

CALIFORNIA ENVIRONMENTAL QUALITY ACT STATEMENT OF FINDINGS

The Department of Toxic Substances Control (DTSC) has issued Findings for this project pursuant to the California Environmental Quality Act (CEQA; California Public Resources Code, Division 13, Section 21081) and implementing Guidelines (California Code of Regulations, Title 14, Division 6, Chapter 3, Sections 15091 et seq.)

A. PROJECT SUBJECT TO DTSC APPROVAL

PROJECT TITLE: Final Removal Action Workplan for Skipolini Properties (Inez Estates Subdivision # 9435)		CALSTARS CODING:
PROJECT ADDRESS: 7281 Lone Tree Way	CITY: Brentwood	COUNTY: Contra Costa
PROJECT SPONSOR: Cyrus Land Investments	CONTACT: Mary Laux	PHONE/ EMAIL: (925) 407-5102 mlaux@jacquelineeseenohomes.com

APPROVAL ACTION UNDER CONSIDERATION BY DTSC:			
<input type="checkbox"/> Initial Permit Issuance	<input type="checkbox"/> Permit Renewal	<input type="checkbox"/> Permit Modification	<input type="checkbox"/> Closure Plan
<input checked="" type="checkbox"/> Removal Action Workplan	<input type="checkbox"/> Remedial Action Plan	<input type="checkbox"/> Interim Removal	<input type="checkbox"/> Regulations
<input type="checkbox"/> Other (specify):			

STATUTORY AUTHORITY:
<input type="checkbox"/> California H&SC, Chap. 6.5 <input checked="" type="checkbox"/> California H&SC, Chap. 6.8 <input type="checkbox"/> Other (specify):

PROJECT DESCRIPTION
<p><u>Project Description:</u> The proposed project activities involve excavation, removal, and offsite disposal of approximately 800 to 1,000 cubic yards (cy) of lead-contaminated soil. Project activities would be accomplished through approval and implementation of a Removal Action Workplan (RAW) for lead-impacted soils at the Skipolini Properties (Site).</p> <p><u>Background:</u> The project applicant, Inez Estates, LLC, proposes to subdivide a 4.08-acre site into 8 single-family residential parcels and one lettered parcel (Parcel A, totaling approximately 1.08 acres, to be retained by the project applicant). The project Site will also include three (3) onsite bioretention areas, and other related site improvements. The Site currently consists of undeveloped fallow land. Review of historical records indicates that the Site was occupied by residential structures between 1949 and 2003 and that the structures were demolished in 2003; the Site has remained undeveloped since. Historical aerial photographs also indicate a portion of the parcel consisted of orchards. DTSC is overseeing cleanup at the Site under a Standard Voluntary Agreement with Inez Estates, LLC.</p> <p><u>Project Activities:</u> As described in the RAW, the project activities will involve excavation and transportation of lead impacted soil to an appropriate, permitted off-site facility for disposal. A total of 84 truck trips occurring over 2 weeks will be required for excavating and transporting the contaminated soil. Excavation will include operation of heavy equipment such as loaders, backhoes, and/or other appropriate equipment. The cleanup will include the following specific activities:</p> <ul style="list-style-type: none"> • Excavation of approximately 800 to 1,000 cubic yards of lead-impacted soil, • Stockpiling of the excavated soil for landfill profiling, • Transportation of the lead-impacted soil to an appropriate permitted disposal facility, and • Collection of confirmation soil samples across the excavation area to verify the removal of lead-impacted soil.

DTSC utilized information and analysis in the Initial Study and Mitigated Negative Declaration (ISMND) for the Inez Estates Subdivision (dated January 2023) to support a final determination about the type of environmental document required to be prepared for the proposed Skipolini Properties Removal Action Workplan as provided by Sections 15162, 15163, and 15164 of the CEQA Guidelines. Specifically, the ISMND analyzed potential impacts related to lead contaminated soils in Section IX (Hazards and Hazardous Materials) and potential impacts related to grading and construction in Section III (Air Quality), Section IV (Biological Resources), Section V (Cultural Resources), Section VII (Geology and Soils), Section VIII (Greenhouse Gas Emissions), Section XIII (Noise), Section XVII (Transportation), and Section XVIII (Tribal Cultural Resources).

B. LEAD AGENCY ENVIRONMENTAL DOCUMENT REVIEWED

Lead Agency: City of Brentwood

Lead Agency Environmental Document Title: Initial Study and Mitigated Negative Declaration for the Inez Estates Subdivision

Date Certified: April 4, 2023

State Clearinghouse Number: 2020069040

C. STATEMENT OF FINDINGS AND FACTS FOR ADEQUACY OF LEAD AGENCY ENVIRONMENTAL DOCUMENT

Using its independent judgment, DTSC makes the following findings:

The Lead Agency Final Environmental Document includes a description of the Project now before DTSC for decision

The Lead Agency Final Environmental Document adequately analyzed impacts associated with the Project before DTSC for decision.

DTSC concurs with the findings made by the Lead Agency Final Environmental Document relating to the Project before DTSC for decision.

Mitigation measures are included in the Lead Agency Final Environmental Document for the following resources that would potentially be affected by the DTSC project and have been or will be implemented by the project proponent:

<input type="checkbox"/> Aesthetics	Mitigation Measure: None
<input type="checkbox"/> Agricultural Resources	Mitigation Measure: None
<input checked="" type="checkbox"/> Air Quality	Mitigation Measures AIR-1 through AIR-4: refer to the Inez Estates Subdivision Mitigated Negative Declaration (January 2023).
<input checked="" type="checkbox"/> Biological Resources	Mitigation Measures BIO-1 through BIO-3: refer to the Inez Estates Subdivision Mitigated Negative Declaration (June 2020).
<input checked="" type="checkbox"/> Cultural Resources	Mitigation Measures CUL-1 and CUL-2: refer to the Inez Estates Subdivision Mitigated Negative Declaration (January 2023).
<input type="checkbox"/> Energy	Mitigation Measure: None
<input type="checkbox"/> Geology/ Soils	Mitigation Measure: None
<input type="checkbox"/> Greenhouse Gas Emissions	Mitigation Measure: None
<input checked="" type="checkbox"/> Hazards/Hazardous Materials	Mitigation Measure HAZ-1 through HAZ-3: refer to the Inez Estates Subdivision Mitigated Negative Declaration (January 2023).
<input type="checkbox"/> Hydrology/ Water Quality	Mitigation Measure: None
<input type="checkbox"/> Land Use/Planning	Mitigation Measure: None
<input type="checkbox"/> Mineral Resources	Mitigation Measure: None

<input checked="" type="checkbox"/> Noise	Mitigation Measure NOI-1 through NOI-3: refer to the Inez Estates Subdivision Mitigated Negative Declaration (January 2023).
<input type="checkbox"/> Population/Housing	Mitigation Measure: None
<input type="checkbox"/> Public Services	Mitigation Measure: None
<input type="checkbox"/> Recreation	Mitigation Measure: None
<input type="checkbox"/> Transportation/Traffic	Mitigation Measure: None
<input checked="" type="checkbox"/> Tribal Cultural Resources	Mitigation Measure TRI-1: refer to the Inez Estates Subdivision Mitigated Negative Declaration (January 2023).
<input type="checkbox"/> Utilities/ Service Systems	Mitigation Measure: None
<input type="checkbox"/> Wildfires	Mitigation Measure: None

Mitigation measures identified in the Lead Agency Final Environmental Document have been adopted by DTSC for this Project and have been or will be implemented by the project proponent to avoid, reduce, or substantially lessen the project impacts. No additional mitigation measures are necessary, and no additional mitigation monitoring plan is required pursuant to CEQA.

For each significant environmental effect identified for the Project:

Changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effects as identified in the Lead Agency Final Environmental Document.

Such changes or alterations are within the responsibility and jurisdiction of City of Santa Clara and not DTSC.

Such changes have been adopted by this public agency or can and should be adopted by this public agency.

Mitigation measures included in the Lead Agency Final Environmental Document are infeasible, and therefore, will not be incorporated into the DTSC Project for the following reasons:

Based on the above findings, DTSC concludes:

The proposed Project will not result in significant and unavoidable effects to the environment.

The proposed Project will result in significant and unavoidable effects to the following environmental resources:*

- Aesthetics
- Agricultural Resources
- Air Quality
- Biological Resources
- Cultural Resources
- Geology/ Soils
- Greenhouse Gas Emissions
- Hazards/Hazardous Materials
- Hydrology/ Water Quality
- Land Use/Planning
- Mineral Resources
- Noise
- Population/Housing
- Public Services
- Recreation
- Transportation/Traffic
- Utilities/ Service Systems

*Impacts to these resources would remain significant even after applying mitigation measures described in the Lead DTSC 1326 A

Agency Final Environmental Document, or there is no feasible mitigation available.

*In accordance with Cal. Code of Regs., title 14, section 15093, a Statement of Overriding Considerations was adopted by the Lead Agency for these resources. DTSC adopts a Statement of Overriding Considerations for these resources having determined that the DTSC Project benefits outweigh the significant environmental effects for the following reasons:

None of the conditions requiring a subsequent EIR or Negative Declaration pursuant to Cal. Code Regs., title 14 Section 15162 exist.

In accordance with Cal. Code of Regs., title 14, section 15093, a Notice of Determination indicating the results of said Findings will be filed with the Governor’s Office of Planning and Research/ State Clearinghouse.

D. CERTIFICATION



June 27, 2024
Date

Project Manager Signature

Parag Shah
Project Manager Name

Hazardous Substances Engineer
Project Manager Title

(510) 540-3827
Phone #



June 27, 2024
Date

Supervisor Signature

Marikka Hughes
Supervisor Name

Branch Chief
Supervisor Title

(510) 540-3926
Phone #

Mitigation Measures from the Inez Estates Subdivision Mitigated Negative Declaration (January 2023)

Air Quality

Mitigation Measure AIR-1: Prior to the issuance of a grading permit, the Applicant/Developer shall prepare an Erosion Prevention and Dust Control Plan. The plan shall be followed by the project's grading contractor and submitted to the City of Brentwood's Public Works Department, which will be responsible for field verification of the plan during construction.

The plan shall comply with the City's grading ordinance and shall include the following control measures and other measures as determined by the Public Works Department to be necessary in order to achieve full compliance with the City's grading ordinance:

- Cover all trucks hauling construction and demolition debris from the site;
- Water all exposed or disturbed soil surfaces at least twice daily;
- Use watering to control dust generation during demolition of structures or break-up of pavement;
- Pave, apply water three time daily, or apply (non-toxic) soil stabilizers on all unpaved parking areas and staging areas;
- Sweep daily (with water sweepers) all paved parking areas and staging areas;
- Provide daily clean-up of mud and dirt carried onto paved streets from the site;
- Enclose, cover, water twice daily or apply non-toxic soil binders to exposed stockpiles (dirt, sand, etc.);
- Limit traffic speeds on unpaved roads to 15 mph;
- Install sandbags or other erosion control measures to prevent silt runoff to public roadways;
- Replant vegetation in disturbed areas as quickly as possible;
- Install wheel washers for all exiting trucks, or wash off the tires or tracks of all trucks and equipment leaving the site;
- Install wind breaks, or plant trees/vegetative wind breaks at windward side(s) or construction areas;
- Suspend excavation and grading activity when winds (instantaneous gusts) exceed 25 mph;
- Limit the area subject to excavation, grading, and other construction activity at any one time;
- Unnecessary idling of construction equipment shall be avoided;
- Equipment engines shall be maintained in proper working condition per manufacturers' specifications;
- During periods of heavier air pollution (May to October), the construction period shall be lengthened to minimize the amount of equipment operating at one time, provided construction occurs within the hours allowed by the City of Brentwood Municipal Code and General Plan;
- Where feasible, the construction equipment shall use cleaner fuels, add-on control devices and conversion to cleaner engines.

Mitigation Measure AIR-2: To the extent feasible, construction employees shall be hired from local populations, since it is more likely that they have been previously exposed to the fungus which causes Valley Fever and are therefore immune.

Mitigation Measure AIR-3: During periods of high dust in the grading phase, defined as dust emission occurring from wind speeds in excess of 10 mph, crews must use National Institute for Occupational Safety and Health (NIOSH) approved N95 masks or better or other more stringent measures in accordance with the California Division of Occupational Safety and Health regulations.

Mitigation Measure AIR-4: The operator cab of grading and construction equipment must be enclosed and air-conditioned.

Biological Resources

San Joaquin Kit Fox

Mitigation Measure BIO-1: Prior to any ground disturbance, a qualified biologist shall conduct a preconstruction survey for San Joaquin kit fox. Preconstruction surveys will be conducted within 30 days of ground disturbance. Preconstruction survey requirements include but are not limited to mapping of all dens within the project site footprint and within a 250-foot radius of the project site, and the provision of written survey results to the USFWS within five working days after surveying. If San Joaquin kit foxes and/or suitable dens are identified in the survey area, the applicant shall consult with the USFWS and CDFW to establish a mitigation plan that meets the requirements established within the USFWS

Standardized Recommendations for Protection of the endangered San Joaquin Kit Fox Prior to or During Ground Disturbance. Ground disturbing activities shall not commence until the USFWS and CDFW verify that all required mitigation and avoidance measures have been properly implemented.

Burrowing Owl

Mitigation Measure BIO-2A: Prior to any ground disturbance related to activities covered under the ECCCHCP, a preconstruction survey of the 4.08-acre development plan area shall be completed. The surveys shall establish the presence or absence of western burrowing owl and/or habitat features, and evaluate use by owls in accordance with CDFW survey guidelines.

An approved biologist will conduct a preconstruction survey in areas identified in the planning surveys as having potential burrowing owl habitat. The surveys will establish the presence or absence of western burrowing owl and/or habitat features and evaluate use by owls in accordance with CDFW survey guidelines (California Department of Fish and Game 1995). On the parcel where the activity is proposed, the biologist will survey the proposed disturbance footprint and a 500-foot radius from the perimeter of the proposed footprint to identify burrows and owls. Adjacent parcels under different land ownership will not be surveyed. Surveys should take place near sunrise or sunset in accordance with CDFW guidelines. All burrows or burrowing owls will be identified and mapped. Surveys will take place no more than 30 days prior to construction. During the breeding season (February 1—August 31), surveys will document whether burrowing owls are nesting in or directly adjacent to disturbance areas. During the nonbreeding season (September 1—January 31), surveys will document whether burrowing owls are using habitat in or directly adjacent to any disturbance area. Survey results will be valid only for the season (breeding or nonbreeding) during which the survey is conducted. If burrowing owls and/or burrows are identified in the survey area, Mitigation Measure 3B shall be implemented. If burrowing owls and/or suitable burrows are not discovered, then further mitigation is not necessary.

Mitigation Measure BIO-2B: If burrowing owls are found during the breeding season (February 1— August 31), the project proponent will avoid all nest sites that could be disturbed by project construction during the remainder of the breeding season or while the nest is occupied by adults or young. Avoidance will include establishment of a non-disturbance buffer zone (described below). Construction may occur during the breeding season if a qualified biologist monitors the nest and determines that the birds have not begun egg-laying and incubation or that the juveniles from the occupied burrows have fledged. During the nonbreeding season (September 1 —January 31), the project proponent should avoid the owls and the burrows they are using, if possible. Avoidance will include the establishment of a buffer zone (described below). During the breeding season, buffer zones of at least 250 feet in which no construction activities can occur will be established around each occupied burrow (nest site). Buffer zones of 160 feet will be established around each burrow being used during the nonbreeding season. The buffers will be delineated by highly visible, temporary construction fencing, if occupied burrows for burrowing owls are not avoided, passive relocation will be implemented. Owls should be excluded from burrows in the immediate impact zone and within a 160-foot buffer zone by installing one-way doors in burrow entrances. These doors should be in place for 48 hours prior to excavation. The project area should be monitored daily for 1 week to confirm that the owl has abandoned the burrow. Whenever possible, burrows should be excavated using hand tools and refilled to prevent reoccupation (California Department of Fish and Game 1995). Plastic tubing or a similar structure should be inserted in the tunnels during excavation to maintain an escape route for any owls inside the burrow.

Covered Migratory Birds

Mitigation Measure BIO-3: Prior to any ground disturbance a pre-construction survey for covered migratory birds shall be completed. This survey shall be conducted in the morning or evening hours within 30 days prior to any construction activities. The entire site and surrounding vegetation, will be surveyed for birds, nests and nesting behavior. Common nesting behavior by birds includes; collecting nesting materials, bringing food items to a nest and vocalizations from young or from adults to attract a mate and to establish or defend a nesting territory. A construction-free buffer of suitable dimensions must be established around any active migratory bird nests (up to 250 feet, depending on the location and species) for the duration of the project or until it has been determined by a qualified ornithologist that the chicks have fledged and are independent of their parents.

Cultural Resources

Mitigation Measure CUL-1: Prior to grading permit issuance, the developer shall submit plans to the Community Development Department for review and approval which indicate (via notation on the improvement plans) that if historic

and/or cultural resources are encountered during site grading or other site work, all such work shall be halted immediately within the area of discovery and the developer shall immediately notify the Community Development Department of the discovery. In such case, the developer shall be required, at their own expense, to retain the services of a qualified archaeologist for the purpose of recording, protecting, or curating the discovery as appropriate. The archaeologist shall be required to submit to the Community Development Department for review and approval a report of the findings and method of curation or protection of the resources. Further grading or site work within the area of discovery would not be allowed until the preceding work has occurred.

Mitigation Measure CUL-2: Pursuant to California Health and Safety Code §7050.5(c), if human bone or bone of unknown origin is found during construction, all work shall stop within 100 feet of the find and the Contra Costa County Coroner shall be contacted immediately. If the remains are determined to be Native American, then per California Public Resources Code §5097.98, the coroner shall notify the Native American Heritage Commission, who shall notify the person believed to be the most likely descendant. The most likely descendant shall work with the contractor to develop a program for reinterment of the human remains and any associated artifacts. Additional work is not to take place within 100 feet of the find until the identified appropriate actions have been implemented.

Hazards and Hazardous Materials

Mitigation Measure HAZ-1: The project proponent shall implement soil excavation and disposal in accordance with section 4.3.3 Alternative 3 Soil Excavation/Off-site Disposal and section 5.0 Removal Action Implementation, as detailed in the Removal Work Action Plan included in Appendix H of this IS/MND. Prior to implementation of ground disturbing activities, a grading permit shall be obtained with the City of Brentwood for approval. Excavation work shall be conducted by a licensed grading contractor with current hazardous material certifications. Work activities will be conducted Monday – Friday between 7:00 AM and 6:00 PM.

Mitigation Measure HAZ-2: Prior to the transportation and disposal of contaminated soils, a hauling plan/permit shall be submitted to the City of Brentwood for approval. Transportation and disposal of soils shall be conducted in accordance with the Transportation Plan identified in Appendix B of the Removal Action Work Plan.

Mitigation Measure HAZ-3: Upon completion of soil excavation, disposal, and confirmation sampling, the project proponent shall prepare a Removal Action Completion Report documenting Site activities. The report shall provide all compiled laboratory data and disposal manifests for the project. The report shall be signed by a California Professional Engineer and/or Professional Geologist. The report shall be submitted to DTSC for review and approval. The City of Brentwood shall not permit any additional site grading or earthwork on the subject parcel until the City has received confirmation from DTSC that the remediation efforts have been satisfactorily completed, as required by the conditions established in both the RAW and VCA.

Noise

Mitigation Measure NOI-1: Prior to approval of project improvement plans, the improvement plans for the proposed project shall show an eight-foot high masonry sound wall along the north boundary of the site, adjacent to The wall shall be constructed of materials that will achieve exterior noise levels of 65 dB Ldn, per the approval of the City Engineer and shall be constructed prior to the issuance of the first building permit. The approximate locations of the wall is shown on Figure 7.

Mitigation Measure NOI-2: Construction activities shall be limited to the hours set forth below:

Monday-Friday 7:00 AM to 6:00 PM

Saturday 8:00 AM to 5:00 PM

Construction shall be prohibited on Sundays and City holidays. These criteria shall be included in the grading plan submitted by the applicant/developer for review and approval of the Director of Public Works/Engineering prior to issuance of grading permits. Exceptions to allow expanded construction activities shall be reviewed on a case-by-case basis as determined by the Chief Building Official and/or City Engineer, and shall not be allowed on any date or time that would violate the City's applicable noise standards.

Mitigation Measure NOI-3: The project contractor shall ensure that the following construction noise BMPs are met on-site during all phases of construction:

- All equipment driven by internal combustion engines shall be equipped with mufflers, air-inlet silencers where appropriate, and any other shrouds, shields, or other noise-reducing features in good operating condition that meet or exceed original factory specifications. Mobile or fixed “package” equipment (e.g., arc welders, air compressors) shall be equipped with shrouds and noise-control features that are readily available for that type of equipment.
- All mobile or fixed noise-producing equipment used on the project site that are regulated for noise output by a federal, state, or local agency shall comply with such regulations while in the course of project activity.
- The construction contractor shall utilize “quiet” models of air compressors and other stationary noise sources where technology exists.
- At all times during project grading and construction, stationary noise-generating equipment shall be located as far as practicable from sensitive receptors and placed so that emitted noise is directed away from residences.
- Unnecessary idling of internal combustion engines shall be prohibited.
- Construction staging areas shall be established at locations that would create the greatest distance between the construction-related noise sources and noise-sensitive receptors nearest the project site during all project construction activities, to the extent feasible.
- Construction site and access road speed limits shall be established and enforced during the construction period.
- The use of noise-producing signals, including horns, whistles, alarms, and bells, shall be for safety warning purposes only.
- Neighbors located adjacent to the construction site shall be notified of the construction schedule in writing.
- The construction contractor shall designate a “noise disturbance coordinator” who would be responsible for responding to any local complaints about construction noise. The disturbance coordinator shall be responsible for determining the cause of the noise complaint (e.g., starting too early, poor muffler, etc.) and instituting reasonable measures as warranted to correct the problem. A telephone number for the disturbance coordinator shall be conspicuously posted at the construction site.

Construction noise BMPs shall be included in the grading plan submitted by the developer for review and approval by the Community Development Director prior to grading permit issuance.

Tribal Cultural Resources

Mitigation Measure TRI-1: If cultural resources are discovered during project-related construction activities, all ground disturbances within a minimum of 50 feet of the find shall be halted until a qualified professional archaeologist can evaluate the discovery. The archaeologist shall examine the resources, assess their significance, and recommend appropriate procedures to the lead agency to either further investigate or mitigate adverse impacts. If the find is determined by the lead agency in consultation with the Native American tribe traditionally and culturally affiliated with the geographic area of the project site to be a tribal cultural resource and the discovered archaeological resource cannot be avoided, then applicable mitigation measures for the resource shall be discussed with the geographically affiliated tribe. Applicable mitigation measures that also take into account the cultural values and meaning of the discovered tribal cultural resource, including confidentiality if requested by the tribe, shall be completed (e.g., preservation in place, data recovery program pursuant to Public Resources Code §21083.2[i]). During evaluation or mitigative treatment, ground disturbance and construction work could continue on other parts of the project site.