned to participate in the County's SR 227 fee program.

As shown in the Table 11 of the transportation study, project trips at the Higuera/Tank Farm Road intersection do not adversely affect the V/C or Delay to result in a Level of Service (LOS) impact to the intersection. Therefore, these additional trips do not generate a project specific impact at this intersection. Therefore, it is a reasonable conclusion that

impacts at intersections further downstream from the project would not generate project specific impacts at those intersections.

The cumulative scenario estimates volumes with several planned network improvements, as shown on page 30 of the transportation study. These improvement projects are "planned network and land use changes expected upon buildout of the City's General Plan" (page 30) and with indicated funding in the Citywide Traffic Impact Fee program and in the San Luis Obispo General Plan Circulation Element. Potential impacts to the Higuera/Prado Road intersection and to the U.S. 101/Los Osos Valley Road interchange would be mitigated by these planned network improvements. In the cumulative scenario, potential LOS impacts at the Higuera/Tank Farm Road intersection are addressed by the required mitigation measures.

Comment #2: The existing transportation conditions discussion in the transportation study should compare the 2016 traffic count data to 2018 traffic counts, if the 2018 traffic counts have been processed. The commenter also requests that the year for the cumulative conditions be clarified.

The project application and environmental review was conducted prior to 2018 traffic; therefore 2018 counts were not available at the time environmental review was conducted. Per CEQA section 15125(a) the 2016 counts used in the traffic study are the legal baseline on which this Draft IS-MND analysis is based.

Cumulative conditions for the traffic impact study represent the buildout Capacity of the City under current zoning, this is theoretically identified at 2035 but would likely occur beyond.

Comment #3: Notes 4 and 5 in Table 10 of the transportation study should be clarified to describe what trips are being captured in the internal trips number shown. The commenter also requests that pass-by trips only be used for retail land uses, and states that new residential trips should be considered primary trips.

Table 10 of the transportation study uses the 2014 ITE Trip Generation Handbook 2nd edition (2014) & ITE Trip Generation Manual, 9th edition (2012) to calculate the internal trip capture rate for the mixed-use development. Pass-by trips are calculated as a percentage of total trips for the retail portion of the development, based on the ITE Trip Generation Handbook. The transportation study only accounts for retail pass-by trips.

For additional information on these items, please contact Luke Schwartz, Interim Transportation Manager, at lschwartz@slocity.org.

Attachment A – September 18th, 2017, Caltrans Scoping Comments on Northwest Corner Project

Wheeler, Bryan

From: Streder, Melissa@DOT <melissa.streder@dot.ca.gov>
Sent: Monday, September 18, 2017 3:11 PM
To: Wheeler, Bryan
Cc: Cohen, Rachel; Hudson, Jake; Boyle, Frank@DOT; Persons, Terri@DOT
Subject: 650 Broad Street Trip Generation
Attachments: TankFarm_SanteFeToBroad.pdf; Broad_IndustrialToTankFarm.pdf; 227 count data.pdf; 227 count data.pdf

Hi Bryan,

Thank you for your call regarding trip generation assumptions proposed for the 650 Broad Street projects.

After review of the peak hour data you provided, we stand behind our recommendation that at the very least the 8:00 am peak hour and the PM peak hour be analyzed. Perhaps the midday peak could be evaluated as well. The costs should be negligible considering that the majority of the intersection analyses work is setting up the intersection's variables.

From the attached data, it looks like for Broad between Industrial Way and Tank Farm, the AM peak appears to occur at 8:00 AM (Day 1: 298 NB and 307 SB and Day 2: 308 NB and 279 SB) and on Tank Farm between Santa Fe and Broad (Day 1: 249 EB and 212 WB and Day 2: 189 EB and 176 WB). Please let me know if this is your understanding as well. This interpretation appears to be flip flopped from your previous email discussing peak hour and I want to make sure we are understanding this right.

Broad also serves as an arterial while Tank Farm functions as a collector, so we believe that it is more important to base the am peak hour time frame on Broad (8:00 AM) if it is not possible to evaluate both the 8:00 am and the 11:00 am in addition to the pm peak. Also, the traffic count data that we have at Creston Rd/227 shows that the peak hour is at 7-9 and 2-6 everyday day during the week (see attached). Only on weekends do the peak hours largely shift to 11-12 and 12-2. These are 24 hour counts that span two months. This information may influence your decision as well.

Anyway, these are our recommendations. Please feel free to email or call if you have any additional questions.

Best Regards,

Melissa Streder
Associate Transportation Planner
California Department of Transportation
(805) 549-3800
(Mon-Thurs)

Council Agenda Correspondence

Distributed to Council
on the dais
5/7/2019
SLO CITY CLERK

MEETING DATE: 5/7/2019
ITEM NO: 15

Date: May 7, 2019

TO: Mayor and Council

FROM: Daryl Grigsby, Public Works Director
Prepared By: Luke Schwartz, Interim Transportation Manager

VIA: Derek Johnson, City Manager DJ

SUBJECT: 5/7/19 Council Agenda; Public Hearing Item #15, Northwest-West Corner Mixed-Use Development Project – Response to Comments from Ms. Lea Brooks

The Council has received several agenda correspondence regarding the proposed development project at the northwest corner of Tank Farm and Broad (3985 Broad Street, 660 Tank Farm Road). This includes a letter submitted by Ms. Lea Brooks raising numerous questions regarding the project-related transportation impacts, mitigation requirements, and accommodations for bicycle and pedestrian circulation. The purpose of this memorandum is to supplement the information already provided in the staff report and corresponding attachments. The comments addressed in this memorandum cover most of the other public comments received by staff as of noon today (May 7, 2019) regarding the transportation elements of the proposed project.

Why didn't the City's Active Transportation Committee (ATC) have the opportunity to review the development proposal?

The purpose of the ATC is to advise on policy direction related to active transportation. Review of development projects that are in conformance with adopted plan & policy is not within the purview of the Active Transportation Committee.

Mitigation Measure T-1, which proposes a second westbound traffic lane on Tank Farm Road from Broad to the Mindbody intersection will encourage aggressive driving and will not encourage people to ride bikes. Instead of a second traffic lane, this space should be used for a protected bicycle lane.

Mitigation Measure T-1 requires the project to widen Tank Farm Road along the project frontage to develop the ultimate street cross section identified in the Airport Area Specific Plan. This includes addition of a second westbound motor vehicle lane, sidewalks buffered from the street with landscaped parkway, 7-foot bike lanes with a 2-foot striped buffer. The proposed cross section provides a wider bike lane than exists currently, results in fewer vehicles in the traffic lane directly adjacent to the bike lane and provides pedestrian facilities that are set back from vehicular traffic. It should also be noted that the proposed bike lane buffer provides a dedicated area for future installation of physical separation to provide for protected bike lanes. Specific policy and design guidance for future installation of protected bike lanes is currently being defined as part of the Active Transportation Plan,

which will be developed over the next year with plans for adoption in the second half of 2020.

Mitigation Measure T-2, requires the project to make a fair share contribution towards the cost of widening Tank Farm Road to four lanes between Santa Fe Road and Old Windmill Lane. This contribution should also be used for protected bicycle lanes.

The future improvements along this segment of Tank Farm Road include widening to provide a cross section that includes four vehicular travel lanes, a center median/two-way left-turn lane, on-street bike lanes with striped buffers, sidewalks, and a separated Class I Shared-Use Path on one side of the road. Thus, the fair-share payment that the project is required to contribute will fund the future construction of a physically-separated bicycle facility. The project is also required to pay Citywide Traffic Impact Fees, which also contribute towards installation of other planned bicycle facilities within the city.

Mitigation Measure T-3, which requires traffic signal phasing and striping modifications at the Broad/Industrial intersection, only addresses motor vehicle operations and ignores bicycle and pedestrian conditions along Industrial Way. Industrial Way should include removal of street parking on one side to provide bike lanes and the intersection of Broad Street and Industrial Way must be protected for pedestrians and bicyclists.

Mitigation Measure T-3 is required to address project-related impacts to auto operations at the Broad/Industrial intersection. The transportation impact study prepared for the project also analyzed pedestrian and bicycle operations at this location but did not identify any instances where the City's performance thresholds were exceeded. Thus, from a CEQA perspective, there was no nexus from which to require the project to contribute to additional improvements.

Mitigation Measure T-4 requires fair share contributions towards future improvements at the Tank Farm/Higuera, Tank Farm/Santa Fe, and Broad/Tank Farm intersections payment of Citywide Traffic Impact Fees through payment of Citywide Traffic Impact Fees. These mitigation measures solely address motor vehicle traffic flow with no mention of improving pedestrian and bicyclist comfort and safety. These intersections must be protected for bicyclists and pedestrians.

Through payment of Citywide Traffic Impact Fees, the project is contributing fair share payments towards these specific intersection improvements, as well as numerous planned bicycle and pedestrian projects throughout the city. As additional pedestrian and bicycle improvements are identified in the Active Transportation Plan, the traffic impact fee program may be amended in the future at the discretion of the Council to reflect these specific projects.

Plans for an interim Class I Path alignment extending along the future Prado Road Extension alignment from the existing Prado Road terminus to Broad Street did not materialize with approval of development tracts within the Margarita Specific Plan Area. Similarly, approval of the Avila Ranch Development did not require improvements to bicycle facilities on Buckley Road between the Avila Ranch site and Broad Street/Hwy 227. Without improved east-west connections at Prado or Buckley, Tank Farm Road will continue to serve as the primary east-west active transportation

route for the near future. Without mitigations to improve connectivity for pedestrians and bicyclists, most people will continue to driveway between Higuera and Broad Streets.

> While the City will continue to collect traffic impact fees and pursue other direct developer contributions (where a nexus exists) towards the future Prado Road Extension and widening of the Tank Farm Road corridor, at this time there is insufficient funding to proceed with these projects, which involve significant costs and right-of-way needs.

For additional information on these items, please contact Luke Schwartz, Interim Transportation Manager, at lschwartz@slocity.org.

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June 15, 2019
Project No: 19-07096

Michael Codron
Community Development Director
City of San Luis Obispo
919 Palm Street
San Luis Obispo, California 93401-3218

Via email: mcodron@slocity.org

Subject: **Tank Farm Road Assisted Living Facility and Retail Project – Response to Comments on Initial Study/Mitigated Negative Declaration**
3985 Broad Street and 660 Tank Farm Road, San Luis Obispo, California 93401

Dear Mr. Codron:

Rincon has reviewed the Initial Study and Mitigated Negative Declaration (IS/MND), associated technical analyses, and comments from Mr. Wolfe and Associates (Mr. Wolfe) and the attached air quality assessment prepared by Autumn Wind Associates (AWA). In the following responses, we have addressed air quality and noise comments from Mr. Wolfe, as well as air quality comments provided by AWA.

Summary

Rincon has reviewed the IS/MND, associated technical analyses, and comments from Mr. Wolfe and AWA. Rincon has responded to the air quality concerns from Mr. Wolfe and AWA and provided recommendations to improve the noise analysis attached to the IS/MND to address comment from Mr. Wolfe.

The air quality issues raised by Mr. Wolfe and AWA are based primarily on a misinterpretation of the San Luis Obispo Air Pollution Control District (SLOAPCD) air quality thresholds and a typographical error. Specifically, AWA attempts to draw a cumulative impact conclusion based on 1) a project level threshold for projects involving a high number of truck trips (e.g., mining or a distribution facility), 2) a incorrect quote of the project related traffic generation, which was correctly stated in the traffic report, to create the impression the project would result in a high volume of truck traffic. The commenter then attempts to use the project level threshold and the overestimated truck traffic to argue the project would result in health impacts to existing residents in the project area, future resident of the project, and residents that may move into future development not part of the project. Rincon provided explanations on a point-by-point basis disclosing incorrect assumptions and misinterpretations of the CEQA process as outlined in the SLOAPCD CEQA Air Quality Handbook, and why the findings of the IS/MND related to air quality are correct.

In addition to reviewing the air quality comments, Rincon evaluated the comments from Mr. Wolfe on the noise analysis as well as the noise section of the IS/MND and noise report. Based on our review we

recommended the noise analysis be revised to include analyses of construction, on-site noise sources, off-site traffic noise level increases, as well as potential vibration levels during construction.

Mr. Wolfe Letter

The Introductory comments are noted.

Air Quality and Health Effects

The commenter notes that the IS/MND, based on the project characteristics and location, indicates that "there is no possibility of significant health-related emission impacts for future assisted-living facility 'sensitive receptor' residents." The comment states the conclusion is erroneous because the project site is approximately 500 feet from State Highway 227 and within 30 feet of Tank Farm Road. The commenter further notes a concern for future residents due to a potential cumulative air quality and health effect of these sources for other unrelated development in the immediate area. The comment notes the issues identified in the comment are based on the expert opinion of a Mr. Greg Gilbert, of Autumn Wind Associates, an environmental consulting company.

The comment incorrectly summarizes the IS/MND findings in which it was determined the potential air quality impact from toxic air contaminants (TACs), either from existing or future sources, including on- and off-site sources, would be less than significant. The less than significant impact determination indicates that the impact is below the threshold identified by the lead agency for use in the analysis. In this case, the City relies on the expertise of the California Air Resources Board (CARB) and the California Air Pollution Control Officers Association (CAPCOA) in determining the significance of TAC sources. Based on guidance from CARB and CAPCOA, the project would not expose people to undue excess cancer risk, which is defined as a risk of greater than 10 in a million. CARB developed guidance for these assessments in its 2005 handbook, *Air Quality and Land Use Handbook: A Community Health Perspective*, which identified roadways of concern and provided a 100,000 vehicle screening criteria for determining when additional analysis is recommended for siting specific sensitive land uses within approximately 500 feet of major roadways and freeways. CARB states that the 100,000 vehicle screening criterion "is based on research showing that pollutant concentrations decline significantly as you move farther away from pollution sources, including freeways and other busy traffic corridors…" The screening criterion is not a significance threshold. Rather, it is developed to identify when there is an excess cancer risk greater than 10 in a million. This concept and data are supported in the CAPCOA guidance document *Health Risk Assessments for Proposed Land Use Projects* and CARB's 2017 *Technical Advisory: Strategies to Reduce Air Pollution Exposure Near High-Volume Roadways*. The analysis in the IS/MND concludes that the risk would be less than significant at the project level and in a cumulative context based on this screening criterion.

Additional comment and clarification of air quality issues are provided in a detailed response to the memorandum prepared by Autumn Wind Associates, *Comments on Initial Study/Mitigated Negative Declaration, "Northwest Corner" (NWC) Broad & Tank Farm Mixed-Use Commercial / Assisted-Living Center including Vesting Tentative Map #3115*, dated May 3, 2019. The format of the responses to AWA comments is to provide the actual comment (included in italics) with a response immediately following the individual comments.

Noise

The comment indicates that the analysis only evaluates on-site noise compatibility of the project. Rincon reviewed the noise section of the IS/MND and the noise report included as an appendix. Based on our review, the comment is correct, and the noise analysis is focused on compatibility of the project with existing ambient noise levels, but did not address off-site impacts, or in CEQA terms, the project's impact on the environment. Based on additional analysis provided by Rincon, the City has revised the noise and vibration analysis to more directly address the project's impact on the ambient noise environment.

Autumn Wind Associates

At the request of M.R. Wolfe & Associates, Autumn Wind Associates has reviewed the above-referenced Initial Study for the analysis and treatment of potential air emission impacts estimated to result from the development of the proposed NWC Broad & Tank Farm (hereafter "Tank Farm") assisted-living care facility mixed with retail buildings and associated parking. Our comments follow.

The Tank Farm project is proposed for the northwest corner of Tank Farm Road and Broad (State Hwy 227) to be comprised of 139 assisted-living units within a 133,655 square foot assisted-living facility to be located on 4.79 acres. Adjoining the assisted-living facility will be 49,269 square feet of new commercial-shopping retail facilities in 6 buildings, located on 5.28 acres. Parking at both assisted-living and retail land uses will require approximately 280 spaces. Up to 18 employees will serve assisted-living residents at any given time. Of the 6 commercial buildings, two are identified as "retail"; two are "restaurant"; one is "retail-restaurant"; and one is "grocer". Assisted-care facility residents and service employees together with employees in the retail and grocery land uses combine to create a service population of 417. The Initial Study has assumed for its emissions estimates that site preparation and grading would begin September 2019, building construction in February 2020, and final construction with architectural coatings to conclude in December 2021.

The Initial Study has provided a basic review of the project's anticipated environmental impacts, including estimates of the project's construction and operational emissions and their potential to impact air quality. At pg. 13, a project-related air quality impact would be considered significant if it would:

- *Conflict with or obstruct implementation of an applicable air quality plan;*
- *Violate any air quality standard or contribute substantially to an existing or projected violation;*
- *Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable state or federal ambient air quality standard;*
- *Expose sensitive receptors to substantial pollutant concentrations; or*
- *Create objectionable odors*

For the project's construction emissions as calculated with the CalEEMod modeling program, first quarterly ROG and NOx emissions associated with site preparation and grading were predicted to exceed the SLOAPCD's CEQA thresholds of significance unless mitigated with "standard air district measures" designed primarily to reduce onsite diesel construction equipment emissions. With mitigation, the related impact was identified to be less than significant.

Operational emissions estimates were calculated using ITE vehicle trip data for specified land uses, with vehicle fleet characteristics relying on default EMFAC assumptions operating in the background of the CalEEMod land use emissions estimation model. As noted at IS pg. 15, SLOAPCD CEQA thresholds of significance for operational emissions were not estimated to exceeded using selected ITE trip rates and generic CalEEMod fleet information for the area.

The Introductory comments are noted.

However, at IS pg. 15 project-related operational toxic air contaminant (TAC) emissions for the project were determined to be essentially nonexistent based on the project's location (not on a major roadway with 100,000 or more AADT and because the project's proposed land uses would not act as "stationary sources" of toxic emissions; on that basis, the IS' AQ element concludes that there will be no significant health-related emission impacts for future assisted-living facility "sensitive receptor" residents. We disagree with this assumption based on the project's proximity to two busy roadways

with relatively high numbers of routinely operating diesel trucks and buses: Tank Farm Road and State Hwy 227 are located within 30' and 500', respectively, of the proposed project's "sensitive receptor" assisted-living residential units.

The air quality analysis uses industry standard methodologies in the assessment of TAC emissions. The analysis relies on the expertise of CARB and the SLOAPCD in determining air quality impacts. Based on CARB's guidance, the analysis considers the project site's proximity to existing sources of TACs as an initial screening analysis. Because the project site is in proximity to a freeway, the analysis moved to the next level of evaluation and reviewed the traffic volume on the freeway. At this point the analysis determined, based on CARB's recommendations, CAPCOA guidance and similar guidance used throughout the state in the evaluation of air quality impacts, that the traffic volume on the freeway was below the screening criterion of 100,000 AADT and the potential risk to future residents was within the acceptable range and thus impacts are less than significant. The identification of an impact being less than significant does not imply, as the comment suggests, that TACs are "*essentially nonexistent*" rather, it is a statement that the amount that is present is below a level that would be considered "significant" under CEQA. This is similar to other environmental issues where it is recognized that a project would affect the environment; however, the effect is acceptable and would not represent a substantial change in the environment.

In addition, the project as proposed would not have any stationary sources. The SLOAPCD defines stationary sources as "fixed facilities such as: power plants, waste water treatment plants, auto body shops, and landfills." The project does not include any of these uses and if such a use were proposed anywhere in the state, it would be required to apply for a permit to construct and authority to operate that would be reviewed on a regular basis by the applicable air district and modified as needed. As part of the permit process for SLOAPCD, a stationary source would be required to implement prescriptive measures that would reduce any cancer and health risk associated with the source to less than 1 in one million. If the source was not capable of implementing these measures, it would be required to undergo a detailed analysis known as a Health Risk Assessment (HRA) to determine the cancer and health risks to any nearby receptor and to develop performance-based measures that would reduce the risks to an acceptable level.

Contrary to what is suggested, the analysis assesses potential risks, and uses industry standard methods. Furthermore, the findings are consistent with current scientific understanding. The commenter's disagreement with the findings is noted, but this opinion is not supported by evidence.

At IS pg. 15 the CalEEMod-modeled quantity of project-related operational diesel particulate matter (DPM) a toxic air contaminant known to cause cancer and representing roughly 80% of the ambient air-related increased cancer risk to Californians, is estimated at .4 lbs./day as compared with the SLOAPCD threshold of significance at 1.25lbs/day. However, it is important to note that the CalEEMod estimated quantity of DPM at pg. 15 accounts solely for emissions generated by trucks serving the assisted-living operation and the retail land uses at the site, and that it specifically does not account for those potentially significant increased cumulative health risks to result from project-generated DPM (.4 lb/day) combining cumulatively with DPM in ambient air from the relatively high numbers of daily heavy-duty diesel trucks operating on Tank Farm Road and State Highway 227.

In fact, there is no mention or any discussion in the IS' Air Quality element of the SLOAPCD's CEQA cancer risk thresholds of significance, either for the potential health impacts resulting from project-specific TAC emissions or in cumulative combination with DPM emissions generated regularly by diesel trucks operating routinely near the project location. DPM will be emitted regularly by project-serving trucks once the project is operational, and those emissions will combine with nearby truck emissions to increase health risks to levels potentially exceeding the SLOAPCD's TAC significance thresholds. Yet without discussion of the air district's cumulative TAC thresholds or what would, for the proposed project, constitute a cumulatively significant increased cancer risk contribution ("the straw that would break the camel's back"), the IS provides no evidence to justify its determination that the project will not result in cumulatively significant increased health risks for assisted-living facility residents.

The comment misinterprets the SLOAPCD thresholds, which have been developed by SLOAPCD to apply to a project's emissions and are not intended to be evaluated in conjunction with ambient concentrations from existing sources. Additionally, the analysis of DPM is not required for every project, according to the SLOAPCD, "[d]iesel particulate matter (DPM) is seldom emitted from individual projects in quantities which lead to local or regional air quality attainment violations." SLOAPCD provides examples of projects that may have "significant diesel vehicle activity" such as "mining operations, distribution facilities, etc." The proposed mixed-use project would not generate a substantial number of diesel truck trips and would not substantially increase the number of trucks on local or regional roadways. In addition, TACs typically have a short dispersal distance and therefore only combine cumulatively when there are multiple nearby sources (typically within 500 feet). There are no stationary sources of TACs in the project site vicinity. Therefore, the potential cumulative sources of TACs are DPM from truck trips on nearby roadways and truck trips from the proposed project.

The following analysis of background emissions from nearby truck trips is provided for informational purposes:

CARB developed guidance for these assessments in its 2005 handbook, *Air Quality and Land Use Handbook: A Community Health Perspective*, which identified roadways of concern and provided a 100,000 vehicle screening criteria for determining when additional analysis is recommended for siting specific sensitive land uses within approximately 500 feet of major roadways and freeways. For comparison, Highway 227 near the project site carries approximately 15,000 vehicles per day according the2017 Caltrans traffic data. The nearest freeway to the project site is U.S. 101, which is located approximately 1.75 miles (9,000 feet) from the project site and carries approximately 65,000 vehicles per day through the City of San Luis Obispo. Given this distance, DPM emissions from U.S. 101 would be negligible at the project site.

CalEEMod calculates NO_X, ROG, SO_X, CO, CO_2, CH_4, N_2O, $PM_{2.5}$ and PM_{10}. $PM_{2.5}$ and PM_{10} include exhaust and mechanical generation of PM. While the calculations include the exhaust PM, CalEEMod does not provide a calculation of diesel particulate matter (DPM). Thus, the analysis used the reported $PM_{2.5}$ and PM_{10} exhaust emissions as DPM. However, because $PM_{2.5}$ is a subset of PM_{10}, this represents an extremely conservative approach. A more refined estimate would report DPM as a fraction of $PM_{2.5}$, which would be an approximate maximum of 0.0305 lbs/day (based on CARB statewide inventories, DPM is roughly 8 percent of statewide $PM_{2.5}$). Therefore, for disclosure purposes, project emissions would equate to approximately 0.00244 lbs/day of DPM, not 0.4 lbs/day as stated by the commenter.

The project traffic report, which accounts for internal trip capture and trip diversion, identifies that the project's daily trip generation is 1,930 trips. The CalEEMod standard setting for heavy truck (LHDT1, LDH2, MHD, and HHD) vehicle classification in San Luis Obispo County is 6.52 percent of the total trip generation, and this would include both gasoline and diesel fueled trucks. Therefore, 126 truck trips (1,930 trips x 6.52 percent truck trips) is the correct number to use for DPM analysis.

Based on a review of the identified Caltrans truck data (2017_Truck_AADT_Final.xls), about 6.34 percent of the traffic volume on Highway 227 are trucks. There is no range provided and this represents all 2 to 5 axle trucks. However, based on the type of truck identified in the comment, i.e. >14,000 lbs gross vehicle weight rating (GVWR), there would be fewer of these trucks where the Caltrans truck counts include many types trucks including pickups, and smaller delivery trucks that are primarily gasoline fueled. A more accurate method to evaluate the number of diesel trucks operating on Highway 227 is to evaluate the CARB mobile sources emission database, emission factor model (EMFAC). EMFAC indicates that about 1.6 percent of vehicles operating in the County are trucks that exceed 14,000 GVWR and are

fueled by gasoline and diesel. Diesel fueled vehicles with a greater than 14,000 GVWR represent 1.46 percent of the total traffic volume. That would represent approximately 189 diesel-fueled trucks. Each truck would emit an average of 1.94E-05 lbs per truck per day (0.00244 lbs DPM÷126 trucks=1.94E-05 lbs DPM per truck per day). Using the corrected and more accurate truck count estimates (189+126=315 trucks) the project, in combination with existing truck trips on nearby roadways, would result in the total generation of 0.0061 lbs/day, which is substantially below SLOAPCD's 1.25 lbs/day DPM threshold (less than 1% of the threshold). Based on this analysis, there is no cumulative scenario where baseline + cumulative projects would approach the SLOAPCD threshold causing this project to result in an exceedance or a cumulatively considerable impact.

The air quality analysis states and evaluates DPM emissions consistent with SLOAPCD guidelines. As shown in Table 3 of the IS/MND, emissions were well below the SLOAPCD threshold, even with addition of existing baseline emissions from nearby truck emissions. As discussed above, the local thresholds were developed by SLOAPCD to determine the significance of project emissions in the context of existing regional air pollutant concentrations to be protective of human health from localized pollutants under project-level and cumulative conditions. Therefore, the analysis adequately assesses the impacts of DPM from the project, including the cumulative context.

Both qualitatively and quantitatively the number of DPM-emitting trucks operating proximate to the proposed assisted-living facility is relevant to determining the potential significance of increased cancer risks to older sensitive receptors who will live at the assisted-living facility. Unfortunately, the IS provides substantially and unacceptably conflicting estimates for the project's average daily trips (ADT) from which heavy-duty truck trip numbers can be derived. At IS pg. 36, the project's ADT is estimated at 3765. At IS pg. 387 it is estimated at 1930. At IS pg. 344 emissions estimates for onroad mobile sources were based on 2313 .89 average trips per weekday.

The ADT of 3,765 in the IS/MND appears to be a typographical error. The traffic report identifies a total of 2,338 vehicle trips, which is the same as the CalEEMod calculation using ITE rates with the discrepancy between 2,338 and 2,313.89 due to rounding of the trip rates to whole number in the traffic analysis. However, the traffic report applies internal trip capture and trip diversion to reduce the daily trip generation to 1,930 trips. 1,930 trips is the correct number for determining traffic impacts and the use of the 2,313.89 by the air quality and greenhouse gas (GHG) analyses represents a conservative analysis since it accounts for a greater amount of vehicle miles traveled than assumed for the traffic analysis. The CalEEMod standard setting for heavy truck (LHDT1, LDH2, MHD, and HHD) vehicle classification in San Luis Obispo County is 6.52 percent of the total trip generation, and this would include both gasoline and diesel fueled trucks. Therefore, 126 truck trips (1,930 trips x 6.52 percent truck trips) is the correct number to use for DPM analysis and, is used in the above informational analysis. As shown therein, project truck trips in combination with existing nearby truck trips would not result in emissions that would exceed SLOAPCD's DPM threshold.

If the AADT value of3765 is accurate, the CalEEMod emissions estimates found in the IS would be low by 39% based on the discrepancy; this is a potentially significant underestimate, particularly for evaluating the potential for DPM from project-serving diesel vehicles to combine with heavier-than-average diesel concentrations in the project vicinity due to increased truck traffic (primarily on State Hwy 227).

As stated above, the 3,765 is not accurate and thus the subsequent analysis in the following comments is based on incorrect traffic data. Additionally, the analysis of emissions for air quality and GHG analysis uses a conservative trip generation estimate and thus emissions are not underestimated.

To estimate diesel truck trips proximate to the project we obtained Caltrans AADT estimates for Hwy 227 between its northern terminus and Crestmont Drive. AADT on Hwy 227 at Crestmont is 14,200 and 11,000 on the portion immediately to the north where the Hwy begins. The average AADT of these two values is 12,600.

Comment noted.

To derive the numbers of heavy-duty trucks (14000 lbs GVWR) nearest Tank Farm Road on Hwy 227, we utilized the nearest Caltrans AADT for heavy-duty trucks (Edna/227, just south of the project area); truck counts at that location range (east v. west off of 227) between 6% -8% of total AADT. Assuming an average heavy-duty truck proportion of 7% of all AADT applied to the average AADT of 12,600 vehicles/day for traffic on Hwy 227 nearest the project site, the numbers of heavy-duty trucks operating each day is estimated to be 882.

As described above, diesel fueled vehicles with a greater than 14,000 GVWR represent 1.46 percent of the total traffic volume, which represents approximately 189 diesel-fueled trucks. SLOAPCD does not direct lead agencies to evaluate existing conditions from truck traffic and this data is not relevant to the SLOAPCD DPM threshold, which was developed to apply to a project's emissions to identify projects that would result in an excess cancer risk greater than 10 in a million. As described above, project truck trips in combination with existing nearby truck trips would not result in emissions that would exceed SLOAPCD's DPM threshold.

Added to this best-guess estimate in the absence of any truck trip discussion in the IS will be heavy-duty diesel trucks that pass on Tank Farm Road within 30' of the project's assisted-living residents' living quarters. The great majority of heavy-duty trucks are diesel-powered, and additional heavy-duty truck traffic will occur each day on Tank Farm Road; we have requested related truck trip information from the City and continue to await their response. Alternatively, total "Average Daily Motor Vehicle Volume" is made available in the City's ARCGIS traffic data system at (Web address)

Comment noted

Tank Farm Road is a major city thoroughfare with 16,774 vehicle trips/day. Using CalEEMod's generic ~ 14% share of the total onroad vehicle fleet for heavy-duty vehicle types, approximately 2348 heavy-duty predominantly diesel-powered vehicles would be expected to operate on Tank Farm Road each day in addition to the 882 derived from Caltrans AADT data for Hwy 227 nearest the project. Using this approach, combined diesel truck emissions proximate to the project area would result from 3230 truck trips/day.

The CalEEMod standard setting for heavy truck (LHDT1, LDH2, MHD, and HHD) vehicle classification in San Luis Obispo County is 6.52 percent of the total trip generation, and this would include both gasoline and diesel fueled trucks. Please see pages 213, 249, or 279 of the IS/MND for a breakdown of the vehicle classification mix. Alternately, the data is provided in the appendices of the air quality study on page 26 of the annual emissions estimates, and page 25 of the winter and summer emissions estimates. Based on these data sets, CalEEMod does not use the approximately 14% trucks vehicle mix identified in the comment. Additionally, data from EMFAC better represents the County as opposed to using data from a project level emissions estimation model that uses conservative assumptions in estimating air emissions. This data is used for the informational analysis of the project's DPM emissions in combination with existing emissions from nearby truck trips included above. As shown therein, project truck trips in combination with existing nearby truck trips would not result in emissions that would exceed SLOAPCD's DPM threshold.

As noted above, CalEEMod relies on vehicle fleet information to estimate a project's share of on road vehicle emissions. IS pg. 213 of 428 shows that of all 13 on road vehicle classes, from the lightest-duty passenger vehicles up through the heaviest class of heavy-duty trucks, the heavy-duty vehicles which are predominantly diesel powered (over 14000 lb. GVWR) comprise very close to 14% of the *total fleet mix. Multiplying the 3765 average annual trips/day for the project identified at IS pg. 36 by .14 to estimate the number of heavy-duty, predominantly diesel vehicles operating to, from, and for the project each day yields 527. These 527 "worst-case", predominantly heavy-duty, DPM-emitting diesel vehicles serving the operational project each day would represent only a minor portion of all diesel vehicles operating within 500' of the project's assisted-living sensitive receptors.*

As stated above, the comment incorrectly identifies the percentage of trucks and uses the incorrect trip generation. A more accurate truck count would be on the order of 126 trucks from the project.

When added to the 882 heavy-duty truck trips/day we derived above for Hwy 227, total "worst-case" DPM with the potential to cause an exceedance of the SLOAPCD's 89 increased cancers per million TAC risk threshold would be generated by ~ 1400 heavy-duty vehicles operating in proximity to the project's sensitive receptors. The higher bound estimate, using

non-project initiated daily truck trips derived above for AADT on Tank Farm Road, pushes that total diesel truck daily trip value up substantially.

Please see previous comments on the accuracy of the data used and applicability of the SLOAPCD DPM threshold.

In the absence of any DPM-related analysis and discussion in the IS' Air Quality element our "best guess" estimation process reflects the potential for cumulative DPM exposures to the project's assisted-living sensitive residents to result from roughly 1400 to over 3000 predominantly diesel vehicles operating routinely and proximately; the related increase in cumulative TAC health risks in the immediate vicinity of project residents will combine additively with background DPM for the larger area. While DPM-related health risks for the larger area are pre-existing, project-related DPM will combine with those to create even greater cumulative health risks. Unfortunately, no discussion is found in the IS regarding this potentially significant health risk impact issue.

The air quality analysis and IS/MND include an analysis of DPM and determine that impacts would be less than significant.

Recent court decisions that place most pre-existing environmental conditions outside the purview of proposed-project CEQA review will not pre-empt CEQA's mandate for a cumulative impact assessment where there is a potential that a project's impacts which are not individually significant may nonetheless constitute a considerable contribution to a significant cumulative impact. As we have noted, however, the IS appears to have failed to describe in any measure what would constitute a considerable contribution to cumulative TAC-related health risk, nor does it provide the SLOAPCD's TAC thresholds of significance or any related discussion of whether the project's TAC impacts will exceed the air district's cumulative TAC threshold.

The air quality analysis and IS/MND include an evaluation of DPM and determine that impacts would be less than significant. The project would not have a cumulatively considerable impact on air quality.

Based on our "best guess" approach in the absence of substantive TAC-related information in the IS, heavy-duty truck trips/day range of about 1400 -3000 proximate to the project. Given the relatively high toxicity of diesel emissions from the potentially high numbers of diesel vehicles that will operate routinely on State Highway 227 and on Tank Farm Road there exists clear potential for significant health risk impacts to the project residents, and therefore a comprehensive health risk assessment (HRA) must be prepared. Without an accurate HRA, the Lead Agency and the public cannot be assured that the project will not exceed relevant acute and chronic health risk thresholds of significance.

As previously indicated, the DPM analysis provided in the comment uses erroneous information and incorrect data for determining potential DPM emissions from existing and future sources. The comment also misapplies the SLOAPCD threshold to existing emission sources.

As noted in the above DPM analysis provided for informational purposes, the project, in combination with nearby truck trips, would result in DPM emissions of approximately 0.0061 lbs/day, which is well below SLOAPCD's 1.25 lbs/day DPM threshold.

At IS pg. 187, the report by Rincon Consultants, Inc. states that air quality mitigations for construction emissions "would provide for the use of' lower-emitting equipment. "Would provide for" simply means in real-world terms that MM-AQ-l and MM-AQ-2 are voluntary measures and not mandatory since the statement would otherwise be written as "must provide for" or similar.

As stated in the IS/MND, standard construction equipment mitigation measures and BACT measures have been developed by SLOAPCD to enhance the consistency of projects with the goals and policies of the Clean Air Plan, and SLOAPCD has identified the measures as contributing to achieving and maintaining attainment of State and federal ambient air quality standards. The mitigation measures in the IS/MND are taken directly from the SLOAPCD. Nevertheless, the comment is noted. Please see revised language for air quality mitigation measures in the IS/MND.

Additionally, at IS pg. 185, the Rincon report used to estimate the project's emissions and their potential to cause impacts has AQ mitigation measures listed under the heading "Recommendations". Recommended use of AQ-l and AQ-2 means that the measures are discretionary, and therefore will fail to provide the certainty of actual emission reduction benefits

required under CEQA Guidelines. In real-world terms a "recommended" mitigation is not enforceable and can be expected to be ignored by construction fleet operators operating routinely older, more fully capitalized higher-emitting onroad and offroad diesel vehicles.

Comment noted. Please see revised language for air quality mitigation measures.

At IS pg. 14, air quality mitigation measures to reduce the project's significant emission impacts to less than significant levels "are recommended"---but not required. Recommended mitigations are no more enforceable for actual emission reductions than mitigation components without metrics to measure real progress, or those that rely on discretionary implementation with use of terms such as "recommended", "may", "should", "could", etc.

Comment noted. Please see revised language for air quality mitigation measures.

At IS pg. 15, the component parts of Mitigation Measure AQ-I "shall be implemented" as part of the project's approval process, yet one of the components renders the entire mitigation measure unenforceable due to its discretionary nature:

"Construction or trucking companies with fleets that do not have engines in their fleet that meet the engine standards identified in the above two measures (e.g. captive or NOX exempt area fleets) ***may be eligible by proving alternative compliance****" (emphasis added).*

No information is provided with this option to indicate what "alternative compliance" will provide the quantities of pollutant reductions necessary to legitimize the IS' claim that the project's construction emission impacts will be reduced to less than significant levels, nor is there any metric to ensure such.

The California Supreme Court recently held in the Sierra Club v. County of Fresno, also known as the Friant Ranch case, that performance standards are applicable and suitable for mitigation measures as the people who would be implementing the measures would by nature have an understanding of the equipment specifications or other relevant data. Furthermore, the court stated that "allowing future substitutions for equal or more efficient technology to mitigate a project's acknowledged significant effects promotes CEQA's goal of environmental protection and is not an impermissible deferral of mitigation or an abuse of discretion. It is simply a recognition that substitutions of adopted mitigation measures may be implemented to further minimize the Project's environmental impacts." Therefore, the mitigation included in the IS/MND is sufficient under CEQA to provide enforceable mitigation measures.

As stated in the IS/MND, SLOAPCD does not quantify the potential emission reductions achieved by the identified mitigation measures. The California Supreme Court held that mitigation measures need not include precise quantitative performance standards, but they must be at least partially effective, even if they cannot mitigate significant impacts to a less than significant level. The SLOAPCD has determined the identified mitigation is effective even if it is not quantified. Additionally, mitigation measure AQ-2 is quantified and indicated emissions would be reduced to a less than significant level. Thus, quantification demonstrating that proposed mitigation would reduce impacts to a less than significant level has been provided. To address the comment on enforceability, the mitigation measures have been modified to require their implementation.

Finally, no information is found in the IS regarding what agency will enforce AQ mitigation claimed to reduce the project's significant emissions to less than significant levels. The offroad equipment mitigation appears to only recommend use of Tier 3 and 4 offroad equipment for the initial and relatively higher emitting phases of project construction, while onroad diesel vehicles are recommended to operate at 2007 or later model years. The IS fails to assign responsibility to the SLOAPCD's enforcement personnel who should be capable of identifying and confirming Tier 3 and 4 offroad engines, and 2007 and later heavy-duty diesel trucks. It is very unlikely that City code enforcement personnel are trained to confirm use of those types of equipment necessary to produce the claimed emission benefits for AQ-I and AQ-2, nor does the IS state that the City would be responsible for their enforcement. Similarly, while other CEQA projects around CA have mandated similar measures and required the use of a qualified environmental coordinator to ensure such reductions throughout the project's construction process, no such requirement is found in the Tank Farm IS.

Comment noted. Please see revised language for air quality mitigation measures.

> *As written, the AQ mitigation measures identified and described in the IS appear to be unenforceable due to discretionary language use, fail to provide the necessary metrics to measure real emission reductions needed to justify the IS' claim of less-than-significant emission impacts, and provide no direction on what responsible, qualified party will be used to ensure their effective implementation.*

Comment noted. Please see revised language for air quality mitigation measures.

> *For all these reasons, there is no basis in fact upon which to conclude the project will have no significant air quality or human health effects.*

Comment noted. Based on the above, the IS-MND provides factual evidence supporting the conclusion that the project's impacts related to air quality and human health would be less than significant.

Conclusion

The comments from Mr. Wolfe on the air quality analysis incorrectly summarize the IS/MND findings related to TACs. However, most of the air quality comments are based on AWA comments and are addressed in the AWA responses. The comments from Mr. Wolfe on the noise analysis reflect that the noise analysis did not include an evaluation of off-site noise impacts. Based on our review we recommended the noise analysis be revised to include analyses of construction, on-site noise sources, off-site traffic noise level increases, as well as potential vibration levels during construction. These components were included in the IS-MND prepared by the City, including standard construction mitigation measures N-1 (Sound Wall and or Special Building Considerations South Elevation Assisted Living Facility), N-2 (Construction Equipment Best Management Practices), and N-3 (Neighboring Property Owner Notification and Construction Noise Complaints) to ensure that construction noise would result in less than significant impacts at nearby noise-sensitive receptors. Operational noise impacts were determined to be less than significant without the need for mitigation.

As indicated, the air quality issues raised by Mr. Wolfe are based primarily on AWA comments. However, AWA comments are premised on a misinterpretation of the San Luis Obispo Air Pollution Control District (SLOAPCD) air quality thresholds and a typographical error. Specifically, AWA attempts to draw a cumulative impact conclusion based on 1) a project level threshold for projects involving a high number of truck trips (e.g. mining or a distribution facility), 2) a misquote of the project related traffic generation, which was correctly stated in the traffic report, to create the impression the project would result in a high volume of truck traffic. The commenter then attempts to use the project level threshold and the overestimated truck traffic to argue the project would result in health impacts to existing residents in the project area, future resident of the project, and residents that may move into future development not part of the project. Rincon provided explanations on a point-by-point basis disclosing incorrect assumptions and misinterpretations of the CEQA process as outlined in the SLOAPCD CEQA Air Quality Handbook and why the findings of the IS/MND related to air quality are correct, and impacts associated with TACs would be less than significant at the project level and in a cumulative context.

Thank you for the opportunity to provide responses to public comments on the IS/MND for the project. If you have any questions about this proposal, please do not hesitate to contact me via email (bmaddux@rinconconsultants.com) or by phone at (760) 918-9444, extension 2038.

Sincerely,

Rincon Consultants, Inc.

William A. Maddux
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