

Communication from Public

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Comments for Public Posting: The attached consists of a response prepared by Meridian Consultants to the appeal of CPC-2021-8442-CU-DB-SPR-HCA that was submitted by Supporters Alliance for Environmental Responsibility. We appreciate the opportunity to provide our perspective on the appellant's comments.

Date: June 12, 2023

To: Helen Jadali, Planning Associate
Department of City Planning, City of Los Angeles

From: Ned Baldwin, Associate
Meridian Consultants LLC

Subject: Response to Appeal submitted by Supporters Alliance for Environmental Responsibility
regarding CPC-2021-8442-CU-DB-SPR-HCA

Meridian Consultants has had the opportunity to review the appeal submitted by Supporters Alliance for Environmental Responsibility ("Appellant") dated May 10, 2023, with regard to CPC-2021-8442-CU-DB-SPR-HCA. To assist the City in its consideration of this appeal, Meridian provides the Department with the following responses.

The Appeal Application form (CP-7769) states that the Appellant is appealing "All Site Plan Review conditions." However, the 9-page Justification/Reason for Appeal focuses on the CEQA determination and not specifically on any site plan conditions. The substance of the Justification/Reason for Appeal references a comment letter dated February 6, 2023, which the Appellant submitted at the time of the Planning Commission hearing. Meridian reviewed that letter at the time and provided the City with responses in a memo dated February 8, 2023 (see attached). At the time of the Planning Commission hearing, the Meridian response memo was limited to 2-pages, as it was considered a day-of submission. Given the prior page limit placed on Meridians responses, Meridian will also take this opportunity to expand upon the responses made at that time.

The letter dated February 6, 2023, that was submitted by the Appellant contains 8 pages. The first three and a half pages provided background, project overview and discussion of legal standards; the last page is a concluding statement and signature. Meridian has no substantive comments for these portions of the letter. Starting under the heading "Discussion" at the lower portion of page 4 of the letter, and continuing through the end of page 7, is the substance of the comments contained in the letter. Within these pages are three subheadings referring to: (1) Hazards and Hazardous Materials; (2) Air Quality, Health Risk, and Greenhouse Gas Emission Impacts; and (3) that the significant and unavoidable impacts identified in the 2017 Community Plan EIR could remain significant with the Implementation of the Project. (In the letter the third subheading is labeled as four, specifically IV, but there is no subheading labeled as three.) Meridian's responses will follow the same set of headings.

I. Hazards and Hazardous Materials

Comment 1.1 [page 4]

The City concluded that “no substantial changes in the environment on or in the vicinity of the Property related to hazards or hazardous materials have occurred since certification of the Community Plan EIR that would require revision to the Community Plan EIR.” However, the City failed to provide substantial evidence in support of this conclusion.

Response 1.1

The land uses on the Project site have remained unchanged since certification of the Community Plan EIR; the land uses on the adjacent property had been modified to remove former commercial uses and develop new residential uses, a change in land use that is not associated with substantial adverse effects relative to hazards or hazardous materials as these conditions are associated with some commercial or industrial uses that store, handle, process or dispose of hazardous materials. This was described in the introduction to the technical memorandum. As such, there has been no substantial adverse change in the conditions of the site relative to hazards or hazardous materials.

The Community Plan EIR referred to federal, state, and local regulations that would reduce to less than significant the consequences of the routine use of or accidental release of hazardous materials. Specifically, the EIR states that “Hazardous materials would be used and stored in accordance with applicable regulations and such uses would be required to comply with federal and state laws to eliminate or reduce the consequences of hazardous materials accidents;” “Compliance with existing regulations would reduce any impact and ensure that construction workers and the general public would not be exposed to any unusual or excessive risks related to the release of hazardous materials into the environment during construction activities on these sites with known, documented contamination;” and “Because appropriate site investigation and remediation activities prior to development is required by law, and because all contaminated sites are required to be remediated prior to development, this impact would be less than significant.”¹ The framework of federal, state, and local regulations is still in place, so there is no change in the evidence to support this conclusion.

In addition, the Community Plan EIR states that “While all demolition and construction within the CPAs would be required to comply with all local, state, and federal regulations, further mitigation may be required to reduce risks associated with the potential for unknown toxic substances existing on sites previously used for industrial uses that used hazardous materials” and therefore included a mitigation measure that require projects within a CPIO Subarea and currently or historically zoned as industrial shall

¹ See City of Los Angeles Department of City Planning, Case Number: ENV-2008-1780-EIR, *South Los Angeles and Southeast Los Community Plans Draft EIR*, November 3, 2016; Section 4.8 Hazards & Hazardous Materials,.

prepare the equivalent of an ESA. An ESA was prepared for the Project which found that there was no substantial adverse condition on or in the vicinity of the Property related to hazards or hazardous materials.²

All of the above was documented by City in the CEQA Technical Memorandum regarding the Project. As such, the City relied upon substantial evidence to support the conclusion that, relative to hazards or hazardous materials, no substantial changes in the environment on or in the vicinity of the Property related have occurred that would require revision to the Community Plan EIR.

Comment 1.2 [page 5]

Specifically, SWAPE noted that the Phase 1 Environmental Site Assessment (“ESA”) did not include “a map or any figures to show what portion of the Project site was covered by the Phase 1 ESA.” (Id. at 1.) SWAPE therefore stated that an EIR should be prepared which includes a Phase 1 ESA which encompasses the entire Project site. (Id.)

Response 1.2

The ESA included a description of the site and the surrounding area. Specifically, the ESA states that the subject included “property located at 2137 to 2211 South Western Avenue,”³ which includes the address of the project site. The ESA focused on the portion of the property that has historically been utilized for automotive services, noting that the balance of the site “consists of asphalt-paved parking areas and access ways.” ESAs are conducted for a focused site but also include evaluation of surrounding property and would have identified any recognized environmental conditions if such were present on any part of the Project site. As such, the ESA that was reviewed to support the CEQA determination adequately considered the entire project site.

Comment 1.3 [page 5]

SWAPE also noted that the Phase 1 ESA prepared for the Project concluded that further studies were necessary.

Response 1.3

The ESA did not conclude that further studies were necessary. The following is the final statement found on page 35 of the ESA: “Based on the foregoing, no additional investigation is recommended at this time.” As such, the Appellant is incorrect in this assertion.

² Phase I Environmental Site Assessment Report, 2137-2211 South Western Avenue, Los Angeles, California 90018, EFI Project No. 9836003585, Prepared by EFI Global, Inc., July 10, 2018

³ Ibid, page 11

Air Quality, Health Risk, and Greenhouse Gas EmissionsComment 2.1 [page 5]

The 2017 EIR found that implementation of the Community Plan Update would have significant and unavoidable air quality impacts (2017 EIR, pp. 9-13.) Specifically, the 2017 EIR concluded that construction emissions would result in significant and unavoidable impacts from emissions of NOx, VOCs, PM2.5, PM10, and other criteria air pollutants. (Id.)

Response 2.1

The 2017 EIR concluded that construction air quality impacts could be significant and unavoidable because of “the absence of specific project details to assess” and “without a specific construction schedule, timing and emission levels cannot be accurately estimated.”⁴ The Project included specific details to assess including a construction schedule. As such, the technical memorandum prepared for the Project was able to assess the potential air quality impacts that were not assessed in the 2017 EIR. The result of this assessment was a determination that the project would have a less than significant impact. Therefore, the impacts that were determined in the 2017 EIR to potentially be significant due to a lack of project details were found in this case to not be significant once the project details were available.

Comment 2.2 [page 5]

SWAPE reviewed the Project’s CalEEMod output files and found that several model inputs were inconsistent with information disclosed elsewhere in the Technical Memo for the Project. Specifically, SWAPE found that the following inputs were incorrect or unsubstantiated:

- Unsubstantiated Reductions to Architectural and Area Coating Emission Factors
- Unsubstantiated Changes to Architectural Coating Construction Phase Length
- Unsubstantiated Reduction to Acres of Grading Value
- Incorrect Number of Construction Worker Trips
- Underestimated Weekday, Saturday, and Sunday Operational Vehicle Trip Rates

Response 2.2

Adjustment to the inputs in CalEEMod are a standard practice when project specific information is available. The model includes default values based on construction surveys conducted by SCAQMD. These give approximations of generic construction activity. However, it is recommended by SCAQMD that if the

⁴ City of Los Angeles Department of City Planning, Case Number: ENV-2008-1780-EIR, *South Los Angeles and Southeast Los Angeles Community Plans Draft EIR*, Section 4.8 Hazards & Hazardous Materials, November 3, 2016, pages 4.3-19 and 4.3-23.

information is available, that defaults may be replaced by project specific inputs.⁵ This was done for the Project. The adjustment to the inputs in the model were made to be consistent with the information provided regarding the project and used elsewhere in the analysis. In addition, default values in CalEEMod do not always account for regulatory compliance with applicable SCAQMD rules. Specifically:

- Reductions to Architectural and Area Coating Emission Factors were made to reflect regulatory compliance with SCAQMD Rule 1113 VOC limits.
- Changes to the Architectural Coating Construction Phase Length were made to reflect an expected construction timeline specific to the project.
- The acres of grading was adjusted to reflect the expected construction timeline and the specific phase in which grading would occur. During the ‘shoring/grading phase’ inputs were provided based on the area of the site, the tons of demolition debris to be removed and cubic yards of soil to be excavated. CalEEMod then calculates an area of grading based on these parameters. The resulting value was 63 acres (shown on page 6 of the AQ model output) which overestimates the grading area, giving a conservative result for analysis purposes. For the ‘foundation’ phase grading was set to zero as it was accounted for in the previous phase.
- The Number of Construction Worker Trips was derived from the LADOT-approved traffic assessment. This was noted in the AQ report.
- The Weekday, Saturday, and Sunday Operational Vehicle Trip Rates was derived from the LADOT-approved traffic assessment. This was noted in the AQ report.

Comment 2.3 [page6]

In order to more accurately estimate the Project’s potential emissions, SWAPE prepared an updated CalEEMod model using Project-specific information from the Technical Memo. SWAPE found that the Project’s construction-related volatile organic compound (VOC) emissions would exceed the CEQA significance threshold established by the South Coast Air Quality Management District (“SCAQMD”). (Ex. A, p. 10.) Specifically, SWAPE found that VOC emissions from Project construction would be 232.57 lbs/day, a 761% increase over the Technical Memo’s estimated 27 lbs/day, and a significant exceedance of the SCAQMD threshold of 75 lbs/day. (Id.)

Response 2.3

As stated in the previous response, model inputs can be adjusted and should be to reflect realistic project-specific conditions. However, to achieve a result that showed significant impacts, the Appellant’s

⁵ SCAQMD, California Emissions Estimator Model User’s Guide, May 2021, page 13

consultant adjusted certain inputs in a way that was neither project-specific nor generally realistic. SWAPE inappropriately reduced the duration of construction phases in order to produce a result that exceeds the significance thresholds. For example, the number of days on which the architectural coating of the entire project would be conducted was reduced such that the emissions associated with that activity would be concentrated on a few days rather than over a longer period of time and therefore would have significant emissions spikes on those days. SWAPE selected 10 days as the duration of that phase. However, the timeline assumed is not realistic or probable for a construction project of this size and type. It is not reasonable to expect that a 70,220-square-foot retail store, 364 residential units, all residential amenity space and parking levels would be entirely painted within a two-week period. For the analysis conducted in the Technical Memorandum for the City presumed instead that painting would be distributed over a number of weeks as different components of the Project were completed

Comment 2.4 [page 6]

SWAPE also prepared a screening-level health risk assessment ("HRA") to evaluate potential impacts of diesel particulate matter ("DPM") emissions during the construction and operation of the Project. (Ex. A, pp. 13-17.) SWAPE used AERSCREEN, a screening-level air quality dispersion model. (Id. at 13.) SWAPE used a sensitive receptor distance of 75 meters and analyzed impacts to individuals at different stages of life based on guidance from the California Office of Environmental Health Hazard Assessment ("OEHHA") and SDAPCD guidance. (Id. At 17.)

Response 2.4

The guidance from the California Office of Environmental Health Hazard Assessment ("OEHHA") that the Appellant's consultant used to prepare a screening-level health risk assessment ("HRA") is not applicable to the Project. The OEHHA Guidance Manual is intended to implement the Air Toxics Hot Spots Information and Assessment Act (AB 2588) and establishes protocols for analysis but does not establish when a project must prepare a cancer risk assessment. The OEHHA Guidance Manual states on page 1-3 that "The Hot Spots Act requires that each local Air Pollution Control District or Air Quality Management District (hereinafter referred to as District) determine which facilities will prepare an HRA." California Health and Safety Code Section 44320 states that AB 2588 applies to "Any facility which manufactures, formulates, uses, or releases" toxic air contaminants, carcinogens, total organic gases, particulates, or oxides of nitrogen or sulfur and "any facility which is listed in any current toxics use or toxics air emission survey, inventory, or report released or compiled by a district." The Project does not qualify as a "facility" subject to AB 2588 as the uses proposed and would not manufacture, formulate, use, or release the substances identified by Health and Safety Code Section 44320. Furthermore, the local district (SCAQMD)

has not issued guidance or regulation for an HRA of the type of construction proposed by the Project. As such, the OEHHA Guidance Manual is not applicable to determining the impacts of the Project.

The City follows South Coast Air Quality Management District (SCAQMD) guidance for air quality analysis and relies on SCAQMD thresholds. The SCAQMD CEQA guidelines for evaluating construction impacts do not require the preparation of an HRA to evaluate construction impacts. For construction, SCAQMD provides daily mass emissions thresholds and localized significance thresholds.

As shown in the technical memorandum prepared for the project, the project would not exceed applicable SCAQMD thresholds.⁶ Therefore, the City determined the Project would have a less than significant impact based on the methodologies recommended by SCAQMD for the project type.

SCAQMD requires HRAs for compliance with AB2588, SCAQMD Rule 1401 and Rule 1402, which regulate stationary emission sources. SCAQMD has also adopted guidance on the use of HRAs for analyzing mobile source emissions. However, this guidance refers to emissions associated with facilities such as truck stops and distribution centers that feature long term presence of diesel emission sources. The Project would not consist of this or any other land use type that would emit substantial diesel particulate matter over long periods of time.

SCAQMD has not determined that an HRA is required for commercial and residential land uses of the type proposed by the Project. Furthermore, SCAQMD has not developed any recommendations on use of the OEHHA Guidance Manual for CEQA analyses of potential construction impacts nor has the City adopted the Guidance Manual or incorporated it into the City's CEQA thresholds or methodologies.

Based on the above, the Appellant's comment is not relevant to the CEQA evaluation of the Project.

Comment 2.5 [Page 6]

SWAPE also found that the GHG impacts of the Project were not adequately analyzed.

Response 2.5

SWAP bases this allegation on its claims about the CalEEMod output discussed under Air Quality above. As noted in the responses above, the model inputs were appropriately established.

The methodology used by the City to determine the significance of GHG impacts is not based on the quantitative output of CalEEMod but rather whether a project is consistent with the policies and programs of the State, City and region that aim to reduce GHG emissions. The Technical Memorandum discusses how the project is consistent with these policies and programs.⁷ The Appellant seeks to substitute a

⁶ Technical Memorandum, 2211 WESTERN AVE, Environmental Case ENV-2021-8443-EAF, October 2022, Page 7-21.

⁷ Technical Memorandum, 2211 WESTERN AVE, Environmental Case ENV-2021-8443-EAF, October 2022, Pages 7-38 through 7-47.

methodology of its own, which is not the approach used by the City in its role as lead agency. As such, the Appellant's comment is not relevant to the CEQA evaluation of the Project.

II. Significant and Unavoidable Impacts identified in the 2017 EIR

Comment 4.1 [Page 7]

The Project will continue to result in significant impacts to air quality and GHGs that were identified as significant and unavoidable in the 2017 EIR.

Response 4.1

The 2017 EIR did conclude that there could be significant impacts to air quality emissions due to "the absence of specific project details to assess."⁸ In the absence of this level of detail, the EIR had to conclude that impacts could be significant. However, specific details have been provided to evaluate the Project. The Project was fully assessed, and it was found that impacts would be less than significant.⁹ As such, the Project does not trigger the criteria for a subsequent EIR described in CEQA Section 21166 as no major revisions would be required to the certified EIR due to project changes, new circumstances or new information. As such, no further EIR would be required as the Project meets the criteria expressed in Public Resource Code 21155.4 and CEQA Guidelines Section 15168(c).

Contrary to the Appellant's claim, impacts to GHGs were not identified as significant or unavoidable in the 2017 EIR.¹⁰

⁸ City of Los Angeles Department of City Planning, Case Number: ENV-2008-1780-EIR, *South Los Angeles and Southeast Los Angeles Community Plans Draft EIR*, Section 4.8 Hazards & Hazardous Materials, November 3, 2016, pages 4.3-19 and 4.3-23.

^{9 9} Technical Memorandum, 2211 WESTERN AVE, Environmental Case ENV-2021-8443-EAF, October 2022, Pages 7-8 through 7-22.

¹⁰ City of Los Angeles Department of City Planning, Case Number: ENV-2008-1780-EIR, *South Los Angeles and Southeast Los Angeles Community Plans Draft EIR*, Section 4.8 Hazards & Hazardous Materials, November 3, 2016, Section 4.7.

Date: February 8, 2023
To: Sergio Ibarra, City Planner; Helen Jadali, Planning Associate
Department of City Planning, City of Los Angeles
Cc: City Planning Commission, City of Los Angeles
From: Ned Baldwin, Meridian Consultants LLC
Subject: Response to letter from Lozeau Drury regarding CPC-2021-8442-CU-DB-SPR-HCA

Meridian Consultants has reviewed the letter submitted by Lozeau Drury dated February 6, 2023 with regard to CPC-2021-8442-CU-DB-SPR-HCA and ENV-2021-8443-EAF and provides the following responses to comments related to the analysis in the CEQA technical memorandum.

Page 4: The City concluded that “no substantial changes in the environment on or in the vicinity of the Property related to hazards or hazardous materials have occurred since certification of the Community Plan EIR that would require revision to the Community Plan EIR.” However, the City failed to provide substantial evidence in support of this conclusion.

The City was able to conclude that there have been no substantial changes related to hazards or hazardous materials as the land uses on the site have remained unchanged and the land uses on the adjacent property had been modified to remove former commercial uses and develop new residential uses. This was described in the introduction to the technical memorandum.

Page 5: Specifically, SWAPE noted that the Phase 1 Environmental Site Assessment (“ESA”) did not include “a map or any figures to show what portion of the Project site was covered by the Phase 1 ESA.” (Id. at 1.) SWAPE therefore stated that an EIR should be prepared which includes a Phase 1 ESA which encompasses the entire Project site. (Id.)

A figure was included as an attachment to the ESA. Though the ESA focuses on the portion of the site along Western containing automotive uses and which are identified in the ESA as Historical Recognized Environmental Condition, the ESA does encompass the entire Project site, as described on page 1 the ESA.

Page 5: SWAPE also noted that the Phase 1 ESA prepared for the Project concluded that further studies were necessary.

This comment is inaccurate. The conclusion on page 35 of the ESA is: “Based on the foregoing, no additional investigation is recommended at this time.”

Page 5: The 2017 EIR found that implementation of the Community Plan Update would have significant and unavoidable air quality impacts (2017 EIR, pp. 9-13.) Specifically, the 2017 EIR concluded that construction emissions would result in significant and unavoidable impacts from emissions of NOx, VOCs, PM2.5, PM10, and other criteria air pollutants. (Id.)

When it certified the 2017 EIR, the City concluded that construction air quality impacts could be significant and unavoidable because of “the absence of specific project details to assess” (page 4.3-19 and 4.3-21) and “without a specific construction schedule, timing and emission levels cannot be accurately estimated” (page 4.3-23). In the evaluation of the Project, specific project details have been provided to assess.

Page 5: SWAPE reviewed the Project’s CalEEMod output files and found that several model inputs were inconsistent with information disclosed elsewhere in the Technical Memo for the Project. Specifically, SWAPE found that the following inputs were incorrect or unsubstantiated: • Unsubstantiated Reductions to Architectural and Area Coating Emission Factors; • Unsubstantiated Changes to Architectural Coating Construction Phase Length; • Unsubstantiated Reduction to Acres of Grading Value; • Incorrect Number of Construction Worker Trips; • Underestimated Weekday, Saturday, and Sunday Operational Vehicle Trip Rates.

It is standard practice to substitute project specific information for the default values in CalEEMod. In addition, default values in CalEEMod do not always account for regulatory compliance with SCAQMD rules. Reductions to Architectural and Area Coating Emission Factors were made to reflect regulatory compliance with SCAQMD Rule 1113 VOC limits. Changes to the Architectural Coating Construction Phase Length were made to reflect the expected construction timeline specific to the project. The acres of grading were adjusted to reflect the phase in which grading would occur. During the 'shoring/grading phase' inputs were provided to site area, tons of demolition debris, and cubic yards of soil from which CalEEMod calculated an area of grading which actually over-estimated for analysis purposes. For the 'foundation' phase grading was set to zero as that activity was accounted for in the previous phase. The Number of Construction Worker Trips and Weekday, Saturday, and Sunday Operational Vehicle Trip Rates were derived from the LADOT-approved traffic assessment, as was noted in report.

Page 6: In order to more accurately estimate the Project's potential emissions, SWAPE prepared an updated CalEEMod model using Project-specific information from the Technical Memo. SWAPE found that the Project's construction-related volatile organic compound (VOC) emissions would exceed the CEQA significance threshold established by the South Coast Air Quality Management District ("SCAQMD").

SWAPE inappropriately reduced the duration of construction phases, producing a result that exceeds the thresholds. By substantially reducing the duration, emissions associated with architectural coating would be concentrated on a few days rather a longer period. The timeline assumed by SWAPE is not realistic or probable.

Page 6: SWAPE also prepared a screening-level health risk assessment ("HRA") to evaluate potential impacts of diesel particulate matter ("DPM") emissions during the construction and operation of the Project.

The City follows South Coast Air Quality Management District (SCAQMD) guidance for air quality analysis and relies on SCAQMD thresholds, not as the letter stated SDAPCD which is a San Diego area agency. The SCAQMD CEQA guidelines do not require the preparation of an HRA to evaluate construction impacts or the land uses of the types proposed. As shown in the technical memorandum prepared for the project, the project would not exceed applicable SCAQMD thresholds. Therefore, the City determined the Project would have a less than significant impact based on the methodologies recommended by SCAQMD for the project type. SCAQMD requires HRAs for stationary emission sources in accordance with AB 2588 and OEHHA Guidance. The project does not qualify as a "facility" as defined in AB 2588. As such, the HRA methodology is not applicable to the Project.

Page 6: SWAPE also found that the GHG impacts of the Project were not adequately analyzed.

SWAPE bases this allegation the CalEEMod output discussed under Air Quality. As noted in the responses above, the model inputs were appropriately established. Furthermore, the City's methodology to determine the significance of GHG impacts is not based on the quantitative output of CalEEMod but rather on consistency of a project with the policies and programs of the State, City and region to address GHG emissions. The Technical Memorandum discusses how the project is consistent; the comment letter did not challenge this conclusion.

Page 7: Because the Project will continue to result in significant impacts to air quality and GHGs that were identified as significant an unavoidable in the 2017 EIR.

This allegation is not supported by the analysis prepared for the City nor is it demonstrated by the claims made in the comment letter. The 2017 EIR concluded that there could be significant impacts to air quality and GHGs due to "the absence of specific project details to assess". Specific Project details were identified and assessed resulting in the conclusion that those impacts would in fact be less than significant with respect to the Project.