

CITY OF DANA POINT
AGENDA REPORT

Reviewed By:	
DH	X
CM	X
CA	___

DATE: JUNE 18, 2024

TO: HONORABLE MAYOR AND CITY COUNCIL

FROM: BRENDA WISNESKI, DIRECTOR OF COMMUNITY DEVELOPMENT
JOHN CIAMPA, PRINCIPAL PLANNER

SUBJECT: GENERAL PLAN AMENDMENT GPA20-0002, ZONE CHANGE ZC24-0001, SPECIFIC PLAN SP24-0001, LOCAL COASTAL PROGRAM AMENDMENT LCPA20-0002, DEVELOPMENT AGREEMENT DA24-0001, AND APPEAL OF COASTAL DEVELOPMENT PERMIT CDP20-0005, SITE DEVELOPMENT PERMIT SDP20-0007, AND TENTATIVE PARCEL MAP TPM20-0001 TO CONSTRUCT A 306 UNIT APARTMENT COMPLEX WITH AN ATTACHED SIX STORY PARKING STRUCTURE, ASSOCIATED AMENITIES, AND SITE IMPROVEMENTS AT 26126 VICTORIA BOULEVARD

RECOMMENDED ACTION:

- 1) Conduct a public hearing; and
- 2) Approve Resolution approving General Plan Amendment GPA20-0002 entitled:

AN RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, APPROVING OF GENERAL PLAN AMENDMENT (GPA20-0002), WHICH AMENDS THE GENERAL PLAN LAND USE ELEMENT BY MODIFYING THE LAND USE DESIGNATION OF "COMMUNITY FACILITIES" AND "RECREATION/OPEN SPACE" AND CREATE A NEW LAND USE DESIGNATION "VICTORIA BOULEVARD SPECIFIC PLAN" AND SUBMISSION AS PART OF LOCAL COASTAL PROGRAM AMENDMENT (LCPA20-0002) FOR APPROVAL AND CERTIFICATION BY THE CALIFORNIA COASTAL COMMISSION FOR THE PROPERTY AT 26126 VICTORIA BOULEVARD (ACTION DOCUMENT A)

- 3) Introduce and hold the first reading of an Ordinance approving Zone Change ZC24-0001 entitled:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, APPROVING ZONE CHANGE (ZC24-0001) TO CHANGE THE

ZONING DESIGNATION FROM COMMUNITY FACILITY AND RECREATION TO "VICTORIA BOULEVARD SPECIFIC PLAN", AND SUBMISSION AS PART OF LOCAL COASTAL PROGRAM AMENDMENT (LCPA20-0002) FOR APPROVAL AND CERTIFICATION BY THE CALIFORNIA COASTAL COMMISSION AT 26126 VICTORIA BOULEVARD (ACTION DOCUMENT B)

- 4) Introduce and hold the first reading of an Ordinance approving Specific Plan SP24-0001 entitled:

A ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, APPROVING THE VICTORIA BOULEVARD SPECIFIC PLAN (SP24-0001) AND INCORPORATE IT AS APPENDIX G OF THE ZONING CODE, AND SUBMISSION AS PART OF LOCAL COASTAL PROGRAM AMENDMENT (LCPA20-0002) FOR APPROVAL AND CERTIFICATION BY THE CALIFORNIA COASTAL COMMISSION FOR THE PROPERTY LOCATED AT 26126 VICTORIA BOULEVARD (ACTION DOCUMENT C)

- 5) Review and adopt a Resolution approving Local Coastal Program Amendment LCPA20-0002 entitled:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, APPROVING LOCAL COASTAL PROGRAM AMENDMENT (LCPA20-0002), WHICH AMENDS THE GENERAL PLAN GPA20-0002 AND ZONING CODE ZC24-0001 AND ADOPTION OF SPECIFIC PLAN SP24-0001 AND SUBMISSION OF GENERAL PLAN AMENDMENT GPA20-0002, ZONING CODE ZC24-0001, SPECIFIC PLAN SP24-0001 AS LOCAL COASTAL PROGRAM AMENDMENT LCPA20-0002 FOR APPROVAL AND CERTIFICATION BY THE CALIFORNIA COASTAL COMMISSION FOR THE PROPERTY AT 26126 VICTORIA BOULEVARD (ACTION DOCUMENT D)

- 6) Review and adopt a Resolution approving certification of the EIR (SCH# 2021070304) entitled:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, ADOPTING THE VICTORIA BOULEVARD APARTMENTS ENVIRONMENTAL IMPACT REPORT (SCH# 2021070304) FOR GENERAL PLAN AMENDMENT GPA20-0002, ZONE CHANGE ZC24-0001, SPECIFIC PLAN SP24-0001, LOCAL COASTAL PLAN AMENDMENT LCPA20-0002, DEVELOPMENT AGREEMENT DA24-0001 AND COASTAL DEVELOPMENT PERMIT CDP20-0005, SITE DEVELOPMENT PERMIT SDP20-0007, TENTATIVE PARCEL MAP TPM20-0001 FOR THE VICTORIA BOULEVARD APARTMENTS (ACTION DOCUMENT E)

- 7) Introduce and hold the first reading of an Ordinance approving Development Agreement DA24-0001 entitled:

A ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, APPROVING DEVELOPMENT AGREEMENT DA24-0001 BETWEEN THE CITY, TOLL BROTHERS APARTMENT LIVING, AND CAPISTRANO UNIFIED SCHOOL DISTRICT FOR THE VICTORIA BOULEVARD APARTMENTS PROJECT (ACTION DOCUMENT F)

- 8) Review and adopt a Resolution denying the appeal and upholding the Planning Commission's approval of Coastal Development Permit CDP20-0005, Site Development Permit SDP20-0007, and Tentative Parcel Map TPM20-0001 entitled:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, DENYING THE APPEAL AND UPHOLDING THE PLANNING COMMISSION APPROVAL OF COASTAL DEVELOPMENT PERMIT CDP20-0005, SITE DEVELOPMENT PERMIT SDP20-0007, AND TENTATIVE PARCEL MAP TPM20-0001 TO CONSTRUCT A 306 UNIT APARTMENT COMPLEX WITH AN ATTACHED SIX STORY PARKING STRUCTURE, ASSOCIATED AMENITIES, AND SITE IMPROVEMENTS AT 26126 VICTORIA BOULEVARD (ACTION DOCUMENT G)

- 9) Authorize the City Manager to execute the final Affordable Housing Agreement **(Draft provided as Exhibit E of Action Document F).**

BACKGROUND:

The project site is situated at 26126 Victoria Boulevard, on the southeast corner of Victoria Boulevard and Sepulveda Boulevard in the southeastern portion of Doheny Village, with the Interstate 5 off-ramp to Pacific Coast Highway to the south. Currently, the site is split-zoned with 4.4 acres designated as Community Facilities (CF) District and 1.1 acres designated as Recreation (REC) District. The subject site is adjacent to San Felipe de Jesus Catholic Church and Capo Beach Church to the west, multi-family residential uses, institutional uses (such as OCFA and Cox Cable), and Nobis Preschool to the north.

On February 2, 2021, the City Council approved the initiation of a General Plan Amendment and a Specific Plan District for the Victoria Boulevard Apartments (Supporting Document I) authorizing the review of a proposal for an apartment complex containing up to 365-units. During the course of the project's review by the City and public, the project was scaled back to 306 units.

On May 13, 2024, the Planning Commission considered the proposed legislative items (GPA20-0002, ZC24-0001, SP24-0001, and DA24-0001), Environmental Impact Report (EIR), the proposed 306-unit apartment complex (CDP20-0005, SDP20-0007, TPM20-0001), and public testimony and approved the Victoria Boulevard Apartment Project and recommended the City Council approve the legislation items and certify the EIR. During the public hearing, nineteen members of the public commented on the project. After discussion,

the Planning Commission unanimously supported the project. The Planning Commission Staff Report and meeting minutes are provided as Supporting Document O.

On May 22, 2024, Supporters Alliance for Environmental Responsibility (“SAFER”) submitted an appeal (Supporting Document P) of the Planning Commission’s action recommending City Council approval of the legislative items, and their approval of the project entitlements (CDP20-0005, SDP20-0007, TPM20-0001). If the Planning Commission’s approval of the entitlements was not appealed, then their action would be final. Receipt of the appeal results in the City Council considering all project-related actions. The Appeal section of this report and Supporting Document Q analyzes the issues raised by the Appellant and includes the City’s responses.

DISCUSSION:

The project proposes the demolition of the existing Capistrano Unified School District (CUSD) bus yard and a 306-unit apartment complex with an attached six-story (seven-level) parking structure. Forty-six (46) of the units would be rented to very low- low- and moderate-income individuals, and subject to a 55-year deed restriction. The residential component of the apartment complex would span two to five stories (maximum height of 57 feet), while the rooftop would house recreational facilities, providing the sixth level (maximum height of 82 feet). The project provides approximately 141,540 square feet (3.306 acres) of private and public open space, including the proposed Victoria Shore Park (located at the southeastern corner of Sepulveda Avenue and Victoria Boulevard), a Dog Park, and two public paseos along the former La Playa Avenue right-of-way. Recreational amenities feature a rooftop garden, a fitness room, a pool deck, and a clubhouse. Additional project details are provided in the Planning Commission Staff Report (Supporting Document O).

General Plan Amendment

Land Use Element

Doheny Village has a diverse range of housing types, including multi-family, mobile homes, affordable housing, and live/work units, which is a unique feature within the City. The project proposed General Plan Amendment (GPA) to change the land use designation from Community Facilities (CF) and Recreation (REC) to the proposed Victoria Boulevard Specific Plan (Specific Plan). The proposed change would allow for an increase in density and height for the residential project. Importantly, the amendment aligns with the General Plan, as the CF land use designation permits residential uses, and the property is surrounded by both residential and institutional uses. This amendment and project would enhance the site’s compatibility with adjacent uses over the current school bus yard use.

Housing Element

The proposed project was included in the City’s General Plan Housing Element which projected the potential for construction of 57 income restricted units on the site, assuming a total of 365 units were constructed (38 low- and 19-moderate income). The project

proposes 306 residential units, which results in 46 income restricted units (16 very-low, 15 low- and 15-moderate income), 11 fewer units than projected in the Housing Element. An assessment of the reduction in units concluded a housing inventory surplus remains of 175 income restricted units (49 low- and 170-moderate income) to meet the City's 6th Cycle Regional Housing Needs Assessment (RHNA) and comply with the No Net Loss Law (Government Code § 65863). The assessment of the housing inventory and project are provided in Table 1 below.

Table 1: Housing Inventory Assessment

Description	Units	Income Level
GP Housing Element Projected Income Restricted Units (Project Site)	57	38 low- and 19-moderate
Proposed Income Restricted units (project)	46	16 very-low, 15 low- and 15-moderate
Difference (Projected – Proposed)	-11	
Housing inventory surplus (Housing Element projected)	184	56 very low/low- and 128 moderate
Remaining surplus (with project)	175	49 low- and 170-moderate

Circulation Element

The Environmental Impact Report (EIR) assessed the project's alignment with the Circulation Element and its potential impacts on the community and concluded the project aligns with the adopted plans, programs, and policies and the project would result in no significant traffic impacts at the study intersections. Project aspects that supported this conclusion include:

- Situated in an urban area, the project is near retail establishments, making it convenient for residents to walk to nearby amenities.
- The project would consolidate driveways along Victoria Boulevard and Sepulveda Avenue, minimizing conflicts between pedestrians and vehicles.
- In accordance with the DPZC, the project provides 586 parking stalls within the seven-level parking structure (including one basement level).
- A Class III bicycle route would be created along the project frontage of Victoria Boulevard and shared-use, 10-foot sidewalks would be located along Sepulveda Avenue and Victoria Boulevard allowing for bicycle travel.
- The project is forecasted to result in approximately 2,086 new daily weekday trips, including 214 new trips during the Saturday midday peak hours, and 205 new trips during the Sunday peak hour.
- The proposed project would introduce up to 796 additional residents to the City, representing a 2.4 percent increase from the current population of 32,815 persons. The increased population may increase the demand for transit facilities in the project vicinity, but would not require new or expanded facilities.

Urban Design Element

The project was evaluated with the General Plan's Urban Design Element to ensure it complies with its goals and policies; however, the Element does not include guidance for unique, coastal, high-density projects. The Specific Plan Design Guidelines (Section 4) was created to address the unique scope to ensure a high-quality residential community that is compatible with the neighborhood. Guidelines are provided for site planning, architectural, landscaping, signage, lighting, and sustainability.

Site planning guidelines include elements to reduce the appearance of overall mass and provide pedestrian scale including the "Reduced building height zone" where no portion of the building would exceed a height of 50-feet within 40-feet of Victoria Boulevard. The project includes vertical breaks, and streetscapes; barriers between the parking garage and the proposed dwelling units and the public; and encourages a high level of design to improve scenic quality at the project site. The rooftop amenity area would be centrally located on the roof of the structure and designed to have limited visibility from Victoria Boulevard, Sepulveda Avenue, or surrounding properties.

Zone Change

The project area falls under the CF and REC zoning districts of the Dana Point Zoning Code. The proposed Zone Change modifies the 1993 Zoning Map within the project area, transitioning the site's zoning from CF and REC to the Victoria Boulevard Specific Plan. The planned residential community will be situated within Doheny Village, which encompasses a mix of land use types, including commercial, retail, industrial, and other residential uses. Recently, the Doheny Village Plan was approved and certified, designating the area surrounding the project site as the Village Commercial/Residential District (V-C/R). This designation anticipates the potential implementation of a Specific Plan for this site, allowing for multi-family residential development.

While both the existing zoning designation and the Specific Plan permit residential uses, the proposal seeks to increase the allowed density from 30- to 55.5-units per acre and height from 35 feet to 85 feet (the adjacent V-C/R zone allows a maximum height of 50-feet). By replacing the current bus yard use with a multi-family residential project, the site's compatibility with the surrounding residential and institutional uses, as well as the Doheny Village Plan, would be improved. A portion of the site, 1.1 acres (47,916 sq. ft.), is currently zoned Recreation. The proposed project would result in 1.065 (46,399 sq. ft.) of public open space, including a park, dog park and public paseo.

Specific Plan

The Victoria Boulevard Specific Plan serves both planning and regulatory functions including land use regulations, circulation patterns, public facilities and infrastructure requirements, and development standards. Under the Specific Plan, development density within the project area would not exceed 55.5 dwelling units per acre, yielding a maximum of 306 dwelling units on the 5.5-acre project site. Of the total unit count, a minimum of five percent very low-, five percent low-, and five percent moderate-income units (yielding a total of no less than 46 affordable units) are required to be provided and distributed throughout the project.

The Specific Plan allows for a maximum building height of 65-feet, with an additional 10-feet permitted for roof-top equipment or architectural projections. Additionally, another 10-feet in height may be permitted for recreational structures. As a result, the residential portion of the structure reaches a maximum height of 57-feet, while the centrally positioned recreation buildings achieve a maximum height of 82-feet (Specific Plan maximum height is 85-feet). In comparison, the Doheny Village development standards allow for a maximum height of 50-feet for the Village Commercial/Residential (V-C/R) zone.

To create visual interest and promote a pedestrian-friendly streetscape that is compatible with the surrounding community, the Specific Plan includes a “Reduced Building Height Zone” where no portion of the building would exceed a height of 50 feet within 40 feet of the Victoria Boulevard right-of-way, additionally, at least 2/3 of the building facade in this area shall be setback more than 10-feet.

Local Coastal Plan Amendment

The project’s proposed amendments to the General Plan, Zone Change, and Specific Plan all require an LCPA to establish land uses and development standards to permit the proposed project and are analyzed in this report. The requested amendments are subject to California Coastal Commission certification.

Final Environmental Impact Report SCH#2021070304

In accordance with the California Environmental Quality Act (CEQA), an EIR was prepared and was circulated for public review and comments to consider potential significant effects on the environment anticipated as result of the project. The City’s third-party environmental consultant, Michael Baker International, worked with City staff to prepare the EIR. The EIR was posted on the State Clearinghouse (SCH No. 2021070304) website. The analysis concluded that no significant unavoidable impacts would occur as a result of the project.

A summary of the environmental issues and mitigation summary can be found in Final EIR and Exhibit B of Action Document 5. Eleven Mitigation measures would be required for the following: Tribal and Cultural Resources, Geology/Soils, Hazards/Hazardous Materials, Transportation, Air Quality, and Noise.

Development Agreement

The proposed Development Agreement includes the applicant’s obligation to create a funding mechanism which yields a substantial contribution to be utilized exclusively on improvements to Dana Hills High School at the earliest commercially feasible time. In addition, the Development Agreement includes a contribution to the City to be utilized for community benefits as directed by the City Council and include the following:

- Enhanced landscape and streetscape amenities
- Open space easement for Victoria Shore Park, public street and frontage, dog park, and paseos – improvements to be maintained by the developer in perpetuity

- Affordable Housing Agreement - 15 percent of total units subject to affordability
- Community benefit of \$6,300,000 to satisfy all City park/recreation, park in-lieu, and public art fees

Appeal of Planning Commission's Approval of CDP, SDP, TPM

On May 22, 2024, the City received an appeal (Supporting Document P) to the Planning Commission's approval of the requested entitlements for the Victoria Boulevard Apartments. Responses to the nine items raised in the appeal letter are provided by Staff and the City's CEQA consultant, Michael Baker International (Supporting Document Q). A summary of the response is that the EIR adequately evaluated the project's environmental impacts and all of the issues raised by the Appellant are unfounded. Additionally, the comment regarding compliance with surplus lands is the responsibility of CUSD and not associated with the City's review of the project.

Coastal Development Permit

The proposed project is located within the City's Coastal Overlay District and is not located within the Appeals Jurisdiction of the California Coastal Commission (CCC). Section 9.69.020 of the DPZC states that a Coastal Development Permit (CDP) is required for all development located within the Coastal Overlay District. The multi-family apartment complex is proposed on a developed site with no environmentally sensitive habitat and is landward of the first public road, thereby not resulting in any impacts to coastal access. The project has completed an EIR to ensure that any potential project impacts would be mitigated.

Site Development Permit

A Site Development Permit (SDP) is required per Section 9.71 of the DPZC because the project proposes a multi-family residential development. Additionally, Section 9.31 requires an SDP because the project is proposing development within the City's Floodplain Overlay 2 (FP-2) District since the subject property is located in the 100 year (A) Flood Zone.

Multi-Family Development

As stated in the sections above, the project requires a General Plan Amendment, Zone Change, Specific Plan, and LCPA to modify the land use and development standards from the underlying Community Facility and Recreation Open Space General Plan and Zoning designations to develop the 306-unit apartment complex. The project is in Doheny Village which has a mix of different housing types including single-family and multi-family. The design of the project includes multiple courtyards, a 50-foot height limit along the Victoria Boulevard frontage, and centrally locates the sixth-floor recreation buildings on the roof to establish a project that reduces its massing and is compatible with the area. Additionally, the context of the site adjacent to the I-5 freeway off-ramp reduces compatibility and visual concerns related to the project. The proposed use is consistent with the area in that the existing CF zone and the proposed Specific Plan both allow multi-family residential uses, and the proposed project is more compatible with the area than the existing bus yard.

Development within the Floodplain Overlay District

The City's Zoning Map identifies a portion of the subject property along Sepulveda Avenue within the FP-2 Floodplain Overlay and Flood Zone 'A' (represents areas of minimum flood hazard). The EIR's hydrology study concluded that Flood Zone 'A' is completely within the Sepulveda Avenue public right-of-way. The study determined the flooding depths within Sepulveda Avenue to be 1.5-feet, which is the best available data to determine the Base Flood Elevation within this zone and does not impact the project.

Tentative Parcel Map

Section 7.05 of the Dana Point Municipal Code requires a Tentative Parcel Map (TPM) to merge the 34 underlying lots of the site to form one lot for the project. The applicant is also proposing a Vesting Map per Section 7.03.070 of the Dana Point Municipal Code to ensure the existing regulations, conditions, and fees in place during at the time of submittal.

CORRESPONDENCE:

City staff received written correspondence that is provided as Supporting Documents R and S.

NOTIFICATION/FOLLOW-UP:

On June 7, 2024, legal public notification was provided in compliance with Section 9.61.050 of the DPZC, email notifications were sent to interested parties on the notification list, and agendas were posted at Dana Point City Hall, the Dana Point and Capistrano Beach Branch Post Offices.

STRATEGIC PLAN IMPLEMENTATION:

Consistent with Strategic Plan Goal #3, to foster economic health and prosperity and Goal #5, to maintain and enhance Dana Point's unique sense of place in that the project would contribute to Doheny Village beautification with the development of the bus yard and various public improvements to be provided by the project and the public benefit contribution, as described in the Development Agreement.

FISCAL IMPACT:

There are no negative fiscal impacts to the City as a result of approving the project. The Development Agreement includes a financial contribution of \$6,300,000 to satisfy all City park/recreation, park in-lieu, and public art fees. And, the applicant has paid all required fees associated with processing the application in accordance with the City's fee resolution.

ACTION DOCUMENTS:

- A. [Draft City Council Resolution No. 24-06-18-XX for GPA](#)
- B. [Draft City Council Ordinance No. 24-XX for ZC](#)
- C. [Draft City Council Ordinance No. 24-XX for Specific Plan](#)
- D. [Draft City Council Resolution No. 24-06-18-XX for LCPA](#)
- E. [Draft City Council Resolution No. 24-06-18-XX for EIR](#)
- F. [Draft City Council Ordinance No. 24-XX for DA](#)
- G. [Draft City Council Resolution No. 24-06-18-XX for CDP, SDP, VTPM](#)

SUPPORTING DOCUMENTS:

- H. [Vicinity Map](#)
- I. [City Council Resolution 21-02-02-04](#)
- J. [Draft Victoria Boulevard Specific Plan – October 2023](#) (Available Online: <https://www.danapoint.org/home/showpublisheddocument/37917/638506991837094173>)
- K. [Draft EIR](#) (Available Online: <https://www.danapoint.org/home/showpublisheddocument/35574/638097230446700000>)
- L. [Final EIR](#) (Available Online: <https://www.danapoint.org/home/showpublisheddocument/36955/638307976565700000>)
- M. [Traffic Analysis](#) (Available Online: <https://www.danapoint.org/home/showpublisheddocument/37911/638506695310147975>)
- N. [Project Sample Materials Board](#)
- O. [Planning Commission Staff Report Hearing Minutes, May 13, 2024](#)
- P. [Appeal Letter](#)
- Q. [Appeal Letter Response](#)
- R. [Planning Commission Public Comments](#) (Available Online: <https://www.danapoint.org/home/showdocument?id=38061&t=638538115980948776>)
- S. [Planning Commission Comments Provided via Toll Brothers web page](#) (Available Online: <https://www.danapoint.org/home/showdocument?id=38059&t=638538113653155091>)
- T. [City Council Public Comments](#) (Available Online: <https://www.danapoint.org/home/showdocument?id=38057&t=638538113629367526>)
- U. [City Council Comments Provided via Toll Brothers web page](#) (Available Online: <https://www.danapoint.org/home/showdocument?id=38055&t=638538115732838081>)
- V. [Project Plans](#) (Available Online: <https://www.danapoint.org/home/showpublisheddocument/37746/638487933902570000>)

ACTION DOCUMENT A: Draft City Council Resolution No. 24-06-18-XX for GPA

RESOLUTION NO. 24-06-18-XX

AN RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, APPROVING OF GENERAL PLAN AMENDMENT GPA20-0002, WHICH AMENDS THE GENERAL PLAN LAND USE ELEMENT BY MODIFYING THE LAND USE DESIGNATION OF "COMMUNITY FACILITIES" AND "RECREATION/OPEN SPACE" AND CREATE A NEW LAND USE DESIGNATION "VICTORIA BOULEVARD SPECIFIC PLAN" AND SUBMISSION OF GPA20-0002 AS LOCAL COASTAL PROGRAM AMENDMENT LCPA20-0002 FOR APPROVAL AND CERTIFICATION BY THE CALIFORNIA COASTAL COMMISSION FOR THE PROPERTY AT 26126 VICTORIA BOULEVARD

Applicant: Toll Brothers Apartment Living
Owner: Capistrano Unified School District

The City Council for the City of Dana Point does hereby resolve as follows:

WHEREAS, on July 9, 1991, the City of Dana Point adopted its General Plan; and

WHEREAS, the City of Dana Point has prepared, pursuant to the provisions of the California Environmental Quality Act (CEQA), an Environmental Impact Report (SCH# 2021070304) for the Victoria Boulevard Specific Plan which has been reviewed, considered, and by way of adoption of Resolution No. XX, certified by the City Council; and

WHEREAS, the City may amend all or part of an adopted General Plan to promote the public interest up to four times during any calendar year pursuant to Government Code Section 65358; and

WHEREAS, General Plan Land Use Element serves as a portion of the Local Coastal Program, adopted by the City of Dana Point on June 27, 1995, and was certified by the California Coastal Commission and may be amended in whole or in part; and

WHEREAS, the General Plan Amendment GPA20-0002 is the first General Plan Amendment processed for 2024; and

WHEREAS, the proposed amendment would make changes to the Land Use Map within the Land Use Element of the General Plan by amending the land use designation of "Community Facility" and "Recreation/Open Space" and creating a new land use designation of "Victoria Boulevard Specific Plan"; and

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GPA20-0002
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WHEREAS, the amendment is internally consistent with the other elements of the General Plan; and

WHEREAS, the preparation and adoption of the Local Coastal Program Amendment has been evaluated in compliance with the California Environmental Quality Act pursuant to Section 21080.9 of the Public Resources Code; and

WHEREAS, the Planning Commission did on May 13, 2024 hold a duly noticed public hearing as prescribed by law to consider said amendments and recommended the City Council approve the General Plan Amendment and Local Coastal Program Amendment; and

WHEREAS, the City Council did on June 18, 2024 hold a duly noticed public hearing as prescribed by law to consider the General Plan Amendment and Local Coastal Program Amendment; and

WHEREAS, at said public hearing, upon hearing and considering all testimony and arguments, if any, of all persons desiring to be heard, City Council considered all factors relating to GPA20-0002 and LCPA20-0002; and

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Dana Point as follows:

- A. That the above recitations are true and correct;
- B. That the proposed action complies with all other applicable requirements of State law and local Ordinances;
- C. The City Council hereby adopts General Plan Amendment GPA20-0002;
- D. The adoption of General Plan Amendment GPA20-0002 is in the public interest;
- E. That the adoption of General Plan Amendment GPA20-0002, along with the City's concurrent adoption of Zone Change ZC24-0001, Specific Plan SP24-0001, and Local Coastal Program Amendment LCPA20-0002 and other remaining applicable sections of the City's General Plan and Zoning Code constitute the Local Coastal Program for the project area;
- F. That this General Plan Amendment GPA20-0002, as part of the Local Coastal Program for the project area, shall be submitted to the Coastal Commission for certification, along with the

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aforementioned Zone Change ZC24-0001, Specific Plan SP24-0001 and Local Coastal Program Amendment LCPA20-0002;

- G. That the City Council has reviewed, considered, and by way of adoption of Resolution No. 24-06-18-XX, has certified the Victoria Boulevard Apartments Environmental Impact Report (SCH# 2021070304) for this Project;
- H. That the Victoria Boulevard Apartments Environmental Impact Report (SCH# 2021070304) prepared for the Project is complete and adequate for the consideration of the General Plan Amendment GPA20-0002;
- I. In adopting General Plan Amendment GPA20-0002, which is part of LCPA20-0002, the City Council makes the following findings:
 - 1. That the public and affected agencies have had ample opportunity to participate in the LCPA process, **in that proper notice has been provided to the public and affected agencies in accordance with State law, and further in compliance with the LCP Amendment procedures.**
 - 2. That all policies, objectives, and standards of the LCPA conform to the requirements of the Coastal Act, including that the land use plan as amended is in conformance with and adequate to carry out the Chapter Three policies of the Coastal Act **in that the General Plan amendment establishes the Victoria Boulevard Specific Plan land use designation, which includes provisions that are adequate to carry out the Chapter Three policies of the Coastal Act and are in conformance with and adequate to implement the Land Use Plan.**
 - 3. That Coastal Act policies concerning specific coastal resources, hazard areas, coastal access concerns, and land use priorities have been applied to determine the kind, locations, and intensity of land and water uses. **The General Plan Amendment, Zone Change, Specific Plan, Local Coastal Program Amendment, and project for the development of a 306-unit apartment complex with recreation buildings, site improvements, and open space was evaluated with an EIR (SCH# 2021070304). The EIR evaluated coastal resources, hazard area, coastal access, land use priorities, intensity and water uses. The proposed amendments, Specific Plan, and**

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development comply with the City's Local Coastal Program and do not result in any unmitigated environmental impacts.

4. That the level and pattern of development proposed is reflected in the Land Use Plan, Zoning Code, and Zoning Map **in that the General Plan amendment establishes the Victoria Boulevard Specific Plan land use designation.**
 5. That a procedure has been established to ensure adequate notice of interested persons and agencies of impending development proposed after the certification of the LCPA. **Proper notice in accordance with the LCP Amendment procedures has been followed.**
 6. That zoning measures are in place which are in conformance with and adequate to carry out the coastal policies of the Land Use Plan. **The Victoria Boulevard Specific Plan is being amended concurrently with the LCP Amendment.**
- I. That the City Council hereby adopts the amendments to the Land Use Map within the Land Use Element of the General Plan, thereby changing the land use designation of the subject Property from "Community Facility" and "Recreation/Open Space," and creating the new land use designation of "Victoria Boulevard Specific Plan", as shown in Exhibit "A".

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The City Clerk shall certify to the adoption of this Resolution.

PASSED, APPROVED, AND ADOPTED this ____ day of _____, 2024.

JAMEY FEDERICO, MAYOR

ATTEST:

SHAYNA SHARKE
City Clerk

STATE OF CALIFORNIA)
COUNTY OF ORANGE) ss
CITY OF DANA POINT)

I, SHAYNA SHARKE, City Clerk of the City of Dana Point, California, do hereby certify that the foregoing Resolution No. 24-06-18-xx was duly introduced at a regular meeting of the City Council on the ____ day of _____, 2024, and was duly adopted and passed at a regular meeting of the City Council on the ____ day of _____, 2024, by the following vote, to wit:

AYES:

NOES:

ABSTAIN:

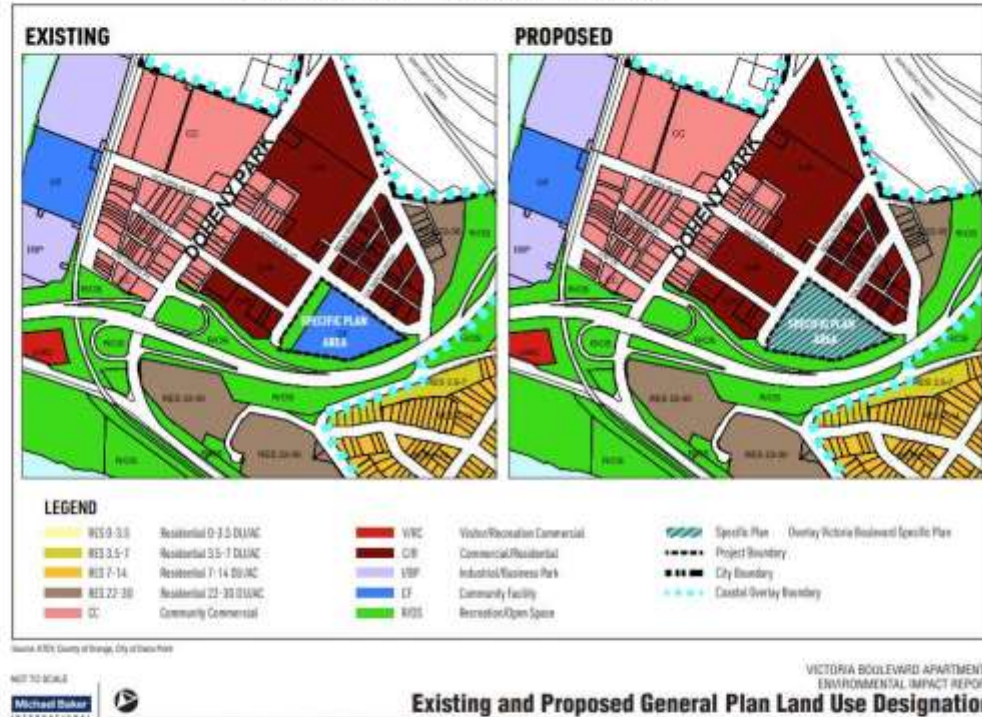
ABSENT:

SHAYNA SHARKE, CITY CLERK

RESOLUTION NO. 24-06-18-XX
GPA20-0002
Page 6

EXHIBIT "A"

General Plan Amendment GPA20-0002



ACTION DOCUMENT B: Draft City Council Ordinance No. 24-XX for ZC

ORDINANCE NO. 24-XX

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, APPROVING ZONE CHANGE ZC24-0001 TO CHANGE THE ZONING DESIGNATION FROM COMMUNITY FACILITY AND RECREATION TO "VICTORIA BOULEVARD SPECIFIC PLAN", AND SUBMISSION AS PART OF LOCAL COASTAL PROGRAM AMENDMENT (LCPA20-0002) FOR APPROVAL AND CERTIFICATION BY THE CALIFORNIA COASTAL COMMISSION AT 26126 VICTORIA BOULEVARD

Applicant: Toll Brother Apartment Living
Owner: Capistrano Unified School District

The City Council of the City of Dana Point does hereby resolve as follows:

WHEREAS, in January 1994, the City of Dana Point adopted its Zoning Code and Zoning Map; and

WHEREAS, the Applicant seeks to amend the Zoning Map per Zone Change ZC24-0001 and Local Coastal Plan Amendment LCPA20-0002, affecting the property at 26126 Victoria Boulevard; and

WHEREAS, the proposal is for a Zone Change ZC24-0001 and Local Coastal Plan Amendment LCPA20-0002 to amend the zoning of the property located at 26126 Victoria Boulevard from Community Facilities (CF) and Recreation (REC) to Victoria Boulevard Specific Plan; and

WHEREAS, the Zone Change will be consistent with and will provide for the orderly, systematic and specific implementation of the General Plan, as such General Plan and Local Coastal Program would be amended pursuant to the recommendations of the Planning Commission; and

WHEREAS, the new zoning district designations of the project area will be harmonious with the zoning of the surrounding properties; and

WHEREAS, the Planning Commission held a duly noticed public hearing as prescribed by law on May 13, 2024, to consider said amendments and recommended that the City Council approve said General Plan Amendment, Zone Change, and Local Coastal Plan Amendment; and

ORDINANCE NO.24-XX
ZC24-0001
PAGE 2

WHEREAS, the City Council held a duly noticed public hearing as prescribed by law on June 18, 2024, to consider the Environmental Impact Report and, specifically said Zone Text Amendment, Zone Change, and Local Coastal Plan Amendment; and

WHEREAS, at said public hearing, upon hearing and considering all testimony and arguments, if any, of all persons desiring to be heard, the City Council considered all factors relating to Zone Change ZC24-0001 and Local Coastal Program Amendment LCPA20-0002; and

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Dana Point as follows:

- A. That the above recitations are true and correct;
- B. The City Council hereby adopts Zone Change ZC24-0001, thereby creating the "Victoria Boulevard Specific Plan" zoning designation, which applying to the property located at 26126 Victoria Boulevard (the "Property"), as shown in Exhibit "A";
- C. That the proposed action complies with all other applicable requirements of State law and local Ordinances;
- D. That the adoption of Zone Change (ZC24-0001) is in the public interest;
- E. That the City Council has reviewed, considered, and by way of adoption of Resolution No. 24-06-18-XX, has certified the Victoria Boulevard Apartments Environmental Impact Report (SCH# 2021070304) for this Project;
- F. That the Victoria Boulevard Apartments Environmental Impact Report (SCH# 2021070304) prepared for the Project is complete and adequate for the consideration of the General Plan Amendment GPA20-0002;
- G. This Zone Change ZC24-0001, together with General Plan Amendment GPA20-0002, and Specific Plan SP24-0001 (each of which are adopted concurrently herewith) shall constitute the Local Coastal Plan Amendment LCPA20-0002 for the project area;
- H. This Zone Change ZC24-0001, as part of the Local Coastal Program for the project area, shall be submitted to the Coastal Commission for certification, along with the aforementioned General Plan Amendment GPA20-0002, Specific Plan SP24-0001 and Local Coastal Program Amendment LCPA20-0002;

ORDINANCE NO.24-XX
ZC24-0001
PAGE 3

- I. The preparation and adoption of the Local Coastal Program Amendment is statutorily exempt from the California Environmental Quality Act, pursuant to Section 21080.9 of the Public Resources Code;
- J. The proposed amendment to the Zoning Code and Zoning Map is consistent with the amended General Plan, Specific Plan, and Local Coastal Program, each of which are being processed concurrently herewith;
- K. In adopting Zone Change ZC24-0001, which comprises a part of LCPA20-0002, the City Council makes the following findings:
 - 1. That the public and affected agencies have had ample opportunity to participate in the LCPA process, **in that proper notice has been provided to the public and affected agencies in accordance with State law, and further in compliance with the LCP Amendment procedures.**
 - 2. That all policies, objectives, and standards of the LCPA conform to the requirements of the Coastal Act, including that the Land Use Plan as amended is in conformance with and adequate to carry out policies of Chapter Three of the Coastal Act. **The Zone Change is to establish the Victoria Boulevard Specific Plan, which includes provisions that are adequate to carry out the Chapter Three policies of the Coastal Act.**
 - 3. That Coastal Act policies concerning specific coastal resources, hazard areas, coastal access concerns, and land use priorities have been applied to determine the kind, locations, and intensity of land and water uses **in that The General Plan Amendment, Zone Change, Specific Plan, Local Coastal Program Amendment, and project for the development of a 306-unit apartment complex with recreation buildings, site improvements, and open space was evaluated with an EIR (SCH# 2021070304). The EIR evaluated coastal resources, hazard area, coastal access, land use priorities, intensity and water uses. The proposed amendments, Specific Plan, and development comply with the City's Local Coastal Program and do not result in any unmitigated environmental impacts.**
 - 4. That the level and pattern of development proposed is reflected in the Land Use Plan, Zoning Code, and Zoning Map **in that the General Plan amendment establishes the Victoria Boulevard Specific Plan land use designation.**
 - 5. That a procedure has been established to ensure adequate notice of interested persons and agencies of impending development

ORDINANCE NO.24-XX
ZC24-0001
PAGE 4

proposed after the certification of the LCPA. **Proper notice in accordance with the LCP Amendment procedures has been followed.**

6. That zoning measures are in place which are in conformance with and adequate to carry out the coastal policies of the Land Use Plan. **The City's Zoning Map is being amended concurrently with the LCP amendment.**

- L. That the City Council adopt the amendments to the City Zoning Code and Zoning Map designating the project site zoning designation as "Victoria Boulevard Specific Plan".

If any section, subsection, sentence, clause, phrase, or portion of this Ordinance, is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have adopted this Ordinance, and each section, subsection, subdivision, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses, phrases, or portions thereof be declared invalid or unconstitutional.

PASSED, APPROVED, AND ADOPTED this ____ day of ____, 2024

JAMEY FEDERICO, MAYOR

ATTEST:

SHAYNA SHARKE
City Clerk

ORDINANCE NO.24-XX
ZC24-0001
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STATE OF CALIFORNIA)
COUNTY OF ORANGE) ss
CITY OF DANA POINT)

I, SHAYNA SHARKE, City Clerk of the City of Dana Point, California, do hereby certify that the foregoing Ordinance No. 24-xx was duly introduced at a regular meeting of the City Council on the ____ day of _____, 2024, and was duly adopted and passed at a regular meeting of the City Council on the ____ day of _____, 2024, by the following vote, to wit:

AYES:

NOES:

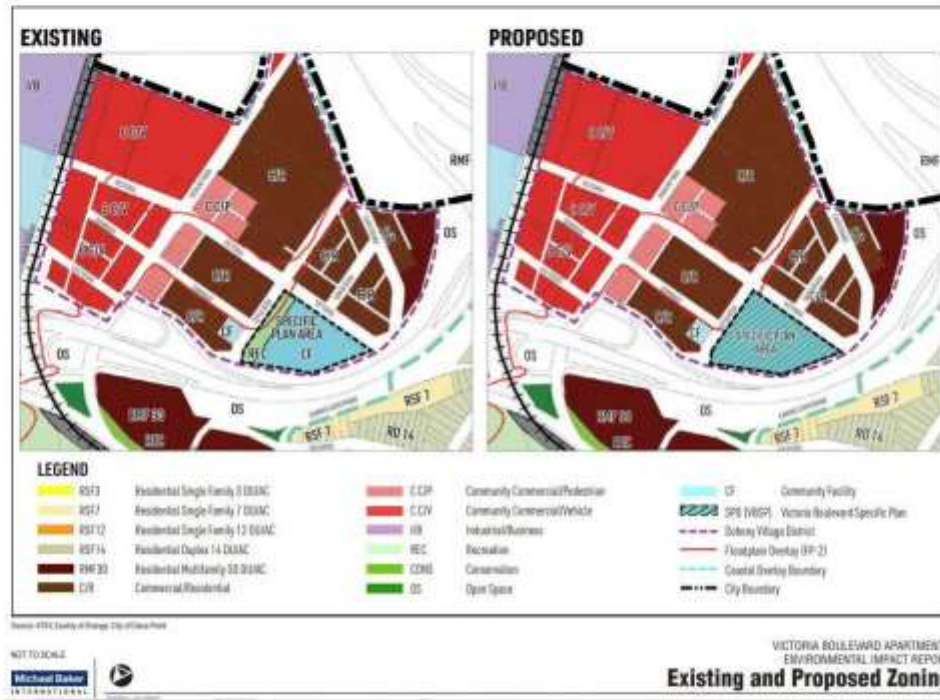
ABSTAIN:

ABSENT:

SHAYNA SHARKE, CITY CLERK

ORDINANCE NO.24-XX
ZC24-0001
PAGE 6

EXHIBIT "A"



ACTION DOCUMENT C: Draft City Council Ordinance No. 24-XX for Specific Plan

ORDINANCE NO. 24-XX

A ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, APPROVING THE VICTORIA BOULEVARD SPECIFIC PLAN SP24-0001 AND INCORPORATE IT AS APPENDIX G OF THE ZONING CODE, AND SUBMISSION AS PART OF LOCAL COASTAL PROGRAM AMENDMENT LCPA20-0002 FOR APPROVAL AND CERTIFICATION BY THE CALIFORNIA COASTAL COMMISSION FOR THE PROPERTY LOCATED AT 26126 VICTORIA BOULEVARD

Applicant: Toll Brothers Apartment Living
Owner: Capistrano Unified Schools District

The City Council of the City of Dana Point does hereby resolve as follows:

WHEREAS, Toll Brothers Apartment Living has submitted the proposed Victoria Boulevard Specific Plan, which would serve both planning and regulatory functions including land use regulations, circulation patterns, public facilities and infrastructure requirements, and development standards; and

WHEREAS, the Planning Commission held a duly noticed public hearing as prescribed by law on May 13, 2024, and upon hearing and considering all testimony and arguments of all persons desiring to be heard, the Planning Commission considered all factors relating to the Victoria Boulevard Specific Plan and Local Coastal Program LCPA20-0002 and recommended approval to the City Council; and

WHEREAS, the Victoria Boulevard Specific Plan will be consistent with and will provide for the orderly, systematic and specific implementation of the General Plan, as said General Plan is concurrently being amended pursuant to City Council Resolution No. 24-06-18-XX; and

WHEREAS, the Specific Plan promotes creative approaches to the redevelopment of the property to address California's and Dana Point's housing shortage with a development of land while modifying the use of the property to a desirable use of open space area, variety in the physical development pattern of the City, and utilization of innovative land use programs; and

WHEREAS, the Victoria Boulevard Specific Plan is compatible with the character and density of the surrounding neighborhood through the incorporation of regulations to guide development and the provision of public facilities to serve the anticipated population and the surrounding area; and

CITY COUNCIL ORDINANCE NO. 24-XX
SP24-0001
PAGE 2

WHEREAS, pursuant to the provisions of the California Environmental Quality Act (CEQA), an Environmental Impact Report (SCH# 2021070304) has been prepared and certified by the City Council for the proposed project; and

WHEREAS, the preparation and adoption of the Local Coastal Program Amendment is statutorily exempt from the California Environmental Quality Act, pursuant to Section 21080.9 of the Public Resources Code,

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Dana Point as follows:

- A. That the above recitations are true and correct;
- B. That the proposed action complies with all other applicable requirements of State law and local Ordinances;
- C. That the adoption of the proposed Victoria Boulevard Specific Plan as an amendment to the Local Coastal Program is in the public interest;
- D. This Specific Plan SP24-0001, together with General Plan Amendment GPA20-0002, and Zone Change ZC24-0001 (each of which are adopted concurrently herewith) shall constitute the Local Coastal Plan Amendment LCPA20-0002 for the project area;
- E. That this Specific Plan SP24-0001, as part of the Local Coastal Program for the project area, shall be submitted to the Coastal Commission for certification, along with the aforementioned General Plan Amendment GPA20-0002, Zone Change ZC24-0001 and Local Coastal Program Amendment LCPA20-0002;
- F. Pursuant to the provisions of the California Environmental Quality Act (CEQA), an Environmental Impact Report (SCH# 2021070304) has been prepared and certified by the City Council for the proposed project and is complete and adequate for the consideration of the Specific Plan;
- G. In approving the Victoria Boulevard Specific Plan, which comprises a part of LCPA20-0002, the City Council makes the following findings:
 1. That the public and affected agencies have had ample opportunity to participate in the LCPA process, **in that proper notice has been provided to the public and affected agencies in accordance with State law, and**

CITY COUNCIL ORDINANCE NO. 24-XX
SP24-0001
PAGE 3

further in compliance with the LCP Amendment procedures.

2. That all policies, objectives, and standards of the LCPA conform to the requirements of the Coastal Act, including that the Land Use Plan as amended is in conformance with and adequate to carry out the Chapter Three policies of the Coastal Act, **in that the Victoria Boulevard Specific Plan will serve as the LCP and has been evaluated to ensure consistency with the Coastal Act related to coastal resources, hazard area, coastal access, land use priorities, intensity and water uses.**
3. That Coastal Act policies concerning specific coastal resources, hazard areas, coastal access concerns, and land use priorities have been applied to determine the kind locations, and intensity of land and water uses. **The Victoria Boulevard Specific Plan serves both planning and regulatory functions including land use regulations, circulation patterns, public facilities and infrastructure requirements, and development standards. The location and intensity of development allowed per the Victoria Boulevard Specific Plan is appropriate in that the location is in an urbanized area, predominantly built out, and is approximately 0.26 miles from the coast and is physically separated from the coast by Pacific Coast Highway. As such, there are no coastal resources in the site vicinity.**
4. That the level and pattern of development proposed is reflected in the Land Use Plan, Zoning Code, and Zoning Map. **The applicable sections are being amended accordingly to be consistent with state law. The location and intensity of development allowed per the Victoria Boulevard Specific Plan is appropriate in that the location is in an urbanized area, predominantly built out, and is approximately 0.26 miles from the coast and is physically separated from the coast by Pacific Coast Highway.**
5. That a procedure has been established to ensure adequate notice of interested persons and agencies of impending development proposed after certification of the LCPA. **Proper notice in accordance with the LCP Amendment procedures has been followed.**

CITY COUNCIL ORDINANCE NO. 24-XX
SP24-0001
PAGE 4

6. That zoning measures are in place which are in conformance with and adequate to carry out the coastal policies of the Land Use Plan. **The City's Zoning Code is being amended concurrently with the LCP amendment.**
- H. That the City Council hereby adopts the Victoria Boulevard Specific Plan SP24-0001 as shown in Exhibit "A" of this Ordinance, attached hereto and incorporated herein by this reference.

DRAFT

CITY COUNCIL ORDINANCE NO. 24-XX
SP24-0001
PAGE 5

PASSED, APPROVED, AND ADOPTED this ____ day of _____, 2024

JAMEY FEDERICO, MAYOR

ATTEST:

SHAYNA SHARKE
City Clerk

STATE OF CALIFORNIA)
COUNTY OF ORANGE) ss
CITY OF DANA POINT)

I, SHAYNA SHARKE, City Clerk of the City of Dana Point, California, do hereby certify that the foregoing Ordinance No. 24-xx was duly introduced at a regular meeting of the City Council on the ____ day of _____, 2024, and was duly adopted and passed at a regular meeting of the City Council on the ____ day of _____, 2024, by the following vote, to wit:

AYES:

NOES:

ABSTAIN:

ABSENT:

SHAYNA SHARKE, CITY CLERK

CITY COUNCIL ORDINANCE NO. 24-XX
SP24-0001
PAGE 6

EXHIBIT A

VICTORIA BOULEVARD SPECIFIC PLAN

LINK TO DOCUMENT ON CITY WEBSITE

[https://www.danapoint.org/home/showpublisheddocument/37917/638506991837094173\)](https://www.danapoint.org/home/showpublisheddocument/37917/638506991837094173)

DRAFT

ACTION DOCUMENT D: Draft City Council Resolution No. 24-06-18-XX for LCPA

RESOLUTION NO. 24-06-18-XX

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, APPROVING LOCAL COASTAL PROGRAM AMENDMENT LCPA20-0002, WHICH AMENDS THE GENERAL PLAN GPA20-0002 AND ZONING CODE ZC24-0001 AND ADOPTION OF SPECIFIC PLAN SP24-0001 AND SUBMISSION OF GENERAL PLAN AMENDMENT GPA20-0002, ZONING CODE ZC24-0001, SPECIFIC PLAN SP24-0001 AS LOCAL COASTAL PROGRAM AMENDMENT LCPA20-0002 FOR APPROVAL AND CERTIFICATION BY THE CALIFORNIA COASTAL COMMISSION FOR THE PROPERTY AT 26126 VICTORIA BOULEVARD

Applicant: Toll Brothers Apartment Living
Owner: Capistrano Unified School District

The City Council for the City of Dana Point does hereby resolve as follows:

WHEREAS, Capistrano Unified School District (the "Owner"), owns the real property located at 26126 Victoria Boulevard and identified by Assessor's Parcel Number 668-361-01 (the "Property"); and

WHEREAS, the Toll Brothers Apartment Living (the "Applicant") filed a verified application to establish a Specific Plan at the subject property requiring a concurrent application with corresponding requests for a Coastal Development Permit to allow the proposed development within the Coastal Overlay District (Coastal Zone), Site Development Permits to allow the construction of a multi-family apartment complex and parking structure within the Floodplain Overlay (FP-2), and Vesting Tentative Parcel Map to consolidate the underlying lots, incumbent upon City Council approval General Plan Amendment GPA20-0002, Zone Change ZC24-0001, Specific Plan SP24-0001, Local Coastal Plan Amendment LCPA20-0002, and Development Agreement DA24-0001 at the Property; and

WHEREAS, in accordance with the requirements of the California Environmental Quality Act (CEQA), California Public Resources Code sections 21000 et seq., the State CEQA Guidelines, 14 C.C.R. section 15000 et seq., the City has prepared a Final Environmental Impact Report (EIR) for the Victoria Boulevard Apartments, State Clearinghouse No. 2021070304, (the "Final Project EIR"), a full, true and correct copy of which is on file with the City Clerk of the City of Dana Point; and

WHEREAS, on July 9, 1991, the City of Dana Point adopted its General Plan; and

Ordinance NO. 24-06-18-XX
LCPA20-0002
Page 2

WHEREAS, the City may amend all or part of an adopted General Plan to promote the public interest up to four times during any calendar year pursuant to Government Code Section 65358; and

WHEREAS, on June 27, 1995, the City of Dana Point adopted a Local Coastal Program, which was certified by the California Coastal Commission and may be amended in whole or in part; and

WHEREAS, the Local Coastal Program Amendment LCPA20-0002 is the first Local Coastal Program Amendment processed for 2024; and

WHEREAS, the proposed amendment GPA20-0002 would make changes to the Land Use Map within the Land Use Element of the General Plan by amending the land use designation of "Community Facility" and "Recreation/Open Space" and creating new land use designations of "Victoria Boulevard Specific Plan" for the Property, per Exhibit "A". The Land Use Element is a component of the land use plan of the Local Coastal Program; and

WHEREAS, the proposed amendment ZC24-0001 would make changes to the Zoning Map by amending the zoning designation of "Community Facility" and "Recreation" and creating new zoning designation of "Victoria Boulevard Specific Plan" for the Property, per Exhibit "B". The Zoning Code and the Victoria Boulevard Specific Plan represents the implementation plan of the Local Coastal Program; and

WHEREAS, approval of SP24-0001 would establish the Victoria Boulevard Specific Plan which would serve both land use plan and implementation plan for the Property in that it provides planning and regulatory functions including land use regulations, circulation patterns, public facilities and infrastructure requirements, and development standards; and

WHEREAS, the amendment is internally consistent with the other elements of the General Plan; and

WHEREAS, after notice duly given pursuant to Government Code Section 65090 and Public Resources Code Sections 30503 and 30510, the Dana Point Planning Commission held public hearings on May 13, 2024, to consider the adoption of Dana Point Local Coastal Program Amendment LCPA20-0002 and recommended approval to the City Council; and

WHEREAS, the City Council, after giving notice as prescribed by law, held a public hearing on June 18, 2024, regarding the proposed Dana Point Local Coastal Program Amendment LCPA20-0002, and the City Council finds that the proposed amendment is consistent with the Dana Point General Plan, the Local Coastal Program, and the California Coastal Act; and

Ordinance NO. 24-06-18-XX
LCPA20-0002
Page 3

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Dana Point as follows:

- A. That the above recitations are true and correct;
- B. That the proposed action complies with all other applicable requirements of State law and local Ordinances;
- C. The City Council hereby adopts Local Coastal Plan Amendment LCPA20-0002;
- D. That the City Council's adoption of General Plan Amendment GPA20-0002, Zoning Change ZC24-0001, Specific Plan SP24-0001 and Local Coastal Plan Amendment LCPA20-0002 is in the public interest;
- E. That the City Council's adoption of Local Coastal Program Amendment LCPA20-0002 is consistent with, and will be implemented in full conformity with the Division 20 of the Public Resources Code as amended, the California Coastal Act of 1976;
- F. The City Council certifies that the Land Use Plan, as amended, is in conformity with and adequate to carry out the Chapter Three policies of the Coastal Act;
- G. The City Council certifies the implementing actions as amended, are in conformity with and adequate to carry out the provisions of the certified Land Use Plan;
- H. That the City Council has reviewed, considered, and by way of adoption of Resolution No. 24-06-18-XX, has certified the Victoria Boulevard Apartments Environmental Impact Report (SCH# 2021070304) for this Project;
- I. That the Victoria Boulevard Apartments Environmental Impact Report (SCH# 2021070304) for the proposed project is complete and adequate for the consideration of the General Plan Amendment GPA20-0002, Zoning Change ZC24-0001, Specific Plan SP24-0001 and Local Coastal Plan Amendment LCPA20-0002;
- J. In adopting LCPA20-0002, the City Council makes the following findings:
 - 1. That the public and affected agencies have had ample opportunity to participate in the LCPA process, **in that proper notice has been**

Ordinance NO. 24-06-18-XX
LCPA20-0002
Page 4

provided to the public and affected agencies in accordance with State law, and further in compliance with the LCP Amendment procedures.

2. That all policies, objectives, and standards of the LCPA conform to the requirements of the Coastal Act, including that the Land Use Plan as amended is in conformance with and adequate to carry out the Chapter Three policies of the Coastal Act, **in that the Victoria Boulevard Specific Plan will serve as the LCP and has been evaluated to ensure consistency with the Coastal Act related to coastal resources, hazard area, coastal access, land use priorities, intensity and water uses.**
3. That Coastal Act policies concerning specific coastal resources, hazard areas, coastal access concerns, and land use priorities have been applied to determine the kind, locations, and intensity of land and water uses. **The General Plan Amendment, Zone Change, Specific Plan, Local Coastal Program Amendment, and project for the development of a 306-unit apartment complex with recreation buildings, site improvements, and open space was evaluated with an EIR (SCH# 2021070304). The EIR evaluated coastal resources, hazard area, coastal access, land use priorities, intensity and water uses. The proposed amendments, Specific Plan, and development comply with the City's Local Coastal Program and do not result in any unmitigated environmental impacts.**
4. That the level and pattern of development proposed is reflected in the Land Use Plan, Zoning Code, and Zoning Map. **The applicable sections are being amended accordingly to be consistent with state law. The project is consistent with the proposed General Plan Amendment, Zone Change, and Specific Plan. The project complies with the Specific Plan's standards related to height, setbacks, lot coverage, open space, and landscape coverage requirements. The project also conducted an EIR that concluded all environmental impacts would be mitigated. The project is located within Doheny Village which has a diverse range of housing types, including multi-family, mobile homes, affordable housing, and live/work units, which is a unique feature within the City.**
5. That a procedure has been established to ensure adequate notice of interested persons and agencies of impending development proposed after the certification of the LCPA. **Proper notice in accordance with the LCP Amendment procedures has been followed.**

Ordinance NO. 24-06-18-XX
LCPA20-0002
Page 5

6. That zoning measures are in place which are in conformance with and adequate to carry out the coastal policies of the Land Use Plan. **The City's Zoning Map is being amended concurrently and the Victoria Boulevard Specific Plan with the LCP amendment.**
7. That this Local Coastal Program Amendment LCPA20-0002, which also includes General Plan Amendment GPA20-0002, and Zone Change ZC24-0001, Specific Plan SP24-0001 shall be submitted to the Coastal Commission for certification.

DRAFT

Ordinance NO. 24-06-18-XX
LCPA20-0002
Page 6

PASSED, APPROVED, AND ADOPTED this 18th day of June, 2024.

JAMEY FEDERICO, MAYOR

ATTEST:

Shayna Sharke
City Clerk

STATE OF CALIFORNIA)
COUNTY OF ORANGE) ss.
CITY OF DANA POINT)

I, Shayna Sharke, City Clerk of the City of Dana Point, do hereby certify that the foregoing Ordinance No. 24-06-18-XX was duly adopted and passed at a regular meeting of the City Council on the 18th day of June, 2024, by the following roll-call vote, to wit:

AYES:

NOES:

ABSENT:

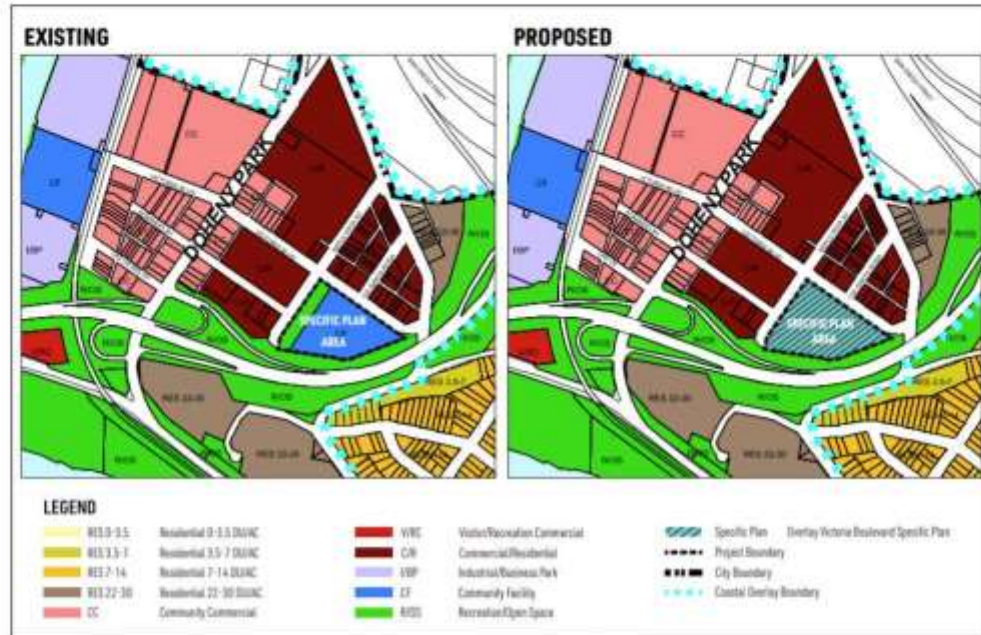
ABSTAIN:

SHAYNA SHARKE
CITY CLERK

Ordinance NO. 24-06-18-XX
 LCPA20-0002
 Page 7

EXHIBIT "A"

General Plan Amendment GPA20-0002



Source: 2015, County of Orange, City of Orange Plan

NOT TO SCALE

Michael Baker
 INTERNATIONAL

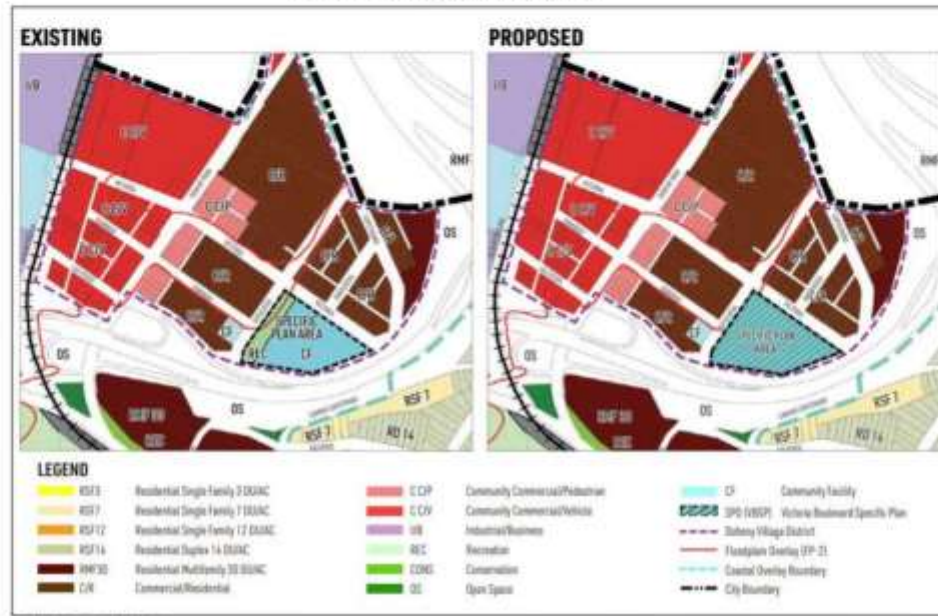


VICTORIA BOULEVARD APARTMENTS
 ENVIRONMENTAL IMPACT REPORT
Existing and Proposed General Plan Land Use Designation

Ordinance NO. 24-06-18-XX
 LCPA20-0002
 Page 8

EXHIBIT "B"

Zone Change ZC24-0001



Source: AEMA County Strategic City of New York

NOT TO SCALE



VICTORIA BOULEVARD APARTMENTS
 ENVIRONMENTAL IMPACT REPORT
Existing and Proposed Zoning

ACTION DOCUMENT E: Draft City Council Resolution No. 24-06-18-XX for EIR

RESOLUTION NO. 24-06-18-XX

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, APPROVING LOCAL COASTAL PROGRAM AMENDMENT LCPA20-0002, WHICH AMENDS THE GENERAL PLAN GPA20-0002 AND ZONING CODE ZC24-0001 AND ADOPTION OF SPECIFIC PLAN SP24-0001 AND SUBMISSION OF GENERAL PLAN AMENDMENT GPA20-0002, ZONING CODE ZC24-0001, SPECIFIC PLAN SP24-0001 AS LOCAL COASTAL PROGRAM AMENDMENT LCPA20-0002 FOR APPROVAL AND CERTIFICATION BY THE CALIFORNIA COASTAL COMMISSION FOR THE PROPERTY AT 26126 VICTORIA BOULEVARD

Applicant: Toll Brothers Apartment Living
Owner: Capistrano Unified School District

The City Council for the City of Dana Point does hereby resolve as follows:

WHEREAS, Capistrano Unified School District (the "Owner"), owns the real property located at 26126 Victoria Boulevard and identified by Assessor's Parcel Number 668-361-01 (the "Property"); and

WHEREAS, the Toll Brothers Apartment Living (the "Applicant") filed a verified application to establish a Specific Plan at the subject property requiring a concurrent application with corresponding requests for a Coastal Development Permit to allow the proposed development within the Coastal Overlay District (Coastal Zone), Site Development Permits to allow the construction of a multi-family apartment complex and parking structure within the Floodplain Overlay (FP-2), and Vesting Tentative Parcel Map to consolidate the underlying lots, incumbent upon City Council approval General Plan Amendment GPA20-0002, Zone Change ZC24-0001, Specific Plan SP24-0001, Local Coastal Plan Amendment LCPA20-0002, and Development Agreement DA24-0001 at the Property; and

WHEREAS, in accordance with the requirements of the California Environmental Quality Act (CEQA), California Public Resources Code sections 21000 et seq., the State CEQA Guidelines, 14 C.C.R. section 15000 et seq., the City has prepared a Final Environmental Impact Report (EIR) for the Victoria Boulevard Apartments, State Clearinghouse No. 2021070304, (the "Final Project EIR"), a full, true and correct copy of which is on file with the City Clerk of the City of Dana Point; and

WHEREAS, on July 9, 1991, the City of Dana Point adopted its General Plan; and

Ordinance NO. 24-06-18-XX
LCPA20-0002
Page 2

WHEREAS, the City may amend all or part of an adopted General Plan to promote the public interest up to four times during any calendar year pursuant to Government Code Section 65358; and

WHEREAS, on June 27, 1995, the City of Dana Point adopted a Local Coastal Program, which was certified by the California Coastal Commission and may be amended in whole or in part; and

WHEREAS, the Local Coastal Program Amendment LCPA20-0002 is the first Local Coastal Program Amendment processed for 2024; and

WHEREAS, the proposed amendment GPA20-0002 would make changes to the Land Use Map within the Land Use Element of the General Plan by amending the land use designation of "Community Facility" and "Recreation/Open Space" and creating new land use designations of "Victoria Boulevard Specific Plan" for the Property, per Exhibit "A". The Land Use Element is a component of the land use plan of the Local Coastal Program; and

WHEREAS, the proposed amendment ZC24-0001 would make changes to the Zoning Map by amending the zoning designation of "Community Facility" and "Recreation" and creating new zoning designation of "Victoria Boulevard Specific Plan" for the Property, per Exhibit "B". The Zoning Code and the Victoria Boulevard Specific Plan represents the implementation plan of the Local Coastal Program; and

WHEREAS, approval of SP24-0001 would establish the Victoria Boulevard Specific Plan which would serve both land use plan and implementation plan for the Property in that it provides planning and regulatory functions including land use regulations, circulation patterns, public facilities and infrastructure requirements, and development standards; and

WHEREAS, the amendment is internally consistent with the other elements of the General Plan; and

WHEREAS, after notice duly given pursuant to Government Code Section 65090 and Public Resources Code Sections 30503 and 30510, the Dana Point Planning Commission held public hearings on May 13, 2024, to consider the adoption of Dana Point Local Coastal Program Amendment LCPA20-0002 and recommended approval to the City Council; and

WHEREAS, the City Council, after giving notice as prescribed by law, held a public hearing on June 18, 2024, regarding the proposed Dana Point Local Coastal Program Amendment LCPA20-0002, and the City Council finds that the proposed amendment is consistent with the Dana Point General Plan, the Local Coastal Program, and the California Coastal Act; and

Ordinance NO. 24-06-18-XX
LCPA20-0002
Page 3

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Dana Point as follows:

- A. That the above recitations are true and correct;
- B. That the proposed action complies with all other applicable requirements of State law and local Ordinances;
- C. The City Council hereby adopts Local Coastal Plan Amendment LCPA20-0002;
- D. That the City Council's adoption of General Plan Amendment GPA20-0002, Zoning Change ZC24-0001, Specific Plan SP24-0001 and Local Coastal Plan Amendment LCPA20-0002 is in the public interest;
- E. That the City Council's adoption of Local Coastal Program Amendment LCPA20-0002 is consistent with, and will be implemented in full conformity with the Division 20 of the Public Resources Code as amended, the California Coastal Act of 1976;
- F. The City Council certifies that the Land Use Plan, as amended, is in conformity with and adequate to carry out the Chapter Three policies of the Coastal Act;
- G. The City Council certifies the implementing actions as amended, are in conformity with and adequate to carry out the provisions of the certified Land Use Plan;
- H. That the City Council has reviewed, considered, and by way of adoption of Resolution No. 24-06-18-XX, has certified the Victoria Boulevard Apartments Environmental Impact Report (SCH# 2021070304) for this Project;
- I. That the Victoria Boulevard Apartments Environmental Impact Report (SCH# 2021070304) for the proposed project is complete and adequate for the consideration of the General Plan Amendment GPA20-0002, Zoning Change ZC24-0001, Specific Plan SP24-0001 and Local Coastal Plan Amendment LCPA20-0002;
- J. In adopting LCPA20-0002, the City Council makes the following findings:
 - 1. That the public and affected agencies have had ample opportunity to participate in the LCPA process, **in that proper notice has been**

Ordinance NO. 24-06-18-XX
LCPA20-0002
Page 4

provided to the public and affected agencies in accordance with State law, and further in compliance with the LCP Amendment procedures.

2. That all policies, objectives, and standards of the LCPA conform to the requirements of the Coastal Act, including that the Land Use Plan as amended is in conformance with and adequate to carry out the Chapter Three policies of the Coastal Act, **in that the Victoria Boulevard Specific Plan will serve as the LCP and has been evaluated to ensure consistency with the Coastal Act related to coastal resources, hazard area, coastal access, land use priorities, intensity and water uses.**
3. That Coastal Act policies concerning specific coastal resources, hazard areas, coastal access concerns, and land use priorities have been applied to determine the kind, locations, and intensity of land and water uses. **The General Plan Amendment, Zone Change, Specific Plan, Local Coastal Program Amendment, and project for the development of a 306-unit apartment complex with recreation buildings, site improvements, and open space was evaluated with an EIR (SCH# 2021070304). The EIR evaluated coastal resources, hazard area, coastal access, land use priorities, intensity and water uses. The proposed amendments, Specific Plan, and development comply with the City's Local Coastal Program and do not result in any unmitigated environmental impacts.**
4. That the level and pattern of development proposed is reflected in the Land Use Plan, Zoning Code, and Zoning Map. **The applicable sections are being amended accordingly to be consistent with state law. The project is consistent with the proposed General Plan Amendment, Zone Change, and Specific Plan. The project complies with the Specific Plan's standards related to height, setbacks, lot coverage, open space, and landscape coverage requirements. The project also conducted an EIR that concluded all environmental impacts would be mitigated. The project is located within Doheny Village which has a diverse range of housing types, including multi-family, mobile homes, affordable housing, and live/work units, which is a unique feature within the City.**
5. That a procedure has been established to ensure adequate notice of interested persons and agencies of impending development proposed after the certification of the LCPA. **Proper notice in accordance with the LCP Amendment procedures has been followed.**

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LCPA20-0002
Page 5

6. That zoning measures are in place which are in conformance with and adequate to carry out the coastal policies of the Land Use Plan. **The City's Zoning Map is being amended concurrently and the Victoria Boulevard Specific Plan with the LCP amendment.**
7. That this Local Coastal Program Amendment LCPA20-0002, which also includes General Plan Amendment GPA20-0002, and Zone Change ZC24-0001, Specific Plan SP24-0001 shall be submitted to the Coastal Commission for certification.

DRAFT

Ordinance NO. 24-06-18-XX
LCPA20-0002
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PASSED, APPROVED, AND ADOPTED this 18th day of June, 2024.

JAMEY FEDERICO, MAYOR

ATTEST:

Shayna Sharke
City Clerk

STATE OF CALIFORNIA)
COUNTY OF ORANGE) ss.
CITY OF DANA POINT)

I, Shayna Sharke, City Clerk of the City of Dana Point, do hereby certify that the foregoing Ordinance No. 24-06-18-XX was duly adopted and passed at a regular meeting of the City Council on the 18th day of June, 2024, by the following roll-call vote, to wit:

AYES:

NOES:

ABSENT:

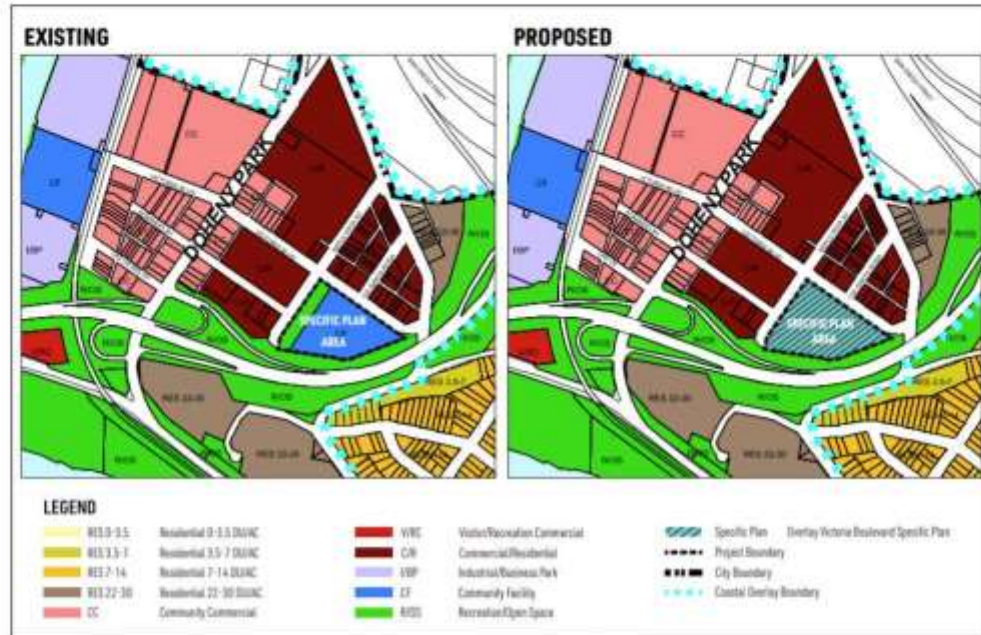
ABSTAIN:

SHAYNA SHARKE
CITY CLERK

Ordinance NO. 24-06-18-XX
 LCPA20-0002
 Page 7

EXHIBIT "A"

General Plan Amendment GPA20-0002



Source: 2015, County of Orange, City of Orange Plan

NOT TO SCALE

Michael Baker
 INTERNATIONAL

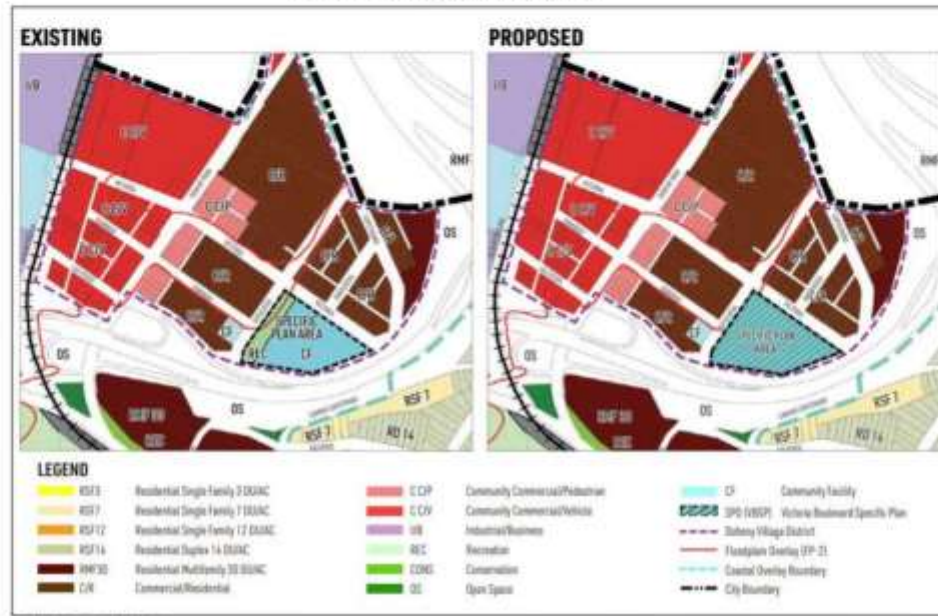


VICTORIA BOULEVARD APARTMENTS
 ENVIRONMENTAL IMPACT REPORT
Existing and Proposed General Plan Land Use Designation

Ordinance NO. 24-06-18-XX
 LCPA20-0002
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EXHIBIT "B"

Zone Change ZC24-0001



Source: AEMA County Strategic City of New York

NOT TO SCALE

Michael Baker
 CONSULTANTS



VICTORIA BOULEVARD APARTMENTS
 ENVIRONMENTAL IMPACT REPORT
Existing and Proposed Zoning

ACTION DOCUMENT F: Draft City Council Ordinance No. 24-XX for DA

RESOLUTION NO. 24-05-13-XX

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, CERTIFYING THE VICTORIA BOULEVARD APARTMENTS ENVIRONMENTAL IMPACT REPORT (SCH# 2021070304) FOR GENERAL PLAN AMENDMENT GPA20-0002, ZONE CHANGE ZC24-0001, SPECIFIC PLAN SP24-0001, LOCAL COASTAL PLAN AMENDMENT LCPA20-0002, DEVELOPMENT AGREEMENT DA24-0001 AND COASTAL DEVELOPMENT PERMIT CDP20-0005, SITE DEVELOPMENT PERMIT SDP20-0007, TENTATIVE PARCEL MAP TPM20-0001 FOR THE VICTORIA BOULEVARD APARTMENTS

Applicant: Toll Brothers Apartment Living
Owner: Capistrano Unified School District

The City Council of the City of Dana Point does hereby resolve as follows:

WHEREAS, on August 15, 2020, the Applicant submitted a General Plan Amendment GPA20-0002, Zone Change ZC24-0001, Specific Plan SP24-0001, Local Coastal Plan Amendment LCPA20-0002, Development Agreement DA24-0001 and Coastal Development Permit CDP20-0005, Site Development Permit SDP20-0007, Tentative Parcel Map TPM20-0001 for the Victoria Boulevard Apartments (Project); and

WHEREAS, the Project includes a General Plan Amendment to Amend the General Plan Land Use Element; a Zone Change and Specific Plan to establish the Victoria Boulevard Specific Plan; a Development Agreement between the City, Capistrano Unified Schools District and Toll Brothers Apartment Living; a Coastal Development Permit, Site Development Permit, and Tentative Parcel Map, to allow for the proposed development; and a submittal of said applications as a Local Coastal Program Amendment for approval and certification by the California Coastal Commission; and

WHEREAS, the Project approvals are subject to the provisions of the California Environmental Quality Act (CEQA), California Public Resources Code section 21000 et seq., as provided by Title 9 of the Dana Point Municipal Code; and

WHEREAS, the City of Dana Point (City) is the lead agency for purposes of completing the environmental evaluation of the project under CEQA, the State CEQA Guidelines, 14 C.C.R. section 15000 et seq. (CEQA Guidelines), and the City's local CEQA Guidelines (Local CEQA Guidelines).

WHEREAS, an Initial Study was prepared for the Project and the City determined that an Environmental Impact Report was required to address significant potential environmental impacts; and

WHEREAS, a Notice of Preparation (NOP) was distributed for a 30-day public

CITY COUNCIL RESOLUTION NO. 24-06-18-XX

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Final EIR - GPA20-0002, ZC24-0001, SP24-0001, LCPA20-0002, DA24-0001, CDP20-0005, SDP20-0007, TPM20-0001

review period from July 19, 2021 through August 17, 2021 and a public scoping meeting was scheduled on and occurred on August 5, 2021; and

WHEREAS, in accordance with Senate Bill 18 and Government Code section 69352.3, and Assembly Bill 52 and Government Code section 21000, the City sent notification letters to the appropriate tribal organizations on April 15, 2021, in compliance with the requirements for tribal consultation; and

WHEREAS, a Notice of Availability (NOA) for the Project Draft Environmental Impact Report (Draft EIR) was distributed for a 45-day public review period from January 20, 2023 through March 6, 2023. On February 27, 2023, the City held a community workshop to receive public comments on the Draft EIR; and

WHEREAS, the City, as the lead agency, has evaluated the comments received on the Draft EIR, a copy of which is attached hereto as **Exhibit A**; and

WHEREAS, the City, as the lead agency, prepared the Final EIR in accordance with the requirements of CEQA, the CEQA Guidelines, and the Local CEQA Guidelines. The Final EIR consists of the NOP, NOA, Draft EIR including technical appendices, Response to Comments, Errata, and Mitigation Monitoring and Reporting Program (MMRP). The Final EIR is attached hereto as **Exhibit B** and is also on file with the City Clerk of the City of Dana Point. In addition, the Victoria Boulevard Apartments Traffic Impact Analysis is attached hereto as **Exhibit C**; and

WHEREAS, on May 13, 2024, the Dana Point Planning Commission held a duly noticed public hearing as prescribed by law to consider, take actions, and make recommendations on the Final EIR and the Project; and

WHEREAS, at the May 13, 2024 public hearing, upon hearing and considering all testimony and arguments, if any, of all persons desiring to be heard, examining the attached Final EIR, analyzing the information submitted by staff, and considering any written comments received, the Dana Point Planning Commission recommended that the City Council of the City of Dana Point certify the Final EIR; and

WHEREAS, On June 18, 2024, the City Council of the City of Dana Point held a duly noticed public hearing as prescribed by law to consider and take actions on the Final EIR and the Project; and

WHEREAS, at the June 18, 2024 public hearing, upon hearing and considering all testimony and arguments, if any, of all persons desiring to be heard, examining the attached Final EIR, analyzing the information submitted by staff, and considering any written comments received, said City Council of the City of Dana Point considered all factors relating to the Final EIR.

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Final EIR - GPA20-0002, ZC24-0001, SP24-0001, LCPA20-0002, DA24-0001, CDP20-0005, SDP20-0007, TPM20-0001

NOW, THEREFORE, BE IT HEREBY RESOLVED by the City Council of the City of Dana Point as follows:

- B) That the above recitals are true and correct, and are incorporated herein by reference.
- B) That based on the evidence presented at the public hearing, the City Council hereby certifies the Final EIR for the proposed Project and finds that:
1. The City Council of the City of Dana Point has reviewed and considered the information contained in the Final EIR, and finds that the Final EIR was prepared in compliance with CEQA, the CEQA Guidelines, and the Local CEQA Guidelines;
 2. The City complied with procedural and substantive requirements of CEQA, the CEQA Guidelines, and the Local CEQA Guidelines;
 3. That the Final EIR is in the public interest;
 4. The City Council of the City of Dana Point has independently reviewed and analyzed the Final EIR and determined that the Final EIR constitutes an accurate and complete statement of the environmental impacts of the proposed Project.
 5. The City Council of the City of Dana Point has independently reviewed and determined that the Statement of Findings and Facts in Support of Findings attached hereto as **Exhibit D** (Findings) and MMRP are true and accurate, and therefore adopts such Findings and MMRP;
 6. The proposed project would not have a potential adverse effect that cannot otherwise be mitigated. Appropriate mitigation measures in the MMRP have been identified to adequately address Project's potential adverse impacts on the environment.
 7. The Final EIR reflects the City Council's independent judgment and analysis.
 8. The City Council of the City of Dana Point hereby directs staff to file a Notice of Determination with the Orange County Clerk Recorder within five (5) working days of final approval of this Resolution.

CITY COUNCIL RESOLUTION NO. 24-06-18-XX

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Final EIR - GPA20-0002, ZC24-0001, SP24-0001, LCPA20-0002, DA24-0001, CDP20-0005, SDP20-0007, TPM20-0001

PASSED, APPROVED, AND ADOPTED this ____ day of _____, 2024.

JAMEY FEDERICO, MAYOR

ATTEST:

SHAYNA SHARKE,
CITY CLERKSTATE OF CALIFORNIA)
COUNTY OF ORANGE) ss
CITY OF DANA POINT)

I, SHAYNA SHARKE, City Clerk of the City of Dana Point, California, do hereby certify that the foregoing Resolution No. 24-xx was duly introduced at a regular meeting of the City Council on the 18th day of June, 2024, and was duly adopted and passed at a regular meeting of the City Council on the ____ day of _____, 2024, by the following vote, to wit:

AYES:

NOES:

ABSTAIN:

ABSENT:

SHAYNA SHARKE, CITY CLERK

CITY COUNCIL RESOLUTION NO. 24-06-18-XX

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Final EIR - GPA20-0002, ZC24-0001, SP24-0001, LCPA20-0002, DA24-0001, CDP20-0005, SDP20-0007, TPM20-0001

EXHIBIT A

Draft EIR

LINK TO DOCUMENT ON CITY WEBSITE

<https://www.danapoint.org/home/showpublisheddocument/35574/638097230446700000>

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Final EIR - GPA20-0002, ZC24-0001, SP24-0001, LCPA20-0002, DA24-0001, CDP20-0005, SDP20-0007, TPM20-0001

EXHIBIT B

Final EIR

LINK TO DOCUMENT ON CITY WEBSITE

<https://www.danapoint.org/home/showpublisheddocument/36955/638307976565700000>

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CITY COUNCIL RESOLUTION NO. 24-06-18-XX

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Final EIR - GPA20-0002, ZC24-0001, SP24-0001, LCPA20-0002, DA24-0001, CDP20-0005, SDP20-0007, TPM20-0001

EXHIBIT C

Victoria Boulevard Apartments Traffic Impact Analysis

LINK TO DOCUMENT ON CITY WEBSITE

<https://www.danapoint.org/home/showpublisheddocument/37911/638506695310147975>

DRAFT

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Final EIR - GPA20-0002, ZC24-0001, SP24-0001, LCPA20-0002, DA24-0001, CDP20-0005, SDP20-0007, TPM20-0001

EXHIBIT D**CEQA FINDINGS OF FACT FOR THE
FINAL ENVIRONMENTAL IMPACT REPORT
FOR THE
VICTORIA BOULEVARD APARTMENTS****State Clearinghouse No. 2021070304****I. BACKGROUND**

The California Environmental Quality Act (CEQA) requires that written findings be made by the lead agency in connection with certification of an environmental impact report (EIR) and approval of a project pursuant to Sections 15091 and 15093 of the *CEQA Guidelines* and Section 21081 of the Public Resources Code. This document provides the findings required by CEQA and the CEQA Guidelines and the specific reasons for considering a project for which significant impacts have been identified and analyzed in the EIR.

The lead agency is responsible for the adequacy and objectivity of the EIR. The City of Dana Point (City), as lead agency, has subjected the Draft EIR and Final EIR to the City's own independent review and analysis.

A. PROJECT SUMMARY**PROJECT LOCATION**

The City of Dana Point is located in the southern portion of Orange County, midway between the cities of San Diego and Los Angeles. The community consists of coastal bluffs and rolling hills located along seven miles of the Pacific Ocean. Surrounding cities include Laguna Niguel and Laguna Beach to the north, San Juan Capistrano to the east, and San Clemente to the south.

The proposed Victoria Boulevard Apartments (project) site is located within an area commonly referred to as Doheny Village, which is an approximately 80-acre area located in the southeastern portion of the City. The project proposes the development of approximately 5.51-acre site located at 26126 Victoria Boulevard with up to 306 dwelling units. The project site is located on the southeast corner of Victoria Boulevard and Sepulveda Boulevard in the southeastern portion of Doheny Village. The project site is bound by Victoria Boulevard to the north, the Interstate 5 (I-5) off-ramp to Pacific Coast Highway on the east, Pacific Coast Highway on the south, and Sepulveda

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Final EIR - GPA20-0002, ZC24-0001, SP24-0001, LCPA20-0002, DA24-0001, CDP20-0005, SDP20-0007, TPM20-0001

Avenue on the west. The project site consists of several underlying lots under one parcel number (Assessor's Parcel Number [APN] 668-361-01) owned by the Capistrano Unified School District (CUSD). Regional access to the project site is provided via I-5 and Pacific Coast Highway. Local access is provided via Victoria Boulevard and Sepulveda Avenue.

PROJECT DESCRIPTION

The project involves the demolition of the existing CUSD bus yard and development of a two- to five-story, 306-unit apartment complex with an attached six-story (seven levels) parking structure and associated amenities in accordance with the proposed Victoria Boulevard Specific Plan (Specific Plan).

Victoria Boulevard Specific Plan

The Specific Plan is intended to provide an orderly and efficient development of the project site, in accordance with the General Plan. The Specific Plan would serve both planning and regulatory functions including land use regulations, circulation patterns, public facilities and infrastructure requirements, and development standards. All future development within the project area would be subject to compliance with the Specific Plan regulations, as well as all other applicable City regulations. Under the Specific Plan development density within the project area would not exceed 55.5 dwelling units per acre, yielding a maximum of 306 dwelling units on the 5.51-acre project site. Of the total unit count, a minimum of five percent very low-, five percent low-, and five percent moderate-income units (yielding a total of no less than 46 affordable units) are required to be provided and distributed throughout the project. The Specific Plan also includes the conceptual grading plan for the project, under which the proposed development would export approximately 19,585 cubic yards of earth material. Access to the project area would be limited to a proposed ingress/egress driveway along Sepulveda Avenue, an unsignalized entryway from Victoria Boulevard, and a third driveway in the southern terminus of Sepulveda Avenue that would only be used as an emergency access. Pedestrian access and circulation would be provided throughout the residential community. A Class III bicycle route with signage would be provided on the eastbound side of Victoria Boulevard. All sidewalks and bicycle paths would follow the design standards set forth in the Specific Plan. Additionally, the Specific Plan allows for garage parking, angled surface parking, and a surplus of on-street parking stalls on Victoria Boulevard and Sepulveda Avenue.

Design guidelines are provided for the proposed on-site development project. These guidelines provide directions on implementing the unique, coastal, contemporary, high-density concepts envisioned for the project area, ensuring cohesive, high-quality development of buildings, streetscapes, and other public spaces. Development

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Final EIR - GPA20-0002, ZC24-0001, SP24-0001, LCPA20-0002, DA24-0001, CDP20-0005, SDP20-0007, TPM20-0001

standards include, but are not limited to, allowable development, density, lot area per residential unit, building height, building setbacks, and open space requirements.

Victoria Boulevard Apartments

The project would be developed as a 306-unit apartment complex with an attached six-story (seven level) parking structure. The apartment building would be two- to five-stories. The project would include approximately 141,540 square feet (3.25 acres) of open space, including 47,916 square feet (1.065 acres) of public active open space, 34,719 square feet (0.797 acre) of public street and frontage open space, 44,644 square feet (1.025 acre) of private active open space, and 15,778 square feet (0.36 acre) of private passive (i.e., patio) open space. The 1.065 acres of public active open space would include Victoria Shore Park (at the southeastern corner of Sepulveda Avenue and Victoria Boulevard) as well as a Dog Park and two public paseos along the former La Playa Avenue right-of-way. Private active open space (residential common area) would include private courtyards (Doheny Garden, Salt Creek Court, Harbor Terrace, and Shower Court), as well as a rooftop garden with a fitness room, pool deck, and club house.

Victoria Shore Park would include an outdoor exercise station, activity lawn, fire pit lounge deck, canopy palms, and enhanced architectural features. The paseo features would include a public access walking/biking trail, seating area with benches, drivable grass with drivable turf, and architecturally enhanced hardscape features.

The Dog Park would include synthetic lawn dog run feature, dog water fountain, and trash/dog waste station.

The private courtyards would include various amenities such as a canopy palms, seating area with benches, boulder features, bike storage, Americans with Disabilities Act (ADA) lift, enhanced hardscape, surf wash down lawn, board storage, showers/hose-down, lounge seating with fire table, among others. In addition to the fitness room, pool, and club, the roof garden would include barbecues, dining tables, lounge seating, synthetic lawn, spa, among others. Landscape and Streetscape amenities would include, without limitation:

- i. Establishment of no less than 27 on-street angled and landscape enhanced parking spaces along the southside of Victoria Boulevard and 13 on-street parking spaces along the eastside of Sepulveda Avenue;
- ii. Ample landscaping and seating;
- iii. New curb, gutter, and 10-foot sidewalk along Victoria Boulevard (increasing sidewalk width from four feet existing to 10 feet to allow for bicycles and pedestrians);

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Final EIR - GPA20-0002, ZC24-0001, SP24-0001, LCPA20-0002, DA24-0001, CDP20-0005, SDP20-0007, TPM20-0001

- iv. New 10-foot sidewalk along Sepulveda Boulevard (increasing sidewalk from four feet to 10 feet to allow for bicycles and pedestrians);
- v. New curb and gutter to replace existing driveways on Sepulveda;
- vi. Relocation of catch basin at the corner of Victoria Boulevard and other storm drain modifications to accommodate street improvements;
- vii. Caltrans drainage culvert to be modified/replaced with junction structure; required upgrades to South Coast Water District (SCWD) system;
- viii. A cul-de-sac and sidewalk at Sepulveda Boulevard dead-end; and
- ix. Surf benches along sidewalk on Victoria Boulevard.

Development Agreement

An application for a Development Agreement has been submitted as one of the requested project entitlements as provided by Municipal Code Chapter 9.73, *Development Agreements*. Development Agreements are authorized by Government Code Section 65864 *et seq.*, and provide for the vesting of the laws, statutes, ordinances, regulations, standards and policies in existence as of the effective date of the Development Agreement that will be applicable to the project. The parties to the Development Agreement include the City, the project proponent, and the current landowner (CUSD). The Development Agreement has been negotiated and will be considered for approval in combination with the legislative actions and project entitlement. The Development Agreement includes public benefits that extend beyond those which may be forthcoming through project approvals, as well as other negotiated terms. If any physical improvements beyond those proposed to be constructed on the project site are identified in the Development Agreement, those improvements have been identified and evaluated in the EIR.

The Development Agreement includes an obligation to create a funding mechanism which yields a substantial contribution to be utilized exclusively on improvements to Dana Hills High School at the earliest commercially feasible time. In addition, the Development Agreement includes a substantial contribution to the City to be utilized for community benefits as directed by the City Council.

B. PROJECT OBJECTIVES

The proposed project objectives are outlined below:

1. Increase the supply and diversity of housing types in the City of Dana Point, consistent with the goals and policies of the Housing Element.
2. Implement infill development on underutilized parcels, consistent with the General Plan and Housing Element.

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Final EIR - GPA20-0002, ZC24-0001, SP24-0001, LCPA20-0002, DA24-0001, CDP20-0005, SDP20-0007, TPM20-0001

3. Ensure height and massing of future development within the project area is sensitive to the scale of existing streetscapes, especially along Victoria Boulevard.
4. Promote the character and surf heritage of the historical Doheny Village.
5. Increase the supply of affordable housing by mandating that no less than 5% of the units be developed for very low-income level housing, 5% of the units be developed for low-income housing level housing, and 5% of the units be developed for moderate income housing.
6. Promote pedestrian-oriented development, consistent with the planned Doheny Village Zoning District Update Project by providing housing within walking distance of places of business and employment.
7. Utilize architectural and landscape design to create public street frontages with pedestrian interest.
8. Incorporate landscaping and streetscaping enhancements as a means of investing in City beautification.
9. Reinforce a sense of place through unique and project-specific identity signage that adds interest and variety to the public realm and complements the harbor and coastal zone features of Dana Point.
10. Incorporate public open spaces within the project area, including a focal element (Victoria Park) to enhance the public realm and public access at the corner of Sepulveda Avenue and Victoria Boulevard, all of which would be maintained by the project developer in perpetuity.
11. Create a funding mechanism which yields a substantial contribution to be utilized exclusively on improvements to Dana Hills High School at the earliest commercially feasible time.
12. Utility undergrounding for all utilities along the project frontages at Victoria Boulevard and Sepulveda Avenue.
13. Provide a substantial contribution to the City to be utilized for community benefits as directed by the City Council.

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Final EIR - GPA20-0002, ZC24-0001, SP24-0001, LCPA20-0002, DA24-0001, CDP20-0005, SDP20-0007, TPM20-0001

C. ENVIRONMENTAL REVIEW PROCESS

The Final EIR includes the Draft EIR (dated January 2023); clarification of modifications to the proposed project since the circulation of the Draft EIR; written comments received during the Draft EIR public review period; written responses to those comments; an Errata; and a Mitigation Monitoring and Reporting Program (State Clearinghouse No. 2021070304) (hereinafter referred to collectively as the Final EIR). In conformance with CEQA and the *CEQA Guidelines*, the City conducted an extensive environmental review of the proposed project. The following is a summary of the City's environmental review process:

- The City circulated a Notice of Preparation (NOP) to public agencies and members of the public who had requested such notice for a 30-day period. The NOP was submitted to the State Clearinghouse and posted at the Orange County Clerk's office on July 19, 2021, with the 30-day review period beginning on July 19, 2021 and ending on August 17, 2021. Copies of the NOP were made available for public review at the City of Dana Point Community Development Department and on the City's website.
- A public scoping meeting was held on August 5, 2021 at the City Council Chambers.
- A Draft EIR was prepared and distributed for a 45-day public review period beginning January 20, 2023 through March 6, 2023. A Notice of Availability (NOA) was submitted to the State Clearinghouse, sent to public agencies and interested persons and organizations, and posted at the Orange County Clerk's office on January 20, 2023. Copies of the Draft EIR were made available for public review at the City of Dana Point Community Development Department and on the City's website.
- A Community Workshop for the Draft EIR was held on February 27, 2023 at the Dana Point Community Center located at 34052 Del Obispo Street, Dana Point, CA 92629.
- A Final EIR was prepared, which included clarification of modifications to the proposed project since the Draft EIR; comment letters received on the Draft EIR, responses to those comment letters, an Errata, and a Mitigation Monitoring and Reporting Program. The Final EIR was released for a 10-day agency review period prior to certification of the Final EIR.
- Public hearings on the proposed project were held, including one Dana Point Planning Commission hearing on May 13, 2024 and one Dana Point City Council hearing on June 18, 2024.

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Final EIR - GPA20-0002, ZC24-0001, SP24-0001, LCPA20-0002, DA24-0001, CDP20-0005, SDP20-0007, TPM20-0001

D. RECORD OF PROCEEDINGS

For purposes of CEQA and these Findings, the Record of Proceedings for the proposed project includes, but is not limited to, the following documents and other evidence:

- The NOP, NOA, and all other public notices issued by the City in conjunction with the proposed project;
- The Draft EIR and the Final EIR for the proposed project;
- All application materials submitted by the project proponent and any and all clarifications of modifications to the proposed project submitted by the project proponent;
- All written comment letters submitted by agencies, organizations, or members of the public during the public review comment period on the Draft EIR;
- All responses to written comment letters submitted by agencies, organizations, or members of the public during the public review comment period on the Draft EIR;
- All written and verbal public testimony presented during noticed public hearing(s) for the proposed project;
- All transcripts or minutes of the proceedings of the Planning Commission and City Council;
- The Mitigation Monitoring and Reporting Program;
- The reports and technical memoranda included or referenced in the Final EIR;
- All documents, studies, EIRs, or other materials incorporated by reference in the Draft EIR and Final EIR;
- The Resolutions and Ordinances recommended by the Planning Commission and adopted by the City Council in connection with the proposed project, and all documents incorporated by reference therein, including staff reports and findings in support thereof;
- Matters of common knowledge to the City, including but not limited to Federal, State, and local laws and regulations; and
- Any documents expressly cited in these Findings.

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Final EIR - GPA20-0002, ZC24-0001, SP24-0001, LCPA20-0002, DA24-0001, CDP20-0005, SDP20-0007, TPM20-0001

E. CUSTODIAN AND LOCATION OF RECORDS

The documents and other materials that constitute the record of proceedings for the City's actions related to the Victoria Boulevard Apartments are located at the City of Dana Point Community Development Department, 33282 Golden Lantern, Dana Point, CA 92629. The City's Director of Community Development is the custodian of the record of proceedings for the Final EIR. Copies of these documents, which constitute the record of proceedings are, and at all relevant times have been and will be, available upon request at the offices of the City of Dana Point Community Development Department. This information is provided in compliance with Public Resources Code Section 21081.6(a)(2) and CEQA Guidelines Section 15091(e).

F. INDEPENDENT JUDGMENT AND FINDING

The City selected and retained Michael Baker International (Michael Baker) to prepare the EIR. Michael Baker prepared the EIR under the supervision and direction of the City. All findings set forth herein are based on substantial evidence in the record, as indicated, with respect to each specific finding.

Finding:

The City has exercised independent judgment in accordance with Public Resources Code Section 21082.1(c)(3) in retaining its own environmental consultant and directing the consultant in the preparation of the EIR. The City has independently reviewed and analyzed the EIR and finds that the report reflects the independent judgment of the City.

The City Council has considered all the evidence presented in its consideration of the proposed project and the EIR, including, but not limited to, the Final EIR, written and oral evidence presented at hearings on the project, and written evidence submitted to the City by individuals, organizations, agencies, and other entities. On the basis of such evidence, the City Council finds that with respect to each environmental impact identified in the review process, the impact: (1) is less than significant and would not require mitigation, or (2) is potentially significant but would be avoided or reduced to a less than significant level by implementation of identified mitigation measures. No impacts would be significant and unavoidable. Therefore, no Statement of Overriding Considerations as described in CEQA Guidelines Section 15093 is required.

II. FINDINGS AND FACTS

The City of Dana Point, as lead agency, is required under CEQA to make written findings concerning each alternative and each significant environmental impact identified in the Draft EIR and Final EIR.

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Specifically, regarding findings, *CEQA Guidelines* Section 15091 provides:

- (a) No public agency shall approve or carry out a project for which an EIR has been certified which identifies one or more significant environmental effects of the project unless the public agency makes one or more written findings for each of those significant effects, accompanied by a brief explanation of the rationale for each finding. The possible findings are:
 - 1. Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the Final EIR.
 - 2. Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the agency making the finding. Such changes have been adopted by such other agency or can and should be adopted by such other agency.
 - 3. Specific economic, legal, social, technological, or other considerations, including provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or project alternatives identified in the Final EIR.
- (b) The findings required by subsection (a) shall be supported by substantial evidence in the record.
- (c) The finding in subdivision (a)(2) shall not be made if the agency making the finding has concurrent jurisdiction with another agency to deal with identified feasible mitigation measures or alternatives. The finding in subsection (a)(3) shall describe the specific reasons for rejecting identified mitigation measures and project alternatives.
- (d) When making the findings required in subdivision (a)(1), the agency shall also adopt a program for reporting on or monitoring the changes which it has either required in the project or made a condition of approval to avoid or substantially lessen significant environmental effects. These measures must be fully enforceable through permit conditions, agreements, or other measures.
- (e) The public agency shall specify the location and custodian of the documents or other material which constitute the record of the proceedings upon which its decision is based.

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- (f) A statement made pursuant to Section 15093 does not substitute for the findings required by this section.

The "changes or alterations" referred to in *CEQA Guidelines* Section 15091(a)(1) may include a wide variety of measures or actions as set forth in *CEQA Guidelines* Section 15370, including:

- (a) Avoiding the impact altogether by not taking a certain action or parts of an action.
- (b) Minimizing impacts by limiting the degree or magnitude of the action and its implementation.
- (c) Rectifying the impact by repairing, rehabilitating, or restoring the impacted environment.
- (d) Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action.
- (e) Compensating for the impact by replacing or providing substitute resources or environments.

A. Format

This section summarizes the significant environmental impacts of the proposed project, describes how those impacts are to be mitigated, and discusses various alternatives to the proposed project, which were developed in an effort to reduce the remaining significant environmental impacts. All impacts are considered potentially significant prior to mitigation unless otherwise stated in the findings.

The remainder of this section is divided into the following subsections:

- **Section B, Findings on Impacts Determined to Be Less Than Significant**, presents the impacts of the proposed project that were determined in the EIR to be less than significant without the addition of mitigation measures and presents the rationales for these determinations.
- **Section C, Findings on Impacts Mitigated to Less Than Significant**, presents potentially significant impacts of the proposed project that were identified in the Final EIR, the mitigation measures identified in the EIR that would reduce such impacts to less than significant levels, and the rationales for the findings. The implementation of the identified mitigation measures would be assured through the Mitigation Monitoring and Reporting Program in the Final EIR.

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- **Section D, Findings on Significant Unavoidable Impacts**, presents potentially significant impacts of the proposed project that were identified in the EIR, the mitigation measures identified in the Mitigation Monitoring and Reporting Program that would reduce impacts, the findings for significant unavoidable impacts, and the rationales for the findings. The Final EIR did not identify any significant and unavoidable impacts associated with the proposed project.
- **Section E, Findings on Recirculation**, presents the reasoning as to why recirculation is not required under *CEQA Guidelines* Section 15088.5.
- **Section F, Findings on Project Alternatives**, summarizes the alternatives to the project that were analyzed in the EIR, and evaluates them in relation to the purpose for analyzing alternatives to a proposed project set forth in *CEQA Guidelines* Section 15126.6, which requires a public agency to consider alternatives to a proposed project if those alternatives are feasible and could avoid or substantially lessen any of the significant impacts of the proposed project.

B. FINDINGS ON IMPACTS DETERMINED TO BE LESS THAN SIGNIFICANT

Consistent with *CEQA Guidelines* Sections 15126.2 and 15128, the EIR focused its analysis on potentially significant impacts and limited discussion of other impacts for which it can be seen with certainty there is no potential for significant adverse environmental effects. *CEQA Guidelines* Section 15091 does not require specific findings to address environmental effects that an EIR identifies as "no impact" or as a "less than significant impact."

Finding:

The City finds that based on substantial evidence in the record, the following potential impacts, to the extent they result from the proposed project, would be less than significant, or would have no impact, and would not require mitigation.

1. Aesthetics/Light and Glare

As discussed in pages 5.2-9 through 5.2-10 of the DEIR, the proposed project would modify the visible massing on-site, but would not block the view of the Pacific Ocean as experienced from public vantage points. As such, project implementation would not have a substantial adverse impact on a scenic vista.

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As discussed in pages 5.2-14 through 5.2-15 of the DEIR, the proposed project would not block motorists existing coastal views when traveling southbound I-5 off-ramp onto westbound Pacific Coast Highway. Additionally, project implementation would not involve impacts to Pacific Coast Highway. As such, project implementation would not substantially damage scenic resources, including but not limited to, trees, rock outcroppings, and historic buildings within a State scenic highway.

As discussed in pages 5.2-15 through 5.2-23 of the DEIR, the proposed project would comply with Specific Plan Chapter 4, *Design Guidelines*, Specific Plan Chapter 4, *Development Standards*, the California Coastal Act, the City's Municipal Code, and applicable General Plan policies. As such, implementation of the proposed project would not conflict with applicable zoning and other regulations governing scenic quality.

As discussed in pages 5.2-23 through 5.2-24 of the DEIR, construction of the proposed project would involve temporary glare impacts as a result of construction equipment and materials and would be required to comply with the City's Municipal Code Section 11.10.014, *Special Provisions* for construction hours. Operation of the proposed project would increase lighting at the project site compared to existing conditions however, the nature of the lighting would be similar to the existing surrounding community and would comply with the proposed Specific Plan Design Guidelines and Municipal Code Section 9.05.220. As such, implementation of the proposed project would not create a new source of substantial light or glare, which could adversely affect day or nighttime views in the area.

As discussed in pages 5.2-24 through 5.2-25 of the DEIR, the proposed project would modify the visible building massing on-site; however, project implementation would not result in substantial view blockage of scenic resources (the Pacific Ocean) as experienced from scenic corridors (motorists traveling along southbound I-5 travel lanes and the southbound I-5 off-ramp to northbound Pacific Coast Highway travel lanes). As such, the project combined with other cumulative projects would not result in significant impacts to scenic vistas.

As discussed in page 5.2-25 of the DEIR, the proposed project would be consistent with applicable General Plan Urban Design Element policies governing scenic quality. As such, the project combined with other cumulative projects would not substantially damage scenic resources, including but not limited to, trees, rock outcroppings, and historic buildings within a State scenic highway.

As discussed in page 5.2-26 of the DEIR, the proposed project would be consistent with applicable zoning and regulations related to scenic quality. Additionally, project implementation would be subject to the Specific Plan Design Guidelines and Development Standards. As such, the project combined with other cumulative projects would not conflict with applicable zoning and other regulations governing scenic quality.

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As discussed in pages 5.2-26 through 5.2-27 of the DEIR, short-term and long-term impacts to lighting would be reduced to less than significant levels following conformance with Municipal Code Section 11.10.014 and Municipal Code Section 9.05.220. As such, the project combined with other cumulative projects would not create a new source of substantial light or glare, which would adversely affect day or nighttime views in the area.

2. Agriculture and Forestry Resources

As discussed in the page 8-1 of the DEIR, the project site is situated within an urban and built-up land. As such, project implementation would not convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use.

As discussed in page 8-1 of the DEIR, the project is zoned "community Facilities" and Recreation. As such, project implementation would not conflict with existing zoning for agricultural use, or a Williamson Act contract.

As stated in page 8-2 of the DEIR, the project site is not zoned for any forest land, timberland, or timberland production. Thus, the proposed project would not conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code section 12220(g)), timberland (as defined by Public Resources Code section 4526), or timberland zoned Timberland Production (as defined by Government Code section 51104(g)).

As discussed in page 8-2 of the DEIR, the project site is zoned for any forest land, timberland, or timberland production and thus project implementation would not result in the loss of forest land or conversion of forest land to non-forest use.

As discussed in page 8-2 of the DEIR, the project site is located in an urban environment and is not zoned for any forest land, timberland, or timberland production. Thus, implementation of the project would not involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use or conversion of forest land to non-forest use.

3. Air Quality

As discussed in pages 5.8-11 through 5.8-14 of the DEIR, the proposed project would comply with the South Coast Air Quality Management District's 2022 Air Quality Management Plan. As such, implementation of the proposed project would not conflict with or obstruct implementation of the applicable air quality plan.

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As discussed in pages 5.8-14 through 5.8-20 of the DEIR, the proposed project would not exceed the South Coast Air Quality Management District's adopted construction and operational emission thresholds. As such, implementation of the proposed project would not result in a cumulatively considerable net increase of criteria pollutants for which the project region is in non-attainment under an applicable federal or state ambient air quality standard.

As discussed in pages 5.8-20 through 5.8-23 of the DEIR, the proposed project would not exceed the South Coast Air Quality Management District's localized significance threshold for the site and would not result in a carbon monoxide hotspot. As such, development associated with implementation of the proposed project would not result in localized emissions impacts or expose sensitive receptors to substantial pollutant concentrations.

As discussed in page 8-2 of the DEIR, South Coast Air Quality Management District's *CEQA Air Quality Handbook*, establishes land use activities typically associated with odor complaints which includes agriculture uses, wastewater treatment plants, food processing plants, chemical plants, composting, refineries, landfills, dairies, and fiberglass molding. The proposed project would not consist of these uses and thus, would not result in other emissions (such as those leading to odors) adversely affecting a substantial number of people.

As discussed in page 5.8-24 of the DEIR, the project would not result in short-term air quality impacts as the project-level emissions would not exceed the South Coast Air Quality Management District's adopted construction threshold. As such, short-term construction activities associated with the proposed project and other related cumulative projects, would not result in increased air pollutant emission impacts or expose sensitive receptors to increased pollutant concentrations.

As discussed in pages 5.8-24 through 5.8-25 of the DEIR, the project would not result in long-term air quality impacts, as the project's operational emissions would not exceed the South Coast Air Quality Management District's adopted operational thresholds. Implementation of the proposed project and other related cumulative projects would not result in increased impacts pertaining to operational air emissions.

As discussed in page 5.8-25 of the DEIR, future ambient carbon monoxide concentrations resulting from the project would be substantially below National and State standards, as the highest hourly recorded carbon monoxide value at the Mission Viejo – 26081 Via Pera monitoring station between 2017 and 2019 was 1.402 ppm, which is well below the 35-ppm 1-hour carbon monoxide Federal Standard. Implementation of the proposed project and related projects would not result in cumulatively considerable carbon monoxide hotspot impacts.

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As discussed in page 5.8-25 of the DEIR, operational concentrations of criteria air pollutants of the project would be lower than South Coast Air Quality Management District's thresholds and would not conflict with the South Coast Air Quality Management District's and Southern California Association of Government's goals and policies. As such, implementation of the proposed project and related projects would not result in cumulatively considerable inconsistencies with the applicable air quality plan.

4. Biological Resources

As discussed in page 8-3 of the DEIR, the project site is developed with the existing CUSD bus yard and does not include any special-status plant species due to the developed, urban environment. As such, project implementation would not have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special-status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service.

As discussed in page 8-3 of the DEIR, no special-status vegetation communities occur within the Doheny Village area and project site due to the developed, urban environment. As such, the project would not have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the California Department of Fish and Game or U.S. Fish and Wildlife Service.

As discussed in page 8-3 of the DEIR, the project site is completely paved and developed with the CUSD bus yard and associated structures. No wetlands are present on-site. As such, the project would not have a substantial adverse effect on State or Federally protected wetlands (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means.

As discussed in pages 8-3 through 8-4 of the DEIR, according to the Biological Resources Report prepared for the project, Doheny Village, including the project site, is not located within any identified wildlife corridors or habitat linkages in the *Orange County Southern Subregion Natural Community Conservation Plan/Master Streambed Alteration Agreement/Habitat Conservation Plan*. As such, implementation of project would not interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites.

As discussed in page 8-4 of the DEIR, the City's General Plan Conservation/Open Space Element does not contain a tree preservation policy or ordinance. Additionally, the project would not remove any existing street trees along Victoria Boulevard or Sepulveda Avenue. As such, the project would not conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance.

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As discussed in pages 8-4 through 8-5 of the DEIR, according to the Biological Resources Report prepared for the project, Doheny Village, including the project site, is not located within any identified wildlife corridors or habitat linkages in the *Orange County Southern Subregion Natural Community Conservation Plan/Master Streambed Alteration Agreement/Habitat Conservation Plan*. No other approved local, regional, or State habitat conservation plans apply to the site. As such, the project would not conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or State habitat conservation plan.

5. Cultural Resources

As discussed in pages 5.3-16 through 5.3-17 of the DEIR, the project site not considered a historical resource for the purposes of CEQA pursuant to Public Resource Code Section 21084.1. As such, the project would not cause a significant impact to a historical resource.

As discussed in page 8-5 of the DEIR, the project site was previously disturbed and is not anticipated to encounter human remains. However, if human remains are encountered, the remains would be given proper treatment in accordance with applicable laws and regulations. After following applicable laws and regulations, project implementation would not disturb any human remains, including those interred outside of formal cemeteries.

The project, combined with other related cumulative projects, would not cause a cumulatively considerable impact to historical resources.

6. Energy

As discussed in pages 5.10-7 through 5.10-11 of the DEIR, the project would not result in a substantial increase in energy consumption over the existing County's annual consumption. As such, the project would not result in wasteful, inefficient, or unnecessary consumption of energy resources.

As discussed in pages 5.10-11 through 5.10-12 of the DEIR, the project would be consistent with the City's Energy Plan and General Plan. As such, the project would not conflict with or obstruct a State or local plan for renewable energy or energy efficiency.

As discussed in pages 5.10-12 through 5.10-13 of the DEIR, the project would comply with applicable plans. As such, implementation of the project and other cumulative projects would not result in wasteful, inefficient, or unnecessary consumption of energy resources or conflict with or obstruct a State or local plan for renewable energy or energy efficiency.

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7. Geology and Soils

As discussed in pages 8-5 through 8-6 of the DEIR, the project site is not transected by known active or potential faults and the closest fault is the Newport-Inglewood/Offshore Zone of Deformation located three miles to the east. As such, the project would not directly or indirectly cause potential substantial adverse effects, including the risk of loss, injury, or death involving rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault.

As discussed in pages 5.4-13 through 5.4-14 of the DEIR, the project would be required to comply with applicable California Building Code regulations and recommendations from the Geotechnical Investigation prepared for the project. As such, project implementation would not expose people and structures to potential substantial adverse effects, including the risk of loss, injury, or death involving strong seismic ground shaking.

As discussed in pages 5.4-14 through 5.4-15 of the DEIR, the project would be required to demonstrate compliance with the California Building Code regulations, including incorporation of recommendations included as part of the Geotechnical Investigation for the project. With incorporation of recommendation, project implementation would not expose people and structures to potential substantial adverse effects, including the risk of loss, injury, or death involving liquefaction.

As discussed in page 8-6 of the DEIR, the project is not located in an area susceptible to landslides and there are no known landslides near the site. As such, the project would not directly or indirectly cause potential substantial adverse effects, including the risk, injury, or death involving landslides.

As discussed in pages 5.4-15 through 5.4-16 of the DEIR, the project would be required to comply with Municipal Code Section 8.01.390, *NPDES program requirements* and South Coast Air Quality Management District Rule 403. Compliance with these applicable regulations would ensure project implementation would not result in substantial soil erosion or loss of topsoil.

As discussed in pages 5.4-16 through 5.4-17 of the DEIR, the project would incorporate recommendation from the Geotechnical Investigation prepared for the project. As such, the project reduce impacts on soils that are unstable, or expansive, as a result of the project, and potentially result in geologic hazards.

As discussed in page 8-6 of the DEIR, the project would not include the installation of septic tanks or alternative wastewater disposal systems. The project would connect to the existing sewer mainlines and service lines.

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As discussed in page 5.4-19 of the DEIR, the project would be required to conform with existing regulatory requirements (i.e., California Building Code, Municipal Code, South Coast Air Quality Management District Rule 403). As such, the proposed project, combined with other related cumulative projects, would not expose people or structures to potential substantial adverse effects involving strong seismic ground shaking, liquefaction, unstable or expansive soils, risk involving fault rupture, or potential substantial adverse effects involving landslides.

8. Greenhouse Gas Emissions

As discussed in pages 5.9-14 through 5.9-17 of the DEIR, the City has not adopted a numerical threshold of greenhouse gas emissions. However, the project would comply with applicable measures in regulatory documents that aim to reduce greenhouse gas emissions. As such, greenhouse gas emissions generated by the project would not have a significant impact on global climate change.

As discussed in pages 5.9-17 through 5.9-22 of the DEIR, the project would be consistent with the 2020-2045 *Regional Transportation Plan/Sustainable Communities Strategy*, 2017 Scoping Plan, and the City's General Plan and Energy Plan. As such, implementation of the proposed project would not conflict with an applicable greenhouse gas reduction plan, policy, or regulation.

As discussed in page 5.9-23 of the DEIR, the proposed project would be consistent with applicable measures in the 2020-2045 RTP/SCS, 2017 Scoping Plan Update, and the City's General Plan and Energy Plan. Greenhouse gas emissions generated by the project and other related cumulative projects would not have a significant impact on global climate change or would not conflict with an applicable greenhouse gas reduction plan, policy, or regulation.

9. Hazards and Hazardous Materials

As discussed in pages 8-6 through 8-7 of the DEIR, the proposed project would consist of a residential development which would require minor cleaning products along with the occasional use of pesticides and herbicides for landscape maintenance of the project site are generally the extent of hazardous materials that would be routinely utilized on-site. However, these products would not be stored in substantial quantities. During construction, hazardous materials would be required to adhere to State and local standards and regulations for handling, storage, and disposal of hazardous substances. As such, project implementation would not create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials.

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As discussed in page 8-7 of the DEIR, the closest public use airport is John Wayne Airport, approximately 17.5 miles northwest of the project site. As such, the project site is located outside of an airport land use plan and is not located within the vicinity of a private airstrip or within two miles of a public airport and, as such, would not result in a safety hazard or excessive noise for people residing or working in the project area.

As discussed in page 5.6-27 of the DEIR, the project proposes a residential development and would not affect the existing emergency service operations. As such, project implementation would not create a significant hazard to the public or environment through interference with an adopted emergency response or evacuation plan.

As discussed in pages 8-7 and 8-9 through 8-10 of the DEIR, the City is not located in or near a State responsibility area. Additionally, the closest area designated as a "Very High Fire Hazard Severity Zone" by the California Department of Forestry and Fire is located greater than 0.5-mile east of the project site. As such, project implementation would not expose people or structures, either directly or indirectly to a significant risk of loss, injury or death involving wildland fires.

As discussed in page 5.6-28 of the DEIR, the proposed project would not result in significant impacts involving hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing school. As such, the project, combined with other related projects, would not emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing school.

As discussed in page 5.6-29 of the DEIR, the proposed project would not result in significant impacts through interference with an adopted emergency response or evacuation plan, although temporary lane closure along Victoria Boulevard and Sepulveda Avenue may be required during project construction. While temporary lane closures may be required, travel along surrounding roadways would remain open and would not interfere with emergency access in the site vicinity. As such, the project combined with other related projects, would not create a significant hazard to the public or environment through interference with an adopted emergency response or evacuation plan.

10. Hydrology and Water Quality

As discussed in pages 5.5-19 through 5.5-21 of the DEIR, the project would be required to comply with Municipal Code Chapter 8.01, *Grading and Excavation Control*, and Chapter 15.10, *Storm Water/Surface Runoff Water Quality*, both of which would ensure construction-related impacts to water quality would be minimized to less than significant levels. Additionally, the project would implement proposed best management practices to ensure stormwater runoff generated during long-term project operations would be adequately treated on-site prior to entering the City's existing storm drain system. As such,

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the project would not violate any water quality standards or waste discharge requirements, or otherwise substantially degrade water quality.

As discussed in page 8-7 of the DEIR, the project site is currently built out and developed with the existing CUSD bus yard which is mostly impervious. Additionally, there are no designated groundwater recharge basin or infrastructure around the project site. As such, project implementation would not substantially decrease groundwater supplies or interfere substantially with groundwater recharge such that the project may impede sustainable groundwater management of the basin.

As discussed in pages 5.5-23 through 5.5-24 of the DEIR, project implementation would not substantially increase the amount or rate of runoff. As such, the project would not substantially alter the existing drainage pattern of the site or area, or substantially increase the rate or amount of surface runoff, in a manner that would result in substantial erosion or siltation.

As discussed in pages 5.5-23 through 5.5-24 of the DEIR, project implementation would not substantially increase the amount or rate of runoff. As such, the project would not substantially alter the existing drainage pattern of the site or area, or substantially increase the rate or amount of surface runoff, in a manner that would result in substantial flooding on- or off-site.

As discussed in page 5.5-25 of the DEIR, the proposed storm drain system would not have an adverse effect on any existing or proposed storm drain improvements within the project area. As such, the project would not create or contribute runoff water which could exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff.

As discussed in pages 5.5-23 through 5.5-24 of the DEIR, the project would not substantially alter the existing drainage pattern of the site or area, or substantially increase the rate or amount of surface runoff, in a manner that would impede or redirect flood flows.

As discussed in page 5.5-26 of the DEIR, the proposed grade of the project site along Sepulveda Boulevard would be required to be at least one foot above the Base Flood Elevation. As such, in flood hazard, tsunami, or seiche zones, the project would not risk release of pollutants due to project inundation.

As discussed in page 5.5-27 of the DEIR, the project would comply with the *San Juan Basin Groundwater and Facilities Management Plan*. As such, the project would not conflict with or obstruct implementation of a water quality control plan or sustainable groundwater management plan.

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As discussed in page 5.5-28 of the DEIR, the project would implement site design, source control, and best management practices, which would ensure the proposed development does not adversely impact existing drainage courses and hydrologic flows in the project area. As such, the proposed project, combined with other related cumulative projects, would not violate any water quality standards or waste discharge requirements, or otherwise substantially degrade water quality.

As discussed in page 5.5-29 of the DEIR, the project would implement site design, source control, and best management practices. Additionally, the proposed storm drain design results in a slight decrease in stormwater runoff generated from the project site when compared to existing conditions. As such, the proposed project, combined with other related cumulative projects, would not substantially alter the existing drainage pattern of the site or area, or substantially increase the rate or amount of surface runoff, in a manner that would result in substantial erosion, siltation, or flooding on- or off-site.

As discussed in page 5.5-29 through 5.5-30 of the DEIR, project implementation would not exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff. As such, the proposed project, combined with other related cumulative projects, would not create or contribute runoff water which could exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff.

As discussed in page 5.5-29 of the DEIR, the project, combined with other related cumulative projects, would not substantially alter the existing drainage pattern of the site or area, or substantially increase the rate or amount of surface runoff, in a manner that would impede or redirect flood flows.

As discussed in page 5.5-30 of the DEIR, the proposed development would not exacerbate existing flood hazard conditions in the project area and would not be impacted by potential seiche or tsunamis. As such, the proposed project, combined with other related cumulative projects, would not risk release of pollutants due to project inundation.

As discussed in page 5.5-31 of the DEIR, the project would implement site design, source control, and best management practices. As such, the proposed project, combined with other related cumulative projects, would not conflict with or obstruct implementation of a water quality control plan or sustainable groundwater management plan.

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11. Land Use and Relevant Planning

As discussed in page 8-8 of the DEIR, the project is already physically separated from surrounding uses and the development of the proposed project would allow for the integration into the existing Doheny Village residential community. As such, the project would not physically divide an established community.

As discussed in page 5.1-9 through 5.1-33 of the DEIR, the project would not cause a significant environmental impact due to a -conflict with any land use plan, policy, or regulation adopted for the purpose of avoiding or mitigating an environmental effect, including the following:

The proposed project would not conflict with applicable General Plan policies.

The proposed project would not conflict with Dana Point Municipal Code standards and regulations.

The proposed project would not conflict with relevant sections of the California Coastal Act.

The proposed project would not conflict with policies provided in the 1986 Local Coastal Program.

The proposed project would not conflict with the Southern California Association of Governments' (SCAG) *2020-2045 Regional Transportation Plan/Sustainable Communities Strategy* (2020-2045 RTP/SCS) policies.

As discussed in page 5.1-33 of the DEIR, the proposed project would be consistent with relevant goals, policies, and/or standards from the General Plan, Municipal Code, Coastal Act, 1996 Local Coastal Program, and 2020-2045 Regional Transportation Plan and Sustainable Communities Strategy. As such, the proposed project, combined with other related projects, would not conflict with land use plans, policies or regulations adopted for the purpose of avoiding or mitigating an environmental effect.

12. Mineral Resources

As discussed in page 8-8 of the DEIR, the project site is mapped as Mineral Resource Zone 3 by the California Geological Survey, indicating that there are mineral resources in the area, the significance of which cannot be determined from available data. However, the site is currently not used as a mining site. As such, project implementation would not result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the State.

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As discussed in page 8-8 of the DEIR, the project site is mapped as Mineral Resource Zone 3 and is currently not used as a mining site. As such, project implementation would not result in the loss of availability of a locally-important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan.

13. Noise

As discussed in pages 5.11-17 through 5.11-19 of the DEIR, construction activities would result in temporary noise increase but are exempt pursuant to Municipal Code Section 11.10.014. Nevertheless, the project would be required to implement the City's standard condition of approval to reduce noise. As such, construction-related activities within the project area would not result in temporary noise impacts to nearby noise sensitive receivers.

As discussed in pages 5.11-21 through 5.11-27, future noise levels from the proposed project (i.e., mobile sources, stationary sources, mechanical equipment, etc.) would not result in a substantial increase in ambient noise levels. As such, future noise levels associated with implementation of the proposed project would not result in a substantial permanent increase in ambient noise levels in the project vicinity and expose persons to or generate noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies.

As discussed in pages 5.11-19 through 5.11-20 of the DEIR, construction equipment operations that would be used during project construction range from 0.001 to 0.045 inch per second peak particle velocity which is below the threshold of 0.2 inch per second peak particle velocity. As such, project implementation would not result in significant vibration impacts to nearby sensitive receptors and structures.

As discussed in page 8-9 of the DEIR, the closest public use airport is John Wayne Airport, approximately 17.5 miles northwest of the project site. Additionally, the closest private airstrip is the Mission Hospital, located approximately 6.7 miles to the north. As such, the project is not located within the vicinity of a private airstrip or an airport land use plan or where such a plan has been adopted, within two miles of a public airport or public use airport, and would not expose people residing or working in the project area to excessive noise levels.

As discussed in page 5.11-27 of the DEIR, the closest cumulative project is a residential/mixed-use development (34202 Del Obispo Street), located approximately 0.55-mile west of the project site. Due to the distance, construction-related activities within the project area would not result in significant cumulatively considerable temporary noise impacts to nearby noise sensitive receivers.

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As discussed in pages 5.11-28 through 5.11-31 of the DEIR, cumulative traffic noise levels along surrounding roadways would not exceed the City's sensitive use exterior noise standards. As such, the proposed project would not result in a significant cumulatively considerable increase in operational mobile noise or long-term stationary ambient noise levels.

As discussed in page 5.11-28 of the DEIR, project operational activities would not generate substantial groundborne vibration and project construction activities would not generate groundborne vibration on-site above the significance criteria of 0.2 inch per second peak particle velocity. As such, project implementation would not result in significant cumulatively considerable vibration impacts to nearby sensitive receptors and structures.

14. Population and Housing

As discussed in pages 5.12-6 through 5.12-8 of the DEIR, the anticipated population growth associated with the project represents a 2.4 percent increase from the City's current population of 32,943 persons which would be within the Southern California Association of Government's growth forecasts for the City. As such, the project would not directly or indirectly induce substantial unplanned population growth.

As discussed in page 8-9 of the DEIR, the project would demolish the existing CUSD facility which does not have existing people or housing on-site. As such, the project would not displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere.

As discussed in pages 5.12-6 through 5.12-8 of the DEIR, the anticipated population growth associated with the project represents up to 796 additional residents and 349 dwelling units to the City, which would be within the Southern California Association of Government's growth forecasts for the City. As such, the proposed project, combined with other related projects, would not result in cumulatively considerable impacts related to substantial unplanned population growth.

15. Public Services

As discussed in pages 5.13-33 through 5.13-34 of the DEIR, project implementation would not result in the need for additional school facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable performance objectives.

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As discussed in pages 5.13-34 through 5.13-35 of the DEIR, project implementation would not result in the need for additional parks and/or the increased use of existing neighborhood and regional parks such that substantial physical deterioration could occur or be accelerated.

As discussed in pages 5.13-34 through 5.13-35 of the DEIR, project implementation would not result in the construction of parks which could have an adverse physical effect on the environment.

As discussed in page 5.13-35 of the DEIR, project implementation would not result in the need for additional public library facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable performance objectives.

As discussed in page 5.13-44 of the DEIR, the project, combined with other cumulative projects, would not create increased demand for school services that could cause significant environmental impacts.

As discussed in page 5.13-45 of the DEIR, the project combined with other cumulative projects would not create increased demand for parks that could cause significant environmental impacts.

As discussed in pages 5.13-45 through 5.13-46 of the DEIR, the project combined with other cumulative projects would not create increased demand for other public facilities that could cause significant environmental impacts.

16. Recreation

As discussed in pages 5.13-34 through 5.13-35 of the DEIR, construction activities would increase the City's population which would require the expansion of existing parks or recreational facilities. The proposed project would contribute to this requirement by dedicating approximately 1.065 acres of public active open space on-site, meeting the project's required parkland demand pursuant of the City's Municipal Code and Park Master Plan. As such, project implementation would not result in the need for additional parks and recreational facilities and/or the increased use of existing neighborhood and regional parks such that substantial physical deterioration could occur or be accelerated.

As discussed in pages 5.13-34 through 5.13-35 of the DEIR, the proposed project would not require the expansion of existing parks or recreational facilities. The proposed project would construct 1.065 acres of public active open space on-site. Project implementation would not result in the construction or expansion of parks and recreational facilities which could have an adverse physical effect on the environment.

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As discussed in page 5.13-45 of the DEIR, the proposed project is not anticipated to result in significant impacts to parks and recreational facilities. The project would provide approximately 1.065 acres of public active open space, and the Applicant would pay the appropriate park in-lieu fees pursuant to Municipal Code Section 7.36.050, *Payment of In-Lieu Fees for Park and Recreation Purposes*. As such, the project combined with other cumulative projects would not create increased demand for parks and recreational facilities that could cause significant environmental impacts.

17. Transportation

As discussed in pages 5.7-7 through 5.7-9 of the DEIR, the proposed project would not conflict with adopted policies, plans, or programs related to transit, bicycle, or pedestrian facilities. As such, project implementation would not generate traffic volumes that would conflict with a program plan, ordinance or policy addressing the circulation system, including transit, roadway, bicycle and pedestrian facilities.

As discussed in pages 5.7-9 through 5.7-12 of the DEIR, the project would result in 16.9 vehicle miles traveled per capita which would be well below the threshold of significance of 18.11 vehicle miles traveled per capita (approximately 7.23 percent lower). As such, project implementation would not conflict or be inconsistent with CEQA Guidelines Section 15064.3, subdivision (b).

As discussed in page 5.7-19 of the DEIR, the proposed project would result in an increase demand on the transportation system in the area however, compliance with the existing regulations and standards pertaining to pedestrian, bike, and transit services/facilities, cumulative impacts in this regard would be less than significant. As such, future development, combined with other related projects, would not conflict with a program plan, ordinance or policy addressing the circulation system, including transit, roadway, bicycle and pedestrian facilities, and result in cumulative impacts.

As discussed in page 5.7-20 of the DEIR, the proposed project would result in less than significant VMT impacts and would be below the significance threshold. As such, future development, combined with other related projects, would not conflict and will be consistent with CEQA Guidelines Section 15064.3, subdivision (b).

18. Utilities and Service Systems

As discussed in pages 5.13-36 through 5.13-42 of the DEIR, the project would not require or result in the relocation or construction of new or expanded water, wastewater treatment or storm water drainage, electric power, natural gas, or telecommunications facilities, the construction or relocation of which could cause significant environmental effects.

As discussed in pages 5.13-36 through 5.13-37 of the DEIR, project implementation would

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have sufficient water supplies available to serve the project and reasonably foreseeable future development during normal, dry and multiple dry years, and would not require or result in the construction of new water treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects.

As discussed in pages 5.13-37 through 5.13-39 of the DEIR, the proposed project would not introduce additional need to upgrade the existing wastewater facility. As such, project implementation would not result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments, and would not exceed wastewater treatment requirements of the applicable regional water quality control board, or result in the construction of new wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects.

As discussed in pages 5.13-39 through 5.13-40 of the DEIR, project implementation would be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs or otherwise impair the attainment of solid waste reduction goals.

As discussed in pages 5.13-39 through 5.13-40 of the DEIR, project implementation would comply with Federal, State, and local statutes and regulations related to solid waste.

As discussed in page 5.13-46 of the DEIR, the project, combined with other cumulative projects, would not create increased demand for water facilities that could cause significant environmental impacts.

As discussed in pages 5.13-46 through 5.13-47 of the DEIR, the project, combined with other cumulative projects, would not create increased demand for wastewater facilities that could cause significant environmental impacts.

As discussed in page 5.13-47 of the DEIR, the project, combined with other cumulative projects, would not create increased demand for stormwater drainage facilities that could cause significant environmental impacts.

As discussed in pages 5.13-47 through 5.13-48 of the DEIR, the project, combined with other cumulative projects, would not create increased demand for solid waste generation that could cause significant environmental impacts pertaining to capacity, impair the attainment of solid waste reduction goals, nor impede compliance with local statutes and regulations related to solid waste.

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19. Wildfire

As discussed in pages 8-9 through 8-10 of the DEIR, the City is not located in or near a State responsibility area. Additionally, the closest area designated as a "Very High Fire Hazard Severity Zone" by the California Department of Forestry and Fire is located greater than 0.5-mile east of the project site. As such, project implementation would not substantially impair an adopted emergency response plan or emergency evacuation plan.

As discussed in page 8-10 of the DEIR, the project site is not located in a State responsibility area or in a "Very High Fire Hazard Severity Zone". Due to slope, prevailing winds, or other factors, project implementation would not exacerbate wildfire risks or expose project occupants to pollutant concentrations from a wildfire or the uncontrolled spread of a wildfire.

As discussed in page 8-10 of the DEIR, the project site is not located in a State responsibility area or in a "Very High Fire Hazard Severity Zone". Project implementation would not require the installation or maintenance of associated infrastructure (such as roads, fuel breaks, emergency water sources, power lines or other utilities) that may exacerbate fire risk or that may result in temporary or ongoing impacts to the environment.

As discussed in page 8-10 of the DEIR, the project site is not located in a State responsibility area or in a "Very High Fire Hazard Severity Zone". The project would not expose people or structures to significant risks, including downslope or downstream flooding or landslides, as a result of runoff, post-fire slope instability, or drainage changes.

C. FINDINGS ON IMPACTS MITIGATED TO LESS THAN SIGNIFICANT

The following summary describes the potential impacts of the proposed project that, without mitigation, would result in significant adverse impacts. Upon implementation of the mitigation measures provided in the Draft EIR, these potential impacts would be reduced to less than significant levels.

1. Cultural Resources

CUL-2 The project could cause a significant impact to an archaeological resource on-site.

Support for this environmental impact conclusion is included in Section 5.3, *Tribal and Cultural Resources*, and in particular, starting on page 5.3-18 of the Draft EIR.

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The results from the 26126 *Victoria Boulevard Historical Resources Assessment*, prepared by Rincon and dated July 2021, indicate that the project site does not contain known archaeological resources. However, the site could contain previously undiscovered archaeological resources. The proposed earthwork would involve approximately 40,100 cubic yards of cut and approximately 20,515 cubic yards of fill, resulting in approximately 19,585 cubic yards of export. Based upon field explorations, it is anticipated that artificial fill would be encountered at a maximum depth of five feet below existing ground surface throughout the majority of the site (with the exception of the northeast corner, which may have deeper artificial fill depths due to former underground storage tanks). Maximum excavation depths of up to 19 feet below the ground surface are proposed for construction of the underground parking structure. As such, project excavation could encounter native soils which have the potential to support unknown buried archaeological resources.

In the unlikely event that archaeological resources are encountered during project construction, Mitigation Measure CUL-1 would require all project construction efforts to halt until an archaeologist examines the site, identifies the archaeological significance of the find, and recommends a course of action. If the archaeologist determines the resource constitutes a "unique archaeological resource", time allotment and funding sufficient to allow for implementation of avoidance measures, or appropriate mitigation would be made available to the Applicant. With implementation of Mitigation Measure CUL-1, the project would not cause a substantial adverse change in the significance of an archaeological resource or site pursuant to Section 15064.5 of the CEQA Guidelines, and impacts would be reduced to less than significant levels.

Mitigation Measures:

- CUL-1 Unanticipated Discovery of Cultural Resources. The project Applicant shall retain a qualified archaeologist who meets the Secretary of the Interior's Professional Qualifications Standards for archaeology to conduct Worker's Environmental Awareness Program (WEAP) training for archaeological sensitivity for all construction personnel prior to the commencement of any ground disturbing activities. Archaeological sensitivity training should include a description of the types of cultural resources that may be encountered, cultural sensitivity issues, regulatory issues, and the proper protocol for treatment of the materials in the event of a find. If archaeological resources are encountered during ground-disturbing activities, work in the immediate area should be halted and the archaeologist shall evaluate the find. If the resources are Native American human remains, the County Coroner and the Native American Heritage Commission shall be contacted as mandated by law. If necessary, the evaluation may require preparation of a treatment plan and archaeological testing for California Register of Historical Resources (CRHR) eligibility. The treatment plan shall be reviewed and approved by the qualified archaeologist. If the discovery proves to be significant under

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CEQA and cannot be avoided by the project, additional work may be warranted, such as data recovery excavation, and, if so, shall be identified by the archaeologist to mitigate any such significant impacts to cultural resources, if identified.

Finding:

Changes or alterations have been required in, or incorporated into, the project that avoid or substantially lessen the significant environmental effect as identified in the Draft EIR. These changes are identified in the form of the mitigation measure above. Upon implementation of the required mitigation, the potentially significant impact would be reduced to a less than significant level. The City of Dana Point hereby finds that implementation of the mitigation measure is feasible, and the measure is therefore adopted.

CUMULATIVE The project, combined with other related cumulative projects, could cause cumulatively considerable impacts to archaeological resources.

Support for this environmental impact conclusion is included in Section 5.3, *Tribal and Cultural Resources*, and in particular, starting on page 5.3-20 of the Draft EIR.

Project-related impacts to archeological resources have been determined to be less than significant with implementation of Mitigation Measures CUL-1. Future cumulative projects would be evaluated on a project-by-project basis to determine the extent of potential impacts to site-specific archaeological resources. Related projects would be required to adhere to State and Federal regulations, as well as project-specific mitigation measures.

Implementation of Mitigation Measures CUL-1 would reduce potentially significant project impacts to archaeological resources to less than significant levels. Thus, the project's less than significant impacts would not be cumulatively considerable.

Mitigation Measures:

CUL-1 Unanticipated Discovery of Cultural Resources. The project Applicant shall retain a qualified archaeologist who meets the Secretary of the Interior's Professional Qualifications Standards for archaeology to conduct Worker's Environmental Awareness Program (WEAP) training for archaeological sensitivity for all construction personnel prior to the commencement of any ground disturbing activities. Archaeological sensitivity training should include a description of the types of cultural resources that may be encountered, cultural sensitivity issues, regulatory issues, and the proper protocol for treatment of the materials in the event of a find. If archaeological resources

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are encountered during ground-disturbing activities, work in the immediate area should be halted and the archaeologist shall evaluate the find. If the resources are Native American human remains, the County Coroner and the Native American Heritage Commission shall be contacted as mandated by law. If necessary, the evaluation may require preparation of a treatment plan and archaeological testing for California Register of Historical Resources (CRHR) eligibility. The treatment plan shall be reviewed and approved by the qualified archaeologist. If the discovery proves to be significant under CEQA and cannot be avoided by the project, additional work may be warranted, such as data recovery excavation, and, if so, shall be identified by the archaeologist to mitigate any such significant impacts to cultural resources, if identified.

Finding:

Changes or alterations have been required in, or incorporated into, the project that avoid or substantially lessen the significant environmental effect as identified in the Draft EIR. These changes are identified in the form of the mitigation measure above. Upon implementation of the required mitigation, the potentially significant impact would be reduced to a less than significant level. The City of Dana Point hereby finds that implementation of the mitigation measure is feasible, and the measure is therefore adopted.

2. Geology and Soils

GEO-5 Project implementation could directly or indirectly destroy a unique paleontological resource or site or unique geologic feature.

Support for this environmental impact conclusion is included in Section 5.4, *Geology and Soils*, and in particular, starting on page 5.4-17 of the Draft EIR.

The project site is situated in the northwestern portion of the Peninsular Ranges geomorphic province characterized by fault block northwest trending mountain ranges with intervening valleys, plains, and basins. Based on field investigation and published geologic maps, the site is underlain by Holocene-age flood plain deposits. Fill soils of varying thickness and material types related to roadways and existing developments are also present over portions of the project area. There is potential for unknown paleontological resources to be located within the project area given the site's proximity to the coast. As such, project development could result in potential impacts to previously undiscovered paleontological resources. Municipal Code Section 9.05.160 requires site-specific studies to be prepared to identify the significance of any on-site cultural and

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natural resources (e.g., archaeological, paleontological, historical, and biological resources) and required mitigation measures to reduce such impacts. General Plan Conservation and Open Space Element Policy 8.1 requires reasonable mitigation measures where development may affect historical, archaeological, or paleontological resources, and Policy 8.2 ensures resources of significant historical, archaeological, or paleontological value are retained and protected for education, visitor-serving, and scientific purposes.

Mitigation Measure GEO-1 would require the project Applicant to prepare a technical paleontological assessment to evaluate the sensitivity of the project site for buried paleontological resources. If resources are known or reasonably anticipated, the paleontological assessment is required to provide a detailed mitigation plan, including a monitoring program and recovery and/or in situ preservation plan. This would ensure future development adequately evaluates and mitigates for potential paleontological resources on-site. Compliance with Mitigation Measure GEO-1 would reduce potential paleontological resource impacts associated with the project to less than significant levels.

Mitigation Measure:

GEO-1 Prior to issuance of grading permits, the project Applicant shall provide a technical paleontological assessment prepared by a qualified paleontologist, defined as a paleontologist who meets the Society of Vertebrate Paleontology (SVP) standards for a Principal Investigator or Project Paleontologist, assessing the sensitivity of the project site for buried paleontological resources to the City of Dana Point Planning Division for review and approval.

If resources are known or reasonably anticipated, the assessment shall provide a detailed mitigation plan, including a monitoring program and recovery and/or in situ preservation plan, based on the recommendations of the qualified paleontologist. The mitigation plan shall include, but not be limited to, the following:

- A qualified paleontologist shall be retained for the project and shall be on call during grading and other significant ground-disturbing activities;
- Should any potentially significant fossil resources be discovered, no further grading shall occur in the area of the discovery until the qualified paleontologist and City of Dana Point Planning Division concurs in writing that adequate provisions are in place to protect these resources; and

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- Unanticipated discoveries shall be evaluated for significance by the qualified paleontologist. If a resource is determined to be significant by the qualified paleontologist, the resource shall be collected and catalogued in accordance with SVP guidelines and adequately curated in an institution with appropriate staff and facilities.

A report of findings with an itemized accession inventory shall be prepared as evidence that monitoring has been successfully completed and shall be submitted and approved by the City of Dana Point Planning Division prior to the granting of occupancy permits.

Finding:

Changes or alterations have been required in, or incorporated into, the project that avoid or substantially lessen the significant environmental effect as identified in the Draft EIR. These changes are identified in the form of the mitigation measure above. Upon implementation of the required mitigation, the potentially significant impact would be reduced to a less than significant level. The City of Dana Point hereby finds that implementation of the mitigation measure is feasible, and the measure is therefore adopted.

CUMULATIVE The proposed project, combined with other related cumulative projects, could expose people or structures to potential substantial adverse effects involving geology and soils and could impact unknown paleontological resources.

Support for this environmental impact conclusion is included in Section 5.4, *Geology and Soils*, and in particular, starting on page 5.4-19 of the Draft EIR.

Cumulative projects would be located within proximity to similar fault zones as the proposed project. However, the intensity of the seismic ground shaking would vary by site based on earthquake magnitude, distance to epicenter, and geology of the area between the epicenter and the cumulative site. Additionally, potential paleontological resource impacts associated with the development of each cumulative project would be specific to each site. Cumulative projects would be required to comply with existing Federal, State, and local regulations and project-specific mitigation measures related to geologic hazards on a project-by-project basis.

As concluded above, geologic and seismic hazards associated with the proposed project would be reduced to less than significant levels following conformance with established regulatory requirements, including the California Building Code (CBC), Municipal Code, National Pollutant Discharge Elimination System requirements, and South Coast Air

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Quality Management District (SCAQMD) Rule 403. Additionally, compliance with the CBC regulations would ensure project design and construction plans incorporate recommended design features in the *Proposed Multi-Family Residential Development 26126 Victoria Boulevard Dana Point, California Geotechnical Investigation*, prepared by GeoCon West Inc. and dated August 11, 2022, and Mitigation Measure GEO-1 would ensure a site-specific paleontological assessment is prepared to reduce potential impacts to unknown paleontological resources on-site. As such, with compliance with the recommended mitigation, the proposed project would not result in cumulatively considerable impacts in this regard.

Mitigation Measure:

GEO-1 Prior to issuance of grading permits, the project Applicant shall provide a technical paleontological assessment prepared by a qualified paleontologist, defined as a paleontologist who meets the Society of Vertebrate Paleontology (SVP) standards for a Principal Investigator or Project Paleontologist, assessing the sensitivity of the project site for buried paleontological resources to the City of Dana Point Planning Division for review and approval.

If resources are known or reasonably anticipated, the assessment shall provide a detailed mitigation plan, including a monitoring program and recovery and/or in situ preservation plan, based on the recommendations of the qualified paleontologist. The mitigation plan shall include, but not be limited to, the following:

- A qualified paleontologist shall be retained for the project and shall be on call during grading and other significant ground-disturbing activities;
- Should any potentially significant fossil resources be discovered, no further grading shall occur in the area of the discovery until the qualified paleontologist and City of Dana Point Planning Division concurs in writing that adequate provisions are in place to protect these resources; and
- Unanticipated discoveries shall be evaluated for significance by the qualified paleontologist. If a resource is determined to be significant by the qualified paleontologist, the resource shall be collected and catalogued in accordance with SVP guidelines and adequately curated in an institution with appropriate staff and facilities.

A report of findings with an itemized accession inventory shall be prepared as evidence that monitoring has been successfully completed and shall be

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submitted and approved by the City of Dana Point Planning Division prior to the granting of occupancy permits.

Finding:

Changes or alterations have been required in, or incorporated into, the project that avoid or substantially lessen the significant environmental effect as identified in the Draft EIR. These changes are identified in the form of the mitigation measure above. Upon implementation of the required mitigation, the potentially significant impact would be reduced to a less than significant level. The City of Dana Point hereby finds that implementation of the mitigation measure is feasible, and the measure is therefore adopted.

3. Hazards and Hazardous Materials

HAZ-1 Project implementation could create a significant hazard to the public or environment through reasonably foreseeable upset or accident conditions involving the release of hazardous materials into the environment.

Support for this environmental impact conclusion is included in Section 5.6, *Hazards and Hazardous Materials*, and in particular, starting on page 5.6-17 of the Draft EIR.

One of the means through which human exposure to hazardous substance could occur is through accidental release. Incidents that result in an accidental release of hazardous substances into the environment can cause contamination of soil, surface water, and groundwater, in addition to any toxic fumes that might be generated. Human exposure to contaminated soil or water can have potential health effects based on a variety of factors, such as the nature of the contaminant and the degree of exposure.

CONSTRUCTION

Construction activities could expose construction workers to accidental conditions as a result of existing potential contamination in on-site soils, soil gas, and/or groundwater. Potential construction-related impacts in this regard are discussed below.

South Transportation Yard

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Fueling Area/Storage Shed**Existing Underground Storage Tanks**

The fueling area recently included two underground storage tanks (USTs), two fuel dispenser islands, and associated piping, which were removed in 2022. According to the *Limited Phase II Environmental Site Assessment, Proposed Residential Development, 26126 Victoria Boulevard, Capistrano Beach, California 92624* (Limited Phase II ESA), prepared by Leighton Consulting Inc. and dated March 13, 2019, results from soil and soil gas samples collected do not indicate contamination to subsurface soil and soil gas from the existing USTs, fuel dispenser islands, and associated piping. Other existing utilities on-site may also be associated with hazardous materials, such as hydraulic lifts, hydraulic fluid reservoir and associated piping, the bus wash clarifier, and other existing drums and containers of cleaners/solvents. As such, the project would require implementation of Mitigation Measure HAZ-1 prior to issuance of grading permits. Mitigation Measure HAZ-1 would require the removal of numerous features remaining on-site, including but not limited to the hydraulic lifts, hydraulic fluid reservoir and associated piping, the bus wash clarifier, and other existing drums and containers of cleaners/solvents. Removal activities shall adhere to applicable Federal, State, and local regulations. Specifically, all features removal activities associated with Mitigation Measure HAZ-1 are subject to the permanent closure requirements of the California Code of Regulations (CCR) Title 23, Division 3, Chapter 16, Underground Storage Tank Regulations, Article 7, *Closure Requirements*, under the oversight of Orange County Health Care Agency (OCHCA) Environmental Health Division. It should be noted that part of the UST program requires OCHCA Environmental Health staff to be onsite during removal activities to observe the condition of the UST(s) during removal and direct sampling to determine whether a reportable unauthorized release has occurred. Impacted soil identified during the removal of these features shall be removed and handled according to the Soil Management Plan (SMP), as described in Mitigation Measure HAZ-2. Mitigation Measure HAZ-2 would require a SMP to be prepared for the project site prior to issuance of grading permits. The SMP would provide guidelines for safety measures, soil management, and handling of disturbed soils. All residual liquid, solids, or sludge from implementation of Mitigation Measure HAZ-2 would be handled as hazardous waste or recyclable material in accordance with Chapters 6.5, *Hazardous Waste Control*, of the Health and Safety Code. The SMP would also be required to present a decision framework and specific risk management measures for managing soil in a manner protective of human health and consistent with applicable regulatory requirements. Confirmational soil samples would be required to be collected within the excavated areas to ensure all remaining on-site soils are not impacted by potentially hazardous materials uncovered during the removal activities.

According to the Limited Phase II ESA, implementation of Mitigation Measure HAZ-1 would constitute contaminant source removal and reduce associated chemical

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concentrations in soil gas in the vicinity of these existing features. Implementation of the Mitigation Measure HAZ-2, which includes the SMP and associated confirmation samples collected within the excavated areas, would confirm remaining soil is not impacted above regulatory screening levels and further reduce potential risks associated with these existing features. Based on the Limited Phase II ESA, future grading operations at the project site as part of project construction would further reduce any remnant soil gas concentrations in the upper five feet of shallow soil. With implementation of Mitigation Measures HAZ-1 and HAZ-2, impacts related to the existing hazardous materials-related features would be reduced to less than significant levels.

Historical Underground Storage Tanks

As discussed above, four underground storage tanks were historically located in, or in proximity to, the fueling area. Two 550-gallon tanks were removed in 1989, one of which resulted in a release to soils. Impacted soils were excavated in 1998, concurrently with the removal of the two remaining USTs at the time. The remedial excavation resulted in the removal of 281.07 tons of petroleum-contaminated soil and introduction of 600 pounds of oxygen release compound (ORC) within the excavation pit to remove residual contamination in soil and groundwater. The OCHCA issued closure letter for the four USTs on July 26, 2000. Additionally, although elevated tetrachloroethylene (PCE) concentrations were identified in this area according to the Limited Phase II ESA, it was determined to be likely the result of vehicle maintenance operations in the former mechanic shop and unlikely to be associated with these former USTs. As such, impacted soils from these former USTs were removed and are no longer of concern. Impacts in this regard are less than significant.

Former Mechanic Shop

Automotive Maintenance Activities and Existing Hydraulic Lifts

The former on-site mechanic shop contained at least four in-ground hydraulic lifts with two trenches that were used for historical automotive maintenance activities. According to the *Phase I Environmental Site Assessment Report, 26126 Victoria Boulevard, APN 668-361-01, Capistrano Beach, CA 92624* (Phase I ESA), prepared by Leighton Consulting Inc. and dated March 13, 2019, the hydraulic lifts, hydraulic fluid reservoir, and associated piping were never removed, although automotive maintenance activities have not been performed at the project site for the past decade. According to the Limited Phase II ESA, results from soil gas samples indicated elevated concentrations of PCE exceeding regulatory Department of Toxic Substances Control (DTSC) screening levels of 460 micrograms per cubic meter ($\mu\text{g}/\text{m}^3$) for residential in the vicinity of the former mechanic shop. Based on the Limited Phase II ESA, the extent of PCE in soil gas above screening levels appears to be relatively well defined and centered on

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the mechanic shop and former 10,000-gallon gasoline-containing UST location. Removal of the existing hydraulic lifts, hydraulic fluid reservoir, and associated piping may result in the accidental release of hazardous chemicals including solvents and petroleum-based products. As discussed above, the project would require implementation of Mitigation Measure HAZ-1, which would mandate the removal of numerous features remained on-site, including the hydraulic lifts, hydraulic fluid reservoir, and associated piping. Based on the Limited Phase II ESA, implementation of Mitigation Measure HAZ-1 would constitute contaminant source removal and reduce associated chemical concentrations in soil gas, including PCE concentration, in the vicinity of the mechanic shop and former 10,000-gallon gasoline-containing UST location. Excavation and grading operations onsite would require the removal of 19,585 cubic yards of on-site soils. As such, excavation work would likely remove the upper five feet in the vicinity of the former mechanic shop, where existing localized impacted soils are present. These excavated soils would be required to be removed and handled according to the SMP (Mitigation Measure HAZ-2). Such materials would be handled as hazardous waste or recyclable material in accordance with Chapters 6.5, *Hazardous Waste Control*, of the Health and Safety Code. With implementation of Mitigation Measures HAZ-1 and HAZ-2, impacts associated with PCE contamination in the vicinity of the former mechanic shop would be reduced to less than significant levels.

Existing Drums and Containers of Cleaners/Solvents

According to the Phase I ESA, the former mechanic shop contained approximately 15 empty or near empty 55-gallon drums, portable fuel containers, and pesticides. Materials identified to be storing in these containers include waste oil, HTC oil (petroleum base hydraulic fluid), diesel fuel catalyst, and tractor hydraulic fluid. No significant stains were observed on the concrete adjacent to the drums. As no evidence of spills or staining from these existing drums and containers of cleaners/solvents have been reported or observed, no contamination from these drums and containers are anticipated.

Nonetheless, the project would be required to comply with Mitigation Measure HAZ-1. Mitigation Measure HAZ-1 would require the removal of numerous features remained on-site, including the existing drums and containers of cleaners/solvents. As discussed under "Existing Underground Storage Tanks", removal activities would adhere to the applicable regulations and requirements and be under the supervision of OCHCA Environmental Health Division. Removal activities would occur under supervision of the OCHCA and/or other relevant agencies. Impacted soil identified during the removal of these features would be required to be removed and handled according to the SMP, as described in Mitigation Measure HAZ-2. Confirmational soil samples would be required to be collected within the excavated areas to ensure all remaining on-site soils are not impacted by potentially hazardous materials uncovered during the removal activities. Implementation of Mitigation Measures HAZ-1 and HAZ-2 would ensure impacts as a

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result of the removal of existing on-site features be reduced to less than significant levels.

Bus Wash Area

The bus/vehicle wash area features a floor drain and in-ground clarifier and is currently used for cleaning various CUSD vehicles. According to the Phase I ESA, a leak in the clarifier or associated piping may result in contamination to soil and soil gas below the bus/vehicle washing area. Based on the Limited Phase II ESA, results from the soil samples do not indicate elevated concentration of Total Petroleum Hydrocarbons (TPHs) and Volatile Organic Compounds (VOCs) above regulatory levels exist in the subsurface soil and groundwater within the bus/vehicle wash area. Nonetheless, the project would be required to comply with Mitigation Measure HAZ-1, which would ensure that impacts regarding the accidental condition associated with the bus wash clarifier would be reduced to less than significant levels.

Grounds Department***Grounds Dispatch Building***

According to the Limited Phase II ESA, results of soil samples indicated TPH concentration below regulatory screening levels with the exception of the one-foot soil samples collected outside of the ground dispatch building. Elevated Diesel Range Organics (DRO) concentration above regulatory screening level was detected and soil was noted to have an odor. As a soil sample collected at three feet bgs does not contain DRO concentration above regulatory levels, the Limited Phase II ESA determined that a limited surface spill occurred in this area. Concentration of TVOCs were detected below regulatory screening levels. Results of soil gas samples indicate elevated naphthalene concentration above regulatory screening level (i.e., the Department of Toxic Substances Control modified screening levels [DTSC-SL]) at five feet bgs. According to the Limited Phase II ESA, the elevated soil gas concentrations are most likely due to the visually impacted soil identified in the two feet of soil below asphalt pavement from a limited chemical release adjacent to the Grounds Dispatch Building.

In order to mitigate the limited surface spill in area just outside the ground dispatch building, the project would be required to comply with Mitigation Measure HAZ-3. Visually impacted soil in the vicinity of the grounds dispatch building would be removed to approximately three feet bgs, and confirmational soil samples from excavation walls and floor would be collected prior to initiation of grading activities. According to the Limited Phase II ESA, removal of the contaminant source in soil in accordance with Mitigation Measure HAZ-3 would reduce the concentration of VOCs in soil gas within the vicinity of the grounds dispatch building, which would reduce risk of naphthalene indoor vapor intrusion for future residents. Future grading operations at the project site

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as part of project construction should further reduce any remnant soil gas concentrations in the upper five feet in the vicinity of the former mechanic shop. Further, the project would be required to comply with Mitigation Measure HAZ-4, which would require additional verification soil gas sampling(s) to be conducted in the vicinity of the grounds dispatch building and mechanic shop upon building demolition and prior to site grading to confirm that no impacts to soil gas at the current grounds dispatch building area would post a significant risk to future occupants via vapor intrusion. Should any samples determine that residual contamination in either soil or soil gas exceed the thresholds for residential use (i.e., DTSC-SL of 83 $\mu\text{g}/\text{m}^3$ for naphthalene, and DTSC-SL of 460 $\mu\text{g}/\text{m}^3$ for PCE), the project Applicant would be required to install appropriate vapor barrier(s), as necessary, prior to construction of the on-site building foundation (Mitigation Measure HAZ-4). Vapor barrier, typically a chemically rated membrane installed sub-slab, is a standard typical engineering control for minimization of vertical soil gas migration. As the project would be required to implement Mitigation Measures HAZ-1 through HAZ-3, which would require removal of on-site impacted soils during project excavation activities, Mitigation Measure HAZ-4 would ensure residual contamination in either soil or soil gas, if any, would not negatively impacts building occupants. As discussed above, Mitigation Measure HAZ-2 would require a SMP to be prepared for the project site prior to issuance of grading permits. The SMP would provide guidelines for safety measures, soil management, and handling of disturbed soils. With implementation of the Mitigation Measures HAZ-2 through HAZ-4, impacts regarding accidental condition associated with existing contamination to soils beneath the grounds dispatch building would be reduced to less than significant levels.

Existing Groundwater Monitoring Well

According to the Phase I ESA, a groundwater monitoring well (referred to as MW1) is located between the former tire storage building and mechanic shop. Although there are currently no active environmental cases associated with the project site, elevated concentration of 1,2-dichloroethane was detected above regulatory screening level. As such, MW1 would represent a potential vertical pathway for future groundwater contamination and, as such, would be required to be removed (Mitigation Measure HAZ-5). Mitigation Measure HAZ-5 would require the project Applicant to obtain a monitoring well deconstruction permit from OCHCA prior to issuance of grading permits for the proposed project in accordance with Orange County Well Ordinance (County Ordinance No. 2607). Orange County Well Ordinance requires that a monitoring well deconstruction permit be obtained from OCHCA Health Officer or his/her designee prior to the construction or destruction of any well. Upon receipt of the monitoring well deconstruction permit, the project Applicant would be required to retain a qualified environmental professional with Phase II/Site Characterization experience to properly seal and abandon MW1, in accordance with State of California Bulletin 74-81, *Water Well Standards and Bulletin 74-90, California Well Standards* (California Well Standards). Specifically, Part III, *Destruction of Monitoring Wells*, of the California Well

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Standards describes specifications for destruction of monitoring wells. These activities include, but are not limited to:

- A preliminary investigation on the monitoring well to be conducted before it is destroyed to determine its condition and details of its construction;
- Sealing conditions are met;
- Exploratory borings are completely filled with appropriate sealing material from bottom to top (if located in areas of known or suspected contamination or pollution);
- Placement of sealing material for monitoring wells and exploratory borings comply with Section 23 of the Water Well Standards and Part III of the California Well Standards; and
- Materials used for sealing to be low in permeabilities and compatible with the chemical environment into which it is placed and must have mechanical properties consistent with present and future site uses.

Implementation of Mitigation Measure HAZ-5 would ensure impacts regarding the existing groundwater monitoring well be reduced to less than significant levels.

On-Site Structures

The project site is currently developed with six structures, built prior to 1979. Structures constructed between the 1940s and the 1970s may be associated with hazardous building materials (e.g., Asbestos-Containing Material [ACM], and/or Lead-Based Paint [LBP]). Additionally, Organochlorine-Containing termiticides (OCPs) may have been used to treat wooden buildings constructed prior to 1989, and universal waste (certain categories of hazardous waste such as batteries, pesticides, mercury-containing equipment, and lamps that are commonly generated by a wide variety of establishments) are often present in sites with historical uses.

Demolition of the structures could expose construction personnel and the public to ACMs or LBPs. Federal and State regulations govern the renovation and demolition of structures where ACMs and LBPs are present. All demolition that could result in the release of ACMs or LBPs would be conducted according to Federal and State regulations which govern the renovation and demolition of structures where ACMs and LBPs are present. Specifically, the National Emission Standards for Hazardous Air Pollutants establishes that building owners conduct an asbestos survey to determine the presence of ACMs prior to the commencement of any remedial work, including demolition.

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Based on the Limited Phase II ESA, results from soil samples screened for asbestos did not indicate elevated concentration of asbestos in on-site soils. Based on the Phase I ESA, there is a potential that lead-based paint (LBPs) is present in on-site buildings and shallow soil in proximity to these buildings. Due to the presence of structures built between the 1940s and the 1970s and the various historical uses of the site, the Limited Phase II ESA indicated the potential for on-site structure to contain ACM, LBP, and/or universal waste. The project would be required to comply with Mitigation Measure HAZ-6, which would require surveys of ACM, LBP, and universal waste to be conducted by a qualified specialists or contractors and submitted to the OCHCA for review and comment, and to the project Engineer for approval, prior to demolition of existing structures (including piping materials).

Specifically, if ACMs are located, abatement of asbestos would be required to be completed prior to any activities that would disturb ACMs or create an airborne asbestos hazard. Asbestos removal shall be performed by a State certified asbestos containment contractor in accordance with the SCAQMD Rule 1403. In accordance with Rule 1403, abatement of asbestos would be required prior to any demolition activities if ACM material is found. If paint is separated from building materials (chemically or physically) during demolition of the structures, the paint waste would be required to be evaluated independently from the building material by a qualified environmental professional in accordance with CCR Title 8, Section 1529, Asbestos. If LBPs are found, abatement shall be completed by a qualified Lead Specialist prior to any activities that would create lead dust or fume hazard. LBP removal and disposal shall be performed in accordance with CCR Title 8, Section 1532.1, *Lead*, which specifies exposure limits, exposure monitoring and respiratory protection, and mandates good worker practices by workers exposed to lead. Specialists or contractors performing ACM, LBP, and/or universal waste removal shall provide evidence of abatement activities to the OCHCA and Director of Public Works. The project Applicant would be required to inform the Director of Public Works, via the monthly compliance report, of the date when all ACMs, LBPs, and universal waste are removed from the site. Compliance with existing regulations related to ACMs and LBPs and implementation of Mitigation Measure HAZ-6 would reduce potential impacts in this regard to a less than significant level.

Additionally, based on the Limited Phase II ESA, soil samples collected adjacent to current and historical structures indicated no evidence of elevated levels of OCPs or Title 22 metals above regulatory screening levels. Impacts in this regard are less than significant.

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Unknown Contamination

Project implementation would involve grading and excavation activities which could also reveal unknown contamination. Potential risks would be minimized by compliance with all existing federal, State, and local laws related to the hazardous materials/waste, as discussed above. Based on the Limited Phase II ESA, observations would be required to be made during project construction for potential contamination source or indicator such as, but not limited to, the presence of underground facilities, buried debris, waste drum tanks, and stained or odorous soils (Mitigation Measure HAZ-7). Mitigation Measure HAZ-7 would require contractor to establish procedures if unknown wastes or contamination source or indicator are encountered during construction. If unknown wastes or suspect materials are discovered during construction, the construction contractor would be required to halt work in the vicinity of the suspected contaminant, notify the Director of Public Works and OCHCA, and perform remedial activities as required under existing regulatory agency standards. Compliance with Mitigation Measure HAZ-1 would further minimize potential risks related to accidental release of hazardous materials from unknown contamination discovered during construction. With compliance with recommended mitigation, impacts in this regard would be reduced to less than significant levels.

Off-Site Regulatory Properties

It is acknowledged that surrounding off-site properties within the project area also handle/store/transport hazardous materials that could have affected soil, soil gas, and groundwater at the project site. According to the Phase I ESA, Orange County Fire Station No. 29, located approximately 0.01-mile (70 feet) north of the project site at 26111 Victoria Boulevard, had reported instance of a leaking diesel-containing UST. An environmental cleanup case was opened in 1993 and closed in 1998 under OCHCA oversight. Based on the relatively short clean up period, the released chemical (diesel fuel), and the relative distance between Orange County Fire Station No. 29 and the project site (70 feet), the Phase I ESA concluded that the former leaking UST at Orange County Fire Station No. 29 has not resulted in impacts to soil, soil gas, or groundwater beneath the projects site. No impacts are anticipated in this regard.

Cortese Database

According to the Phase I ESA, the project site was historically reported pursuant to Government Code Section 65962.5 under several different site names with the street address of 26126 Victoria Boulevard and reference to either Capistrano Beach or Dana Point as the city. These listings were primarily for instances of historical records of leaking USTs to soil or groundwater, records of existing USTs, or as an industrial facility that treats and/or disposes of liquid or semisolid wastes. However, according to the

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California Environmental Protection Agency, the site is not currently listed pursuant to Government Code Section 65962.5.3.

As discussed above, contaminations to soil and soil gas as a result of historical and existing uses of the site are present in certain portions of shallow soils on-site.

Overall, compliance with all existing Federal, State, and local laws related to the hazardous materials and Mitigation Measures HAZ-1 through HAZ-7 would reduce potential impacts as a result of existing and past uses of the project site to less than significant levels.

OPERATIONS

Substantial risks associated with hazardous materials are not typically associated with residential uses. Minor cleaning products along with the occasional use of pesticides and herbicides for landscape maintenance of the project site are generally the extent of hazardous materials that would be routinely utilized on-site. Thus, as the presence and on-site storage of these materials are common for residential uses and would not be stored in substantial quantities (quantities required to be reported to a regulatory agency), impacts in this regard are less than significant.

Mitigation Measures:

HAZ-1 On-site Features Removal. Prior to issuance of grading permits, the project Applicant shall retain a qualified environmental professional with Phase II/Site Characterization experience to remove numerous features remaining on-site, including but not limited to the hydraulic lifts, hydraulic fluid reservoir and associated piping, and the bus wash clarifier. Impacted soil identified during the removal of these features shall be removed and handled according to the Soil Management Plan (Mitigation Measure HAZ-2). Confirmation soil samples shall be collected within the excavated areas. Removal activities shall adhere to applicable federal, State, and local regulations, and shall occur under supervision of the Orange County Health Care Agency and/or other relevant agencies.

HAZ-2 Soil Management Plan. Prior to issuance of a grading permit, a Soil Management Plan (SMP) shall be prepared by a qualified environmental professional with Phase II/Site Characterization experience. The SMP shall include guidelines for safety measures and soil management in the event that soils are to be disturbed, and for handling soil during any planned earthwork activities. The SMP shall also include a decision framework and specific risk management measures for managing soil, including any soil import/export activities, in a manner protective of human health and consistent with applicable regulatory requirements. The SMP

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shall be submitted to, reviewed, and approved by the Director of Public Works prior to issuance of grading permit. Upon approval, the SMP shall be made available to the contractor and the Director of Public Works for use during grading activities.

- HAZ-3 Remediation for Shallow Soil. Prior to initiation of grading activities, the project Applicant shall retain a qualified environmental professional with Phase II/Site Characterization experience to conduct shallow soil remediation in the vicinity of the grounds dispatch building. Visually impacted soil in the vicinity of the grounds dispatch building shall be removed to an adequate depth as determined by the specialist. Confirmation soil samples from excavation walls and floor shall be collected and analyzed. Remedial activities shall adhere to applicable federal, State, and local regulations, and under supervision of the Orange County Health Care Agency, San Diego Regional Water Quality Control Board, and/or other relevant agencies, as applicable.
- HAZ-4 Additional Verification Sampling. Upon completion of building demolition and prior to and during site grading, the project Applicant shall retain a qualified environmental professional with Phase II/Site Characterization experience to conduct verification soil gas sampling(s) in the vicinity of the grounds dispatch building and mechanic shop. Should any samples determine that residual contamination in either soil or soil gas exceed the thresholds for residential use (i.e., the Department of Toxic Substances Control modified screening levels [DTSC-SL] of 83 µg/m³ for naphthalene, and DTSC-SL of 460 µg/m³ for PCE, or otherwise specified by the oversight agency), the project Applicant shall install vapor barrier(s), if determined necessary, prior to construction of the on-site building foundation.
- HAZ-5 Monitoring Well Deconstruction. Prior to issuance of grading permits, the project Applicant shall obtain a monitoring well deconstruction permit from Orange County Health Care Agency and/or the Regional Water Quality Control Board. Upon receipt of the monitoring well deconstruction permit, the project Applicant shall obtain a qualified environmental professional with Phase II/Site Characterization experience to properly seal and abandon the existing monitoring well (MW1) on-site in accordance with the existing laws and regulations.
- HAZ-6 Asbestos/Lead-Based Paint Surveys. Prior to demolition of existing structures (including piping materials), the project Applicant shall retain a qualified specialists or contractor to conduct surveys of ACM, LBP, and universal waste and submitted to the City Director of Public Works for

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approval. If ACMs are located, abatement of asbestos shall be completed prior to any activities that would disturb ACMs or create an airborne asbestos hazard. Asbestos removal shall be performed by a State certified asbestos containment contractor in accordance with the South Coast Air Quality Management District (SCAQMD) Rule 1403. If LBPs are found, abatement shall be completed by a qualified Lead Specialist prior to any activities that would create lead dust or fume hazard. LBP removal and disposal shall be performed in accordance with California Code of Regulation Title 8, Section 1532.1, which specifies exposure limits, exposure monitoring and respiratory protection, and mandates good worker practices by workers exposed to lead. Specialists or contractors performing ACM, LBP, and/or universal waste removal shall provide evidence of abatement activities to the City Director of Public Works, if applicable. The project Applicant shall inform the Director of Public Works, via the monthly compliance report, of the date when all ACMs, LBPs, and universal waste are removed from the site, if applicable.

HAZ-7

Unknown Waste. Prior to initiation of construction activities, contractor shall establish procedures in the event that unknown wastes or contamination source or indicator are encountered during construction. Observations shall be made during project construction for potential contamination source or indicator such as, but not limited to, the presence of underground facilities, buried debris, waste drum tanks, and stained or odorous soils. If unknown wastes or suspect materials are discovered during construction, the contractor shall comply with the following:

- Immediately cease work in the vicinity of the suspected contaminant, and remove workers and the public from the area;
- Notify the Director of Public Works;
- Secure the area as directed by the Director of Public Works; and
- Notify the implementing agency's Hazardous Waste/Materials Coordinator.
- The Hazardous Waste/Materials Coordinator shall advise the responsible party of further actions that shall be taken, if required.

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Finding:

Changes or alterations have been required in, or incorporated into, the project that avoid or substantially lessen the significant environmental effect as identified in the Draft EIR. These changes are identified in the form of the mitigation measures above. Upon implementation of the required mitigation, the potentially significant impact would be reduced to a less than significant level. The City of Dana Point hereby finds that implementation of the mitigation measures are feasible, and the measures are therefore adopted.

HAZ-2 Project implementation could emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing school.

Support for this environmental impact conclusion is included in Section 5.6, *Hazards and Hazardous Materials*, and in particular, starting on page 5.6-26 of the Draft EIR.

Three existing schools are located within a 0.25-mile radius of the project site:

- Nobis Preschool, located at 26153 Victoria Boulevard, is approximately 0.01-mile (75 feet) north of the site;
- Capo Beach Christian School, located at 25975 Domingo Avenue, is approximately 0.04-mile (220 feet) west of the site; and
- Little Thinkers Montessori Academy, located at 34240 Camino Capistrano, is approximately 0.1-mile (520 feet) north of the site.

The proposed project is anticipated to involve the demolition of existing structures and potential soil management activities that may require the handling of hazardous materials at the project site as well as the transport of these materials off-site to an approved landfill facility. These activities would be required to comply with federal, State, and local laws and regulations regarding the handling and transport of hazardous materials. With compliance with federal, State, and local laws and regulations as well as implementation of the recommended Mitigation Measures HAZ-1 through HAZ-7, the project is not anticipated to result in any significant impacts involving the handling of hazardous materials, substances, or waste within the vicinity of these schools. Impacts in this regard would be reduced to less than significant levels.

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Mitigation Measures:

- HAZ-1 On-site Features Removal. Prior to issuance of grading permits, the project Applicant shall retain a qualified environmental professional with Phase II/Site Characterization experience to remove numerous features remaining on-site, including but not limited to the hydraulic lifts, hydraulic fluid reservoir and associated piping, and the bus wash clarifier. Impacted soil identified during the removal of these features shall be removed and handled according to the Soil Management Plan (Mitigation Measure HAZ-2). Confirmation soil samples shall be collected within the excavated areas. Removal activities shall adhere to applicable federal, State, and local regulations, and shall occur under supervision of the Orange County Health Care Agency and/or other relevant agencies.
- HAZ-2 Soil Management Plan. Prior to issuance of a grading permit, a Soil Management Plan (SMP) shall be prepared by a qualified environmental professional with Phase II/Site Characterization experience. The SMP shall include guidelines for safety measures and soil management in the event that soils are to be disturbed, and for handling soil during any planned earthwork activities. The SMP shall also include a decision framework and specific risk management measures for managing soil, including any soil import/export activities, in a manner protective of human health and consistent with applicable regulatory requirements. The SMP shall be submitted to, reviewed, and approved by the Director of Public Works prior to issuance of grading permit. Upon approval, the SMP shall be made available to the contractor and the Director of Public Works for use during grading activities.
- HAZ-3 Remediation for Shallow Soil. Prior to initiation of grading activities, the project Applicant shall retain a qualified environmental professional with Phase II/Site Characterization experience to conduct shallow soil remediation in the vicinity of the grounds dispatch building. Visually impacted soil in the vicinity of the grounds dispatch building shall be removed to an adequate depth as determined by the specialist. Confirmation soil samples from excavation walls and floor shall be collected and analyzed. Remedial activities shall adhere to applicable federal, State, and local regulations, and under supervision of the Orange County Health Care Agency, San Diego Regional Water Quality Control Board, and/or other relevant agencies, as applicable.

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- HAZ-4 Additional Verification Sampling. Upon completion of building demolition and prior to and during site grading, the project Applicant shall retain a qualified environmental professional with Phase II/Site Characterization experience to conduct verification soil gas sampling(s) in the vicinity of the grounds dispatch building and mechanic shop. Should any samples determine that residual contamination in either soil or soil gas exceed the thresholds for residential use (i.e., the Department of Toxic Substances Control modified screening levels [DTSC-SL] of 83 µg/m³ for naphthalene, and DTSC-SL of 460 µg/m³ for PCE, or otherwise specified by the oversight agency), the project Applicant shall install vapor barrier(s), if determined necessary, prior to construction of the on-site building foundation.
- HAZ-5 Monitoring Well Deconstruction. Prior to issuance of grading permits, the project Applicant shall obtain a monitoring well deconstruction permit from Orange County Health Care Agency and/or the Regional Water Quality Control Board. Upon receipt of the monitoring well deconstruction permit, the project Applicant shall obtain a qualified environmental professional with Phase II/Site Characterization experience to properly seal and abandon the existing monitoring well (MW1) on-site in accordance with the existing laws and regulations.
- HAZ-6 Asbestos/Lead-Based Paint Surveys. Prior to demolition of existing structures (including piping materials), the project Applicant shall retain a qualified specialists or contractor to conduct surveys of ACM, LBP, and universal waste and submitted to the City Director of Public Works for approval. If ACMs are located, abatement of asbestos shall be completed prior to any activities that would disturb ACMs or create an airborne asbestos hazard. Asbestos removal shall be performed by a State certified asbestos containment contractor in accordance with the South Coast Air Quality Management District (SCAQMD) Rule 1403. If LBPs are found, abatement shall be completed by a qualified Lead Specialist prior to any activities that would create lead dust or fume hazard. LBP removal and disposal shall be performed in accordance with California Code of Regulation Title 8, Section 1532.1, which specifies exposure limits, exposure monitoring and respiratory protection, and mandates good worker practices by workers exposed to lead. Specialists or contractors performing ACM, LBP, and/or universal waste removal shall provide evidence of abatement activities to the City Director of Public Works, if applicable. The project Applicant shall inform the Director of Public Works, via the monthly compliance report, of the date when all ACMs, LBPs, and universal waste are removed from the site, if applicable.

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HAZ-7 Unknown Waste. Prior to initiation of construction activities, contractor shall establish procedures in the event that unknown wastes or contamination source or indicator are encountered during construction. Observations shall be made during project construction for potential contamination source or indicator such as, but not limited to, the presence of underground facilities, buried debris, waste drum tanks, and stained or odorous soils. If unknown wastes or suspect materials are discovered during construction, the contractor shall comply with the following:

- Immediately cease work in the vicinity of the suspected contaminant, and remove workers and the public from the area;
- Notify the Director of Public Works;
- Secure the area as directed by the Director of Public Works; and
- Notify the implementing agency's Hazardous Waste/Materials Coordinator.
- The Hazardous Waste/Materials Coordinator shall advise the responsible party of further actions that shall be taken, if required.

Finding:

Changes or alterations have been required in, or incorporated into, the project that avoid or substantially lessen the significant environmental effect as identified in the Draft EIR. These changes are identified in the form of the mitigation measures above. Upon implementation of the required mitigation, the potentially significant impact would be reduced to a less than significant level. The City of Dana Point hereby finds that implementation of the mitigation measures are feasible, and the measures are therefore adopted.

CUMULATIVE The proposed project, combined with other related projects, could create a significant hazard to the public or environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment, or through the routine transport, use, or disposal of hazardous materials.

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Support for this environmental impact conclusion is included in Section 5.6, *Hazards and Hazardous Materials*, and in particular, starting on page 5.6-28 of the Draft EIR.

Cumulative projects could result in creating a significant hazard to the public or environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment. However, as discussed above, with implementation of existing laws and regulations established by the OCHCA, San Diego Regional Water Quality Control Board (RWQCB), DTSC, Department of Transportation, California Department of Transportation (Caltrans), and California Division of Occupational Safety and Health (Cal/OSHA), among others, these cumulative impacts would be minimized. As discussed above, with implementation of the recommended Mitigation Measures HAZ-1 through HAZ-7, implementation of the proposed project would not result in significant impacts involving hazards and hazardous materials. As such, the project would not result in a cumulatively considerable impact in this regard and impacts would be less than significant.

Mitigation Measure:

- HAZ-1 On-site Features Removal. Prior to issuance of grading permits, the project Applicant shall retain a qualified environmental professional with Phase II/Site Characterization experience to remove numerous features remaining on-site, including but not limited to the hydraulic lifts, hydraulic fluid reservoir and associated piping, and the bus wash clarifier. Impacted soil identified during the removal of these features shall be removed and handled according to the Soil Management Plan (Mitigation Measure HAZ-2). Confirmation soil samples shall be collected within the excavated areas. Removal activities shall adhere to applicable federal, State, and local regulations, and shall occur under supervision of the Orange County Health Care Agency and/or other relevant agencies.
- HAZ-2 Soil Management Plan. Prior to issuance of a grading permit, a Soil Management Plan (SMP) shall be prepared by a qualified environmental professional with Phase II/Site Characterization experience. The SMP shall include guidelines for safety measures and soil management in the event that soils are to be disturbed, and for handling soil during any planned earthwork activities. The SMP shall also include a decision framework and specific risk management measures for managing soil, including any soil import/export activities, in a manner protective of human health and consistent with applicable regulatory requirements. The SMP shall be submitted to, reviewed, and approved by the Director of Public Works prior to issuance of grading permit. Upon approval, the SMP shall be made available to the contractor and the Director of Public Works for use during grading activities.

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- HAZ-3 Remediation for Shallow Soil. Prior to initiation of grading activities, the project Applicant shall retain a qualified environmental professional with Phase II/Site Characterization experience to conduct shallow soil remediation in the vicinity of the grounds dispatch building. Visually impacted soil in the vicinity of the grounds dispatch building shall be removed to an adequate depth as determined by the specialist. Confirmation soil samples from excavation walls and floor shall be collected and analyzed. Remedial activities shall adhere to applicable federal, State, and local regulations, and under supervision of the Orange County Health Care Agency, San Diego Regional Water Quality Control Board, and/or other relevant agencies, as applicable.
- HAZ-4 Additional Verification Sampling. Upon completion of building demolition and prior to and during site grading, the project Applicant shall retain a qualified environmental professional with Phase II/Site Characterization experience to conduct verification soil gas sampling(s) in the vicinity of the grounds dispatch building and mechanic shop. Should any samples determine that residual contamination in either soil or soil gas exceed the thresholds for residential use (i.e., the Department of Toxic Substances Control modified screening levels [DTSC-SL] of 83 µg/m³ for naphthalene, and DTSC-SL of 460 µg/m³ for PCE, or otherwise specified by the oversight agency), the project Applicant shall install vapor barrier(s), if determined necessary, prior to construction of the on-site building foundation.
- HAZ-5 Monitoring Well Deconstruction. Prior to issuance of grading permits, the project Applicant shall obtain a monitoring well deconstruction permit from Orange County Health Care Agency and/or the Regional Water Quality Control Board. Upon receipt of the monitoring well deconstruction permit, the project Applicant shall obtain a qualified environmental professional with Phase II/Site Characterization experience to properly seal and abandon the existing monitoring well (MW1) on-site in accordance with the existing laws and regulations.

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HAZ-6 Asbestos/Lead-Based Paint Surveys. Prior to demolition of existing structures (including piping materials), the project Applicant shall retain a qualified specialists or contractor to conduct surveys of ACM, LBP, and universal waste and submitted to the City Director of Public Works for approval. If ACMs are located, abatement of asbestos shall be completed prior to any activities that would disturb ACMs or create an airborne asbestos hazard. Asbestos removal shall be performed by a State certified asbestos containment contractor in accordance with the South Coast Air Quality Management District (SCAQMD) Rule 1403. If LBPs are found, abatement shall be completed by a qualified Lead Specialist prior to any activities that would create lead dust or fume hazard. LBP removal and disposal shall be performed in accordance with California Code of Regulation Title 8, Section 1532.1, which specifies exposure limits, exposure monitoring and respiratory protection, and mandates good worker practices by workers exposed to lead. Specialists or contractors performing ACM, LBP, and/or universal waste removal shall provide evidence of abatement activities to the City Director of Public Works, if applicable. The project Applicant shall inform the Director of Public Works, via the monthly compliance report, of the date when all ACMs, LBPs, and universal waste are removed from the site, if applicable.

HAZ-7 Unknown Waste. Prior to initiation of construction activities, contractor shall establish procedures in the event that unknown wastes or contamination source or indicator are encountered during construction. Observations shall be made during project construction for potential contamination source or indicator such as, but not limited to, the presence of underground facilities, buried debris, waste drum tanks, and stained or odorous soils. If unknown wastes or suspect materials are discovered during construction, the contractor shall comply with the following:

- Immediately cease work in the vicinity of the suspected contaminant, and remove workers and the public from the area;
- Notify the Director of Public Works;
- Secure the area as directed by the Director of Public Works; and
- Notify the implementing agency's Hazardous Waste/Materials Coordinator.

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- The Hazardous Waste/Materials Coordinator shall advise the responsible party of further actions that shall be taken, if required.

Finding:

Changes or alterations have been required in, or incorporated into, the project that avoid or substantially lessen the significant environmental effect as identified in the Draft EIR. These changes are identified in the form of the mitigation measures above. Upon implementation of the required mitigation, the potentially significant impact would be reduced to a less than significant level. The City of Dana Point hereby finds that implementation of the mitigation measures are feasible, and the measures are therefore adopted.

CUMULATIVE The proposed project, combined with other related projects, could emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing school.

Support for this environmental impact conclusion is included in Section 5.6, *Hazards and Hazardous Materials*, and in particular, starting on page 5.6-28 of the Draft EIR.

Cumulative projects that result in hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing school would be required to go through CEQA clearance to ensure that no significant impacts to sensitive receptors would result. Further, with compliance with the laws and regulations established by the OCHCA, San Diego RWQCB, DTSC, DOT, Caltrans, and Cal/OSHA, among others, these cumulative impacts would be minimized. As the proposed project would not result in significant impacts involving hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing school with implementation of Mitigation Measures HAZ-1 through HAZ-7 and compliance with existing regulations, the project would not significantly contribute to a cumulatively considerable impact in this regard. Impacts in this regard would be less than significant.

Mitigation Measures:

HAZ-1 On-site Features Removal. Prior to issuance of grading permits, the project Applicant shall retain a qualified environmental professional with Phase II/Site Characterization experience to remove numerous features remaining on-site, including but not limited to the hydraulic lifts, hydraulic fluid reservoir and associated piping, and the bus wash clarifier. Impacted soil identified during the removal of these features shall be removed and

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handled according to the Soil Management Plan (Mitigation Measure HAZ-2). Confirmation soil samples shall be collected within the excavated areas. Removal activities shall adhere to applicable federal, State, and local regulations, and shall occur under supervision of the Orange County Health Care Agency and/or other relevant agencies.

HAZ-2 Soil Management Plan. Prior to issuance of a grading permit, a Soil Management Plan (SMP) shall be prepared by a qualified environmental professional with Phase II/Site Characterization experience. The SMP shall include guidelines for safety measures and soil management in the event that soils are to be disturbed, and for handling soil during any planned earthwork activities. The SMP shall also include a decision framework and specific risk management measures for managing soil, including any soil import/export activities, in a manner protective of human health and consistent with applicable regulatory requirements. The SMP shall be submitted to, reviewed, and approved by the Director of Public Works prior to issuance of grading permit. Upon approval, the SMP shall be made available to the contractor and the Director of Public Works for use during grading activities.

HAZ-3 Remediation for Shallow Soil. Prior to initiation of grading activities, the project Applicant shall retain a qualified environmental professional with Phase II/Site Characterization experience to conduct shallow soil remediation in the vicinity of the grounds dispatch building. Visually impacted soil in the vicinity of the grounds dispatch building shall be removed to an adequate depth as determined by the specialist. Confirmation soil samples from excavation walls and floor shall be collected and analyzed. Remedial activities shall adhere to applicable federal, State, and local regulations, and under supervision of the Orange County Health Care Agency, San Diego Regional Water Quality Control Board, and/or other relevant agencies, as applicable.

HAZ-4 Additional Verification Sampling. Upon completion of building demolition and prior to and during site grading, the project Applicant shall retain a qualified environmental professional with Phase II/Site Characterization experience to conduct verification soil gas sampling(s) in the vicinity of the grounds dispatch building and mechanic shop. Should any samples determine that residual contamination in either soil or soil gas exceed the thresholds for residential use (i.e., the Department of Toxic Substances Control modified screening levels [DTSC-SL] of 83 µg/m³ for naphthalene, and DTSC-SL of 460 µg/m³ for PCE, or otherwise specified by the oversight agency), the project Applicant shall install vapor barrier(s), if

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determined necessary, prior to construction of the on-site building foundation.

- HAZ-5 Monitoring Well Deconstruction. Prior to issuance of grading permits, the project Applicant shall obtain a monitoring well deconstruction permit from Orange County Health Care Agency and/or the Regional Water Quality Control Board. Upon receipt of the monitoring well deconstruction permit, the project Applicant shall obtain a qualified environmental professional with Phase II/Site Characterization experience to properly seal and abandon the existing monitoring well (MW1) on-site in accordance with the existing laws and regulations.
- HAZ-6 Asbestos/Lead-Based Paint Surveys. Prior to demolition of existing structures (including piping materials), the project Applicant shall retain a qualified specialists or contractor to conduct surveys of ACM, LBP, and universal waste and submitted to the City Director of Public Works for approval. If ACMs are located, abatement of asbestos shall be completed prior to any activities that would disturb ACMs or create an airborne asbestos hazard. Asbestos removal shall be performed by a State certified asbestos containment contractor in accordance with the South Coast Air Quality Management District (SCAQMD) Rule 1403. If LBPs are found, abatement shall be completed by a qualified Lead Specialist prior to any activities that would create lead dust or fume hazard. LBP removal and disposal shall be performed in accordance with California Code of Regulation Title 8, Section 1532.1, which specifies exposure limits, exposure monitoring and respiratory protection, and mandates good worker practices by workers exposed to lead. Specialists or contractors performing ACM, LBP, and/or universal waste removal shall provide evidence of abatement activities to the City Director of Public Works, if applicable. The project Applicant shall inform the Director of Public Works, via the monthly compliance report, of the date when all ACMs, LBPs, and universal waste are removed from the site, if applicable.
- HAZ-7 Unknown Waste. Prior to initiation of construction activities, contractor shall establish procedures in the event that unknown wastes or contamination source or indicator are encountered during construction. Observations shall be made during project construction for potential contamination source or indicator such as, but not limited to, the presence of underground facilities, buried debris, waste drum tanks, and stained or odorous soils. If unknown wastes or suspect materials are discovered during construction, the contractor shall comply with the following:

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- Immediately cease work in the vicinity of the suspected contaminant, and remove workers and the public from the area;
- Notify the Director of Public Works;
- Secure the area as directed by the Director of Public Works; and
- Notify the implementing agency's Hazardous Waste/Materials Coordinator.
- The Hazardous Waste/Materials Coordinator shall advise the responsible party of further actions that shall be taken, if required.

Finding:

Changes or alterations have been required in, or incorporated into, the project that avoid or substantially lessen the significant environmental effect as identified in the Draft EIR. These changes are identified in the form of the mitigation measures above. Upon implementation of the required mitigation, the potentially significant impact would be reduced to a less than significant level. The City of Dana Point hereby finds that implementation of the mitigation measures are feasible, and the measures are therefore adopted.

4. Public Services

PSRU-1 Project implementation could result in the need for additional fire protection facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives.

Support for this environmental impact conclusion is included in Section 5.13, *Public Services/Recreation and Utilities*, and in particular, starting on page 5.13-30 of the Draft EIR.

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CONSTRUCTION

The project would not result in the need for the construction of any new or physically altered fire protection facilities. Construction activities associated with the project could temporarily result in an incrementally increased demand for Orange County Fire Authority (OCFA) fire protection services. However, all construction activities would be subject to compliance with applicable State and local regulations in place to reduce risk of construction-related fire (i.e., installation of temporary construction fencing to restrict site access and maintenance of a clean construction site). Additionally, the project would be required to comply with Municipal Code Chapter 8.02, *California Building Code*, which adopts by reference the CBC standards regarding site access requirements and fire safety precautions. Further, as discussed in Draft EIR Section 5.7, *Transportation*, Mitigation Measure TRA-1 would require the project Applicant to implement a Construction Management Plan (CMP). The CMP would require implementing alternative routes for emergency vehicles during the construction phase of the project to ensure adequate emergency access. With implementation of Mitigation Measure TRA-1, and compliance with State and local regulations, construction-related impacts to fire protection services from the project would be less than significant in this regard.

OPERATIONS

The project would be designed in accordance with Municipal Code Chapter 8.02, *California Building Code*, as well as Municipal Code Chapter 8.24, *California Fire Code*, which adopts by reference the 2016 edition of the California Fire Code. The California Fire Code includes fire safety-related building standards for construction, access, water mains, fire flows, and hydrants. Further, in conformance with General Plan Public Safety Element Policies 4.4, 4.5, and 7.1, the proposed project would be required to comply with building code requirements related to fire protection and prevention. Additionally, the project would be required to comply with General Plan Land Use Element Policy 3.1 and pay the respective fire-related development fees and exactions to the City.

Further, the City and OCFA would review the project's site plans to confirm that the proposed primary and secondary access driveways and emergency vehicle access (EVA) driving aisle meet the applicable State and local codes and standards pertaining to emergency access.

Potable water would be used for fire suppression and provided by SCWD. The proposed project would install one new fire hydrant along Sepulveda Avenue, three new fire hydrants along Victoria Boulevard and the eastern side of the project site, and one new fire hydrant along the proposed EVA drive aisle that meet OCFA standards. Additionally, the project Applicant has prepared a Fire Master Plan that was approved by OCFA on February 15, 2022. The Fire Master Plan details the expected emergency

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exits within the proposed structures, the proposed on-site locations for fire hydrants, and the proposed locations of drought-resistant on-site vegetation. Lastly, as a standard condition of approval, the project Applicant would be required to enter into a Secured Fire Protection Agreement with OCFA. The agreement would specify the Applicant's pro-rata fair share funding of capital improvements necessary to establish adequate fire protection facilities and equipment, and/or personnel.

Project implementation would not induce significant unplanned population growth. Therefore, although the proposed project is expected to increase demand for OCFA services, the demand would not be substantial or result in the need for additional fire protection facilities, and would not adversely impact service ratios, response times, or other OCFA performance standards. Additionally, the increase in demand for OCFA services would not require the construction of new fire protection facilities or expansion of existing fire protection facilities. Therefore, the project would result in a less than significant impact in this regard.

Mitigation Measures:

TRA-1 Prior to issuance of any grading and/or demolition permits, whichever occurs first, the Applicant (Developer) shall prepare a Construction Management Plan (CMP) to be submitted for review and approval by the City of Dana Point Director of Public Works. The requirement for a CMP shall be incorporated into the Project specifications and subject to verification by the Director of Public Works prior to final plan approval. The CMP shall include, at a minimum, the following measures, which shall be implemented during all construction activities as overseen by the Construction Contractor:

- Meet the standards established in the current California Manual on Uniform Traffic Control Device (MUTCD) as well as City of Dana Point requirements. The CMP shall be prepared by the contractor and submitted to the Director of Public Works for approval pertaining to off-site work, including sidewalk construction, building façade, underground utilities, and any work that would require temporary curb lane closures. The plan shall be developed according to the MUTCD (latest edition) guidelines, including plans for traffic signs, traffic cone arrangements, and flaggers to assist with pedestrian and traffic.
- Submit the CMP to the California Department of Transportation (Caltrans) and City of San Juan Capistrano for review and comment, prior to approval by the Director of Public Works, should construction hauling utilize facilities within these jurisdictions.

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- Identify traffic control for any street closure, detour, or other disruption to traffic circulation, including the necessary traffic controls to allow for construction-related traffic to enter and exit the site.
- Should project construction activities require temporary vehicle lane, bicycle lane, and/or sidewalk closures, the Applicant (Developer) shall coordinate with the Director of Public Works regarding timing and duration of proposed temporary lane and/or sidewalk closures to ensure the closures do not impact operations of adjacent uses or emergency access.
- Identify the routes that construction vehicles must utilize for the delivery of construction materials (i.e., lumber, tiles, piping, windows, etc.), to access the site, traffic controls and detours, and proposed construction phasing plan for the project.
- Specify all grading and equipment operations shall not be conducted between the hours of 8:00 p.m. and 7:00 a.m. Monday through Saturday, and/or any time on Sunday or a Federal holiday, pursuant to Section 11.10.014, Special Provisions, of the Dana Point Municipal Code.
- Should project construction activities occur during general drop-off and pick-up hours for nearby schools (i.e., Nobis Preschool), traffic signs, traffic cone arrangements, and flaggers shall assist with ensuring safe pedestrian access along the project frontage for students.
- Require the Applicant (Developer) to keep all haul routes clean and free of debris including, but not limited to, gravel and dirt, as a result of its operations. The Applicant (Developer) shall clean adjacent streets, as directed by the Director of Public Works, of any material which may have been spilled, tracked, or blown onto adjacent streets or areas.
- All construction-related parking and staging of vehicles shall be kept out of the adjacent public roadways and shall occur on-site.
- Traffic controls shall be implemented for any street closure, detour, or other disruption to traffic circulation and shall maintain emergency access to the site.

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Finding:

Changes or alterations have been required in, or incorporated into, the project that avoid or substantially lessen the significant environmental effect as identified in the Draft EIR. These changes are identified in the form of the mitigation measure above. Upon implementation of the required mitigation, the potentially significant impact would be reduced to a less than significant level. The City of Dana Point hereby finds that implementation of the mitigation measure is feasible, and the measure is therefore adopted.

PSRU-2 Project implementation could result in the need for additional police protection facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives.

Support for this environmental impact conclusion is included in Section 5.13, *Public Services/Recreation and Utilities*, and in particular, starting on page 5.13-32 of the Draft EIR.

CONSTRUCTION

The project would not result in the need for the construction of any new or physically altered police protection facilities. As discussed in Draft EIR Section 5.7, *Transportation*, Mitigation Measure TRA-1 would require a CMP, which would include construction-related best management practices to minimize project-related construction traffic impacts on the local circulation system, including emergency access. Therefore, construction activities would not substantially impact police response times. Construction activities would also be subject to compliance with applicable State and local regulations to reduce impacts to police protection services, including Municipal Code Chapter 8.02 (adopts by reference the 2019 CBC), which includes site access requirements and other relevant safety precautions. As such construction-related impacts concerning police protection services would be less than significant.

OPERATIONS

Project implementation would result in additional demands on existing police protection services, and may result in the need for one additional deputy sheriff in the area. Project buildout would result in the construction 306 dwelling units on the 5.51-acre project site. Although the proposed residential development would increase demand for police protection services, the proposed project is not anticipated to result in substantial unplanned population growth.

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The proposed project would also be subject to conformance with several General Plan policies intended to reduce impacts to police protection services. In conformance with General Plan Public Facilities/Growth Management Element Policies 4.1 and 4.5, the City would ensure desirable level of police services is maintained by periodically evaluating services and service criteria and coordinating with other agencies; and in conformance with General Plan Public Safety Element Policies 4.4, 4.5, and 7.1, the City would establish and maintain mutual said agreements with surrounding cities for police protection, encourage building code requirements that assure police protection, and adopt Orange County level of service standards for law enforcement. Additionally, as detailed in Specific Plan Section 6.2.1, *Financing Mechanisms*, and in congruence with General Plan Land Use Element Policy 3.1, impact fees and/or exactions would be utilized to offset project demands on existing services, including police protection services. The Applicant would be required to work with the City to determine appropriate fees and exactions, which may be identified in a formal written agreement that is acceptable to both the City and Applicant. The Applicant, developer, and/or owner of the project would be required to pay its fair share of all applicable impact fees. Compliance with relevant legislations and General Plan policies would ensure the project's additional demand for police protection services do not adversely impact OCSD's ability to meet its established response times and police staffing levels. As such, operational impacts concerning police protection services would be less than significant.

Mitigation Measures:

TRA-1 Prior to issuance of any grading and/or demolition permits, whichever occurs first, the Applicant (Developer) shall prepare a Construction Management Plan (CMP) to be submitted for review and approval by the City of Dana Point Director of Public Works. The requirement for a CMP shall be incorporated into the Project specifications and subject to verification by the Director of Public Works prior to final plan approval. The CMP shall include, at a minimum, the following measures, which shall be implemented during all construction activities as overseen by the Construction Contractor:

- Meet the standards established in the current California Manual on Uniform Traffic Control Device (MUTCD) as well as City of Dana Point requirements. The CMP shall be prepared by the contractor and submitted to the Director of Public Works for approval pertaining to off-site work, including sidewalk construction, building façade, underground utilities, and any work that would require temporary curb lane closures. The plan shall be developed according to the MUTCD (latest edition) guidelines, including plans

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for traffic signs, traffic cone arrangements, and flaggers to assist with pedestrian and traffic.

- Submit the CMP to the California Department of Transportation (Caltrans) and City of San Juan Capistrano for review and comment, prior to approval by the Director of Public Works, should construction hauling utilize facilities within these jurisdictions.
- Identify traffic control for any street closure, detour, or other disruption to traffic circulation, including the necessary traffic controls to allow for construction-related traffic to enter and exit the site.
- Should project construction activities require temporary vehicle lane, bicycle lane, and/or sidewalk closures, the Applicant (Developer) shall coordinate with the Director of Public Works regarding timing and duration of proposed temporary lane and/or sidewalk closures to ensure the closures do not impact operations of adjacent uses or emergency access.
- Identify the routes that construction vehicles must utilize for the delivery of construction materials (i.e., lumber, tiles, piping, windows, etc.), to access the site, traffic controls and detours, and proposed construction phasing plan for the project.
- Specify all grading and equipment operations shall not be conducted between the hours of 8:00 p.m. and 7:00 a.m. Monday through Saturday, and/or any time on Sunday or a Federal holiday, pursuant to Section 11.10.014, Special Provisions, of the Dana Point Municipal Code.
- Should project construction activities occur during general drop-off and pick-up hours for nearby schools (i.e., Nobis Preschool), traffic signs, traffic cone arrangements, and flaggers shall assist with ensuring safe pedestrian access along the project frontage for students.
- Require the Applicant (Developer) to keep all haul routes clean and free of debris including, but not limited to, gravel and dirt, as a result of its operations. The Applicant (Developer) shall clean adjacent streets, as directed by the Director of Public Works, of any material which may have been spilled, tracked, or blown onto adjacent streets or areas.

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- All construction-related parking and staging of vehicles shall be kept out of the adjacent public roadways and shall occur on-site.
- Traffic controls shall be implemented for any street closure, detour, or other disruption to traffic circulation and shall maintain emergency access to the site.

Finding:

Changes or alterations have been required in, or incorporated into, the project that avoid or substantially lessen the significant environmental effect as identified in the Draft EIR. These changes are identified in the form of the mitigation measure above. Upon implementation of the required mitigation, the potentially significant impact would be reduced to a less than significant level. The City of Dana Point hereby finds that implementation of the mitigation measure is feasible, and the measure is therefore adopted.

CUMULATIVE The project combined with other cumulative projects could create increased demand for fire protection services that could create significant environmental impacts.

Support for this environmental impact conclusion is included in Section 5.13, *Public Services/Recreation and Utilities*, and in particular, starting on page 5.13-42 of the Draft EIR.

Cumulative development projects within the OCFA's service area in City would have the potential to result in the need for additional OCFA resources (i.e., additional staffing, equipment, expanded/new facilities). However, cumulative projects would be subject to all applicable laws, ordinances, and regulations in place for fire protection and emergency services. Development occurring within the City would be required to demonstrate compliance with all applicable regulations, including the Municipal Code Chapter 8.24 (adopts by reference the 2016 edition of the California Fire Code) requirements regarding construction, access, water mains, fire flows, and hydrants. In conformance with General Plan Public Facilities/Growth Management Element Policies 4.1 and 4.5, the City would ensure desirable level of fire protection services is maintained by periodically evaluating services and service criteria and coordinate with OCFA and other agencies. In conformance with General Plan Public Safety Element Policies 4.4 and 4.5, the City would establish and maintain mutual said agreements with surrounding cities for fire protection and encourage building code requirements that assure fire protection. Further, in conformance with General Plan Land Use Element

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Policy 3.1, the City would ensure cumulative development pays the cost of its infrastructure and services needs and require new development to pay the capital costs of public facilities and services needed to serve those development. Cumulative projects would be reviewed by the City and the OCFA to determine specific fire requirements (e.g., fire hydrant spacing, sprinkler requirements in certain types of construction, safe vehicular access for evacuation or response, and ensuring the development does not negatively impact response times) applicable to the specific development and to ensure compliance with all applicable requirements as discussed.

The proposed project is not anticipated to result in significant impacts to fire protection services following the inclusion of an EVA driveway for emergency service as well as implementation of the proposed Fire Master Plan for the project. Additionally, Mitigation Measure TRA-1 would require implementation of a CMP to ensure adequate access for emergency vehicles during the construction phase of the project. Further, the proposed project would conform with the applicable laws, ordinances, and regulations in place for fire protection and emergency services as detailed above. As such, the proposed project would not result in cumulatively considerable impacts to fire protection services. Impacts in this regard would be less than significant.

Mitigation Measures:

TRA-1 Prior to issuance of any grading and/or demolition permits, whichever occurs first, the Applicant (Developer) shall prepare a Construction Management Plan (CMP) to be submitted for review and approval by the City of Dana Point Director of Public Works. The requirement for a CMP shall be incorporated into the Project specifications and subject to verification by the Director of Public Works prior to final plan approval. The CMP shall include, at a minimum, the following measures, which shall be implemented during all construction activities as overseen by the Construction Contractor:

- Meet the standards established in the current California Manual on Uniform Traffic Control Device (MUTCD) as well as City of Dana Point requirements. The CMP shall be prepared by the contractor and submitted to the Director of Public Works for approval pertaining to off-site work, including sidewalk construction, building façade, underground utilities, and any work that would require temporary curb lane closures. The plan shall be developed according to the MUTCD (latest edition) guidelines, including plans for traffic signs, traffic cone arrangements, and flaggers to assist with pedestrian and traffic.

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- Submit the CMP to the California Department of Transportation (Caltrans) and City of San Juan Capistrano for review and comment, prior to approval by the Director of Public Works, should construction hauling utilize facilities within these jurisdictions.
- Identify traffic control for any street closure, detour, or other disruption to traffic circulation, including the necessary traffic controls to allow for construction-related traffic to enter and exit the site.
- Should project construction activities require temporary vehicle lane, bicycle lane, and/or sidewalk closures, the Applicant (Developer) shall coordinate with the Director of Public Works regarding timing and duration of proposed temporary lane and/or sidewalk closures to ensure the closures do not impact operations of adjacent uses or emergency access.
- Identify the routes that construction vehicles must utilize for the delivery of construction materials (i.e., lumber, tiles, piping, windows, etc.), to access the site, traffic controls and detours, and proposed construction phasing plan for the project.
- Specify all grading and equipment operations shall not be conducted between the hours of 8:00 p.m. and 7:00 a.m. Monday through Saturday, and/or any time on Sunday or a Federal holiday, pursuant to Section 11.10.014, Special Provisions, of the Dana Point Municipal Code.
- Should project construction activities occur during general drop-off and pick-up hours for nearby schools (i.e., Nobis Preschool), traffic signs, traffic cone arrangements, and flaggers shall assist with ensuring safe pedestrian access along the project frontage for students.
- Require the Applicant (Developer) to keep all haul routes clean and free of debris including, but not limited to, gravel and dirt, as a result of its operations. The Applicant (Developer) shall clean adjacent streets, as directed by the Director of Public Works, of any material which may have been spilled, tracked, or blown onto adjacent streets or areas.
- All construction-related parking and staging of vehicles shall be kept out of the adjacent public roadways and shall occur on-site.

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- Traffic controls shall be implemented for any street closure, detour, or other disruption to traffic circulation and shall maintain emergency access to the site.

Finding:

Changes or alterations have been required in, or incorporated into, the project that avoid or substantially lessen the significant environmental effect as identified in the Draft EIR. These changes are identified in the form of the mitigation measure above. Upon implementation of the required mitigation, the potentially significant impact would be reduced to a less than significant level. The City of Dana Point hereby finds that implementation of the mitigation measure is feasible, and the measure is therefore adopted.

CUMULATIVE The project combined with other cumulative projects could create increased demand for police protection services that could create significant environmental impacts.

Support for this environmental impact conclusion is included in Section 5.13, *Public Services/Recreation and Utilities*, and in particular, starting on page 5.13-43 of the Draft EIR.

Cumulative development in the Dana Point Police Department's service area within the City has the potential to result in the need for additional OCSD resources (i.e., additional staffing, equipment, expanded/new facilities). However, cumulative development would be subject to all applicable laws, ordinances, and regulations in place for police services. Site-specific development would be reviewed by the City and the OCSD to determine specific safety requirements applicable to the individual development proposals and to ensure compliance with these requirements under including the Municipal Code Chapter 8.02 (adopts by reference the 2019 CBC), which includes site access requirement and other relevant safety precautions. In conformance with General Plan Public Facilities/Growth Management Element Policies 4.1 and 4.5, the City would ensure desirable level of police protection services is maintained by periodically evaluating services and service criteria and coordinate with other agencies; and in conformance with General Plan Public Safety Element Policies 4.4, 4.5, and 7.1, the City would establish and maintain mutual said agreements with surrounding cities for police protection, encourage building code requirements that assure police protection, and adopt Orange County level of service standards for law enforcement. During the development review process of potential buildout, the City would coordinate with the project applicant to ensure the project is designed with public safety in mind to

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prevent crime and minimize impacts on police protection facilities. Further, in conformance with General Plan Land Use Element Policy 3.1, the City would ensure cumulative development pays the cost of its infrastructure and services needs and require new development to pay the capital costs of public facilities and services needed to serve those development.

The proposed project is not anticipated to involve significant impacts to police protection services, as the project would not induce substantial population growth. Additionally, Mitigation Measure TRA-1 would require a CMP be prepared and implemented to minimize project-related construction traffic impacts on the local circulation system. Further, the proposed project would conform with the applicable laws, ordinances, and regulations in place for police protection services as detailed above. Therefore, the proposed project would not result in cumulatively considerable impacts to police protection services. Impacts in this regard would be less than significant.

Mitigation Measures:

- TRA-1 Prior to issuance of any grading and/or demolition permits, whichever occurs first, the Applicant (Developer) shall prepare a Construction Management Plan (CMP) to be submitted for review and approval by the City of Dana Point Director of Public Works. The requirement for a CMP shall be incorporated into the Project specifications and subject to verification by the Director of Public Works prior to final plan approval. The CMP shall include, at a minimum, the following measures, which shall be implemented during all construction activities as overseen by the Construction Contractor:
- Meet the standards established in the current California Manual on Uniform Traffic Control Device (MUTCD) as well as City of Dana Point requirements. The CMP shall be prepared by the contractor and submitted to the Director of Public Works for approval pertaining to off-site work, including sidewalk construction, building façade, underground utilities, and any work that would require temporary curb lane closures. The plan shall be developed according to the MUTCD (latest edition) guidelines, including plans for traffic signs, traffic cone arrangements, and flaggers to assist with pedestrian and traffic.
 - Submit the CMP to the California Department of Transportation (Caltrans) and City of San Juan Capistrano for review and comment, prior to approval by the Director of Public Works, should construction hauling utilize facilities within these jurisdictions.

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- Identify traffic control for any street closure, detour, or other disruption to traffic circulation, including the necessary traffic controls to allow for construction-related traffic to enter and exit the site.
- Should project construction activities require temporary vehicle lane, bicycle lane, and/or sidewalk closures, the Applicant (Developer) shall coordinate with the Director of Public Works regarding timing and duration of proposed temporary lane and/or sidewalk closures to ensure the closures do not impact operations of adjacent uses or emergency access.
- Identify the routes that construction vehicles must utilize for the delivery of construction materials (i.e., lumber, tiles, piping, windows, etc.), to access the site, traffic controls and detours, and proposed construction phasing plan for the project.
- Specify all grading and equipment operations shall not be conducted between the hours of 8:00 p.m. and 7:00 a.m. Monday through Saturday, and/or any time on Sunday or a Federal holiday, pursuant to Section 11.10.014, Special Provisions, of the Dana Point Municipal Code.
- Should project construction activities occur during general drop-off and pick-up hours for nearby schools (i.e., Nobis Preschool), traffic signs, traffic cone arrangements, and flaggers shall assist with ensuring safe pedestrian access along the project frontage for students.
- Require the Applicant (Developer) to keep all haul routes clean and free of debris including, but not limited to, gravel and dirt, as a result of its operations. The Applicant (Developer) shall clean adjacent streets, as directed by the Director of Public Works, of any material which may have been spilled, tracked, or blown onto adjacent streets or areas.
- All construction-related parking and staging of vehicles shall be kept out of the adjacent public roadways and shall occur on-site.
- Traffic controls shall be implemented for any street closure, detour, or other disruption to traffic circulation and shall maintain emergency access to the site.

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Finding:

Changes or alterations have been required in, or incorporated into, the project that avoid or substantially lessen the significant environmental effect as identified in the Draft EIR. These changes are identified in the form of the mitigation measure above. Upon implementation of the required mitigation, the potentially significant impact would be reduced to a less than significant level. The City of Dana Point hereby finds that implementation of the mitigation measure is feasible, and the measure is therefore adopted.

5. Transportation

TRA-3 Project implementation could increase hazards due to a geometric design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment).

Support for this environmental impact conclusion is included in Section 5.7, *Transportation*, and in particular, starting on page 5.7-12 of the Draft EIR.

Development of the proposed project would result in a new apartment community at the project site, which is situated within an urban residential area of Dana Point and would not introduce any new incompatible uses. The increased vehicles on-site and potential interaction with bicyclists and pedestrians would occur. The following analysis considers the project's proposed circulation system safety design considerations.

SITE ACCESS

A 42-foot-wide full access driveway on Sepulveda Avenue (Sepulveda Avenue Driveway) and a gated full access driveway on Victoria Boulevard (Victoria Boulevard Driveway) would serve as the primary vehicular access to the project site. Additionally, a third driveway would be located at the southern end of Sepulveda Avenue and would only be used as emergency access and enforced through the use of bollards and/or similar devices (i.e., Knox key boxes). The new project driveway at Sepulveda Avenue would be stop controlled at the proposed parking garage exit. The project driveway at Victoria Boulevard would be stop controlled as motorists leave the project site. Bicycle and pedestrian access would be afforded along the project boundaries and into the proposed development.

Based on the *Highway Design Manual* (California Department of Transportation, July 2018), the stopping sight distance for a 25 mile per hour design speed is 150 feet. All proposed driveways achieve a minimum of 150 feet, with the exception of the proposed

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Victoria Avenue driveway looking east. At this location there is only approximately 114 feet of sight distance available before reaching the intersection at Camino Capistrano. There are no posted speed limits at this location. Assuming vehicles turning from the intersection on Victoria Boulevard (eastward) are travelling at approximately 15 miles per hour, the necessary stopping sight distance is reduced to 100 feet; therefore, adequate stopping sight distance appears to be provided. Nonetheless, as part of the City's entitlement process, the City would review all proposed site access points to confirm compliance with all applicable safety standards and considerations concerning the proposed access configurations. Additionally, the project would comply with all site access requirements for residential developments detailed in the Municipal Code Chapter 9.35, *Access, Parking and Loading*, including the required curb-to-curb roadway width for access on streets from parking facilities and spacing standard for driveways of residential developments. Lastly, site plans of the project would also be reviewed by OCFA for review to ensure that inadequate design features or incompatible uses, for the purpose of emergency access, do not occur.

GATE STACKING ANALYSIS

Residential gate stacking evaluation has been performed based on the County of Orange Standard Plan 1107 requirements, which states that there should be one foot of stacking for each dwelling unit. When two or more gated access points are provided, the number of residential dwelling units served by each access should be estimated.

This standard was originally developed for gated entries staffed by a guard. With technological advancements, residents are typically provided with remote gate operating devices so that they do not have to stop and speak with a guard, swipe a card, or punch a code. Therefore, gate stacking is primarily associated with visitors who would have to stop at a guard shack or call box. Since guest parking typically accounts for approximately 10 to 20 percent of the total parking supply, the length of the visitor lane is conservatively estimated on the higher end as 20 percent of the stacking required, but in no case should the visitor lane be less than two car lengths.

A turn around should be provided for vehicles that are turned away at the gate. The turnaround should have a minimum radius of 38 feet to accommodate trucks and passenger vehicles. Where it is not possible, a minimum radius of 30 feet may be considered, on a case-by-case basis. Exceptions to this rule of providing a turnaround are as follows:

- When all visitor parking is provided outside of the gates and vacant striped-out stalls are provided for turning around at the dead end.
- When all visitor parking is provided at a completely separate location.

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- When the parking structure is for residents only, and the gate is situated very close to the street with signage "Residents Only" and the signage depicts where visitors should enter and if a call box is available for a visitor to use to contact the manager and the manager could open the gate to allow the visitor inside the site to turn around.

A resident only access gate is proposed at the bottom of the ramp between the ground level parking area and level two resident only parking. A second access driveway is proposed at Victoria Boulevard for residents and service vehicles only. All visitors would enter from the primary access driveway at Sepulveda Avenue. Upon entering from Sepulveda Avenue, access to the visitor parking area (at the ground level of the parking garage) is uncontrolled and therefore does not require any stacking length. On-site residents would utilize remotes to operate the gates. As such, no stacking length is necessary for the resident only gate (for level two of the parking garage). A Condition of Approval would require the project to install "Do Not Enter" directional signage and/or one-way pavement markings at the Sepulveda entry area to ensure exiting visitor vehicles do not unintentionally enter the inbound driveway lane.

The Victoria Boulevard gate is estimated to require 25 feet of stacking length to accommodate one service vehicle. The required stacking length for the Victoria Boulevard entrance would be 25 feet. The required stacking length for the Victoria Boulevard entrance would be accommodated on-site without backing into the public right-of-way and adequate turn around areas are provided in front of the gates. As such, impacts would be less than significant in this regard.

CONSTRUCTION

Construction activities associated with the project would generate traffic as a result of construction equipment being transported to and from the site, and vehicular traffic from construction workers, export of construction debris, and delivery of materials to the site. Staging areas for construction equipment and materials storage would be established on-site. The construction activities would include demolition, site preparation, grading/excavation, trenching, building construction, and paving.

Construction-related trips associated with trucks and employees traveling to and from the site in the morning and afternoon may result in some minor temporary and short-term traffic delays to vehicles traveling along Victoria Boulevard and/or Sepulveda Avenue. However, in accordance with Municipal Code Section 11.10.014, *Special Provisions*, construction noise is prohibited between the hours of 8:00 p.m. and 7:00 a.m. Monday through Saturday, and/or any time on Sunday or a Federal holiday. Further, Mitigation Measure TRA-1 would require a CMP, which would minimize project-related construction traffic impacts on the local circulation system. Per Mitigation Measure TRA-1, all construction vehicles would carry the required hauling permits and

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would use the most direct route via the project site to I-5. The exact haul routes would be confirmed with the City of Dana Point Director of Public Works and/or the adjacent jurisdictions (e.g., Caltrans and the City of San Juan Capistrano) prior to approval. Construction may require temporary closures of vehicle lanes, bicycle lanes, and/or sidewalks. Mitigation Measure TRA-1 would require the Applicant (Developer) coordinate with the Director of Public Works regarding timing and duration of proposed temporary lane and/or sidewalk closures to ensure the closures would not impact operations of adjacent uses or emergency access. In addition, Mitigation Measure TRA-1 would ensure traffic signs, traffic cone arrangements, and flaggers are present during general drop-off and pick-up hours for nearby schools (i.e., Nobis Preschool, San Clemente Christian School) to ensure safe pedestrian access along the Project frontage for students. Overall, construction-related traffic impacts would be short-term and temporary, and implementation of Mitigation Measure TRA-1 would ensure construction-related project impacts are less than significant.

Mitigation Measures:

- TRA-1 Prior to issuance of any grading and/or demolition permits, whichever occurs first, the Applicant (Developer) shall prepare a Construction Management Plan (CMP) to be submitted for review and approval by the City of Dana Point Director of Public Works. The requirement for a CMP shall be incorporated into the Project specifications and subject to verification by the Director of Public Works prior to final plan approval. The CMP shall include, at a minimum, the following measures, which shall be implemented during all construction activities as overseen by the Construction Contractor:
- Meet the standards established in the current California Manual on Uniform Traffic Control Device (MUTCD) as well as City of Dana Point requirements. The CMP shall be prepared by the contractor and submitted to the Director of Public Works for approval pertaining to off-site work, including sidewalk construction, building façade, underground utilities, and any work that would require temporary curb lane closures. The plan shall be developed according to the MUTCD (latest edition) guidelines, including plans for traffic signs, traffic cone arrangements, and flaggers to assist with pedestrian and traffic.
 - Submit the CMP to the California Department of Transportation (Caltrans) and City of San Juan Capistrano for review and comment, prior to approval by the Director of Public Works, should construction hauling utilize facilities within these jurisdictions.

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- Identify traffic control for any street closure, detour, or other disruption to traffic circulation, including the necessary traffic controls to allow for construction-related traffic to enter and exit the site.
- Should project construction activities require temporary vehicle lane, bicycle lane, and/or sidewalk closures, the Applicant (Developer) shall coordinate with the Director of Public Works regarding timing and duration of proposed temporary lane and/or sidewalk closures to ensure the closures do not impact operations of adjacent uses or emergency access.
- Identify the routes that construction vehicles must utilize for the delivery of construction materials (i.e., lumber, tiles, piping, windows, etc.), to access the site, traffic controls and detours, and proposed construction phasing plan for the project.
- Specify all grading and equipment operations shall not be conducted between the hours of 8:00 p.m. and 7:00 a.m. Monday through Saturday, and/or any time on Sunday or a Federal holiday, pursuant to Section 11.10.014, Special Provisions, of the Dana Point Municipal Code.
- Should project construction activities occur during general drop-off and pick-up hours for nearby schools (i.e., Nobis Preschool), traffic signs, traffic cone arrangements, and flaggers shall assist with ensuring safe pedestrian access along the project frontage for students.
- Require the Applicant (Developer) to keep all haul routes clean and free of debris including, but not limited to, gravel and dirt, as a result of its operations. The Applicant (Developer) shall clean adjacent streets, as directed by the Director of Public Works, of any material which may have been spilled, tracked, or blown onto adjacent streets or areas.
- All construction-related parking and staging of vehicles shall be kept out of the adjacent public roadways and shall occur on-site.
- Traffic controls shall be implemented for any street closure, detour, or other disruption to traffic circulation and shall maintain emergency access to the site.

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Finding:

Changes or alterations have been required in, or incorporated into, the project that avoid or substantially lessen the significant environmental effect as identified in the Draft EIR. These changes are identified in the form of the mitigation measure above. Upon implementation of the required mitigation, the potentially significant impact would be reduced to a less than significant level. The City of Dana Point hereby finds that implementation of the mitigation measure is feasible, and the measure is therefore adopted.

TRA-4 Project implementation could result in inadequate emergency access.

Support for this environmental impact conclusion is included in Section 5.7, *Transportation*, and in particular, starting on page 5.7-17 of the Draft EIR.

Emergency access would be provided via a secondary EVA driveway located at the southern end of Sepulveda Avenue. Emergency access only would be enforced through the use of bollards and/or similar devices (i.e., Knox key boxes). The EVA would also be accessible from the Victoria Boulevard Driveway as well and would include appropriate hammerhead turnaround for emergency vehicles.

Implementation of Mitigation Measure TRA-1 would require the project Applicant to submit a CMP that would detail plans emergency access to the site. Additionally, compliance with Municipal Codes 8.02 and 8.04, the project would comply with design standards outlined under the California Building Code and the California Fire Code regarding for emergency ingress/egress. As discussed above site plans for the proposed project would subject to review by the City and OCFA to ensure that adequate emergency access or emergency response would be provided. Lastly the project site plans would be subject to review by OCFA and OCSD for compliance with fire and emergency access standards and requirements. With the implementation of Mitigation Measure TRA-1, and by complying with Municipal Code regulations for emergency access design, impacts to the emergency access of the project site would be reduced to less than significant levels.

Mitigation Measures:

TRA-1 Prior to issuance of any grading and/or demolition permits, whichever occurs first, the Applicant (Developer) shall prepare a Construction Management Plan (CMP) to be submitted for review and approval by the City of Dana Point Director of Public Works. The requirement for a CMP shall be incorporated into the Project specifications and subject to verification by the Director of Public Works prior to final plan approval. The CMP shall include, at a minimum, the following measures, which shall be

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implemented during all construction activities as overseen by the Construction Contractor:

- Meet the standards established in the current California Manual on Uniform Traffic Control Device (MUTCD) as well as City of Dana Point requirements. The CMP shall be prepared by the contractor and submitted to the Director of Public Works for approval pertaining to off-site work, including sidewalk construction, building façade, underground utilities, and any work that would require temporary curb lane closures. The plan shall be developed according to the MUTCD (latest edition) guidelines, including plans for traffic signs, traffic cone arrangements, and flaggers to assist with pedestrian and traffic.
- Submit the CMP to the California Department of Transportation (Caltrans) and City of San Juan Capistrano for review and comment, prior to approval by the Director of Public Works, should construction hauling utilize facilities within these jurisdictions.
- Identify traffic control for any street closure, detour, or other disruption to traffic circulation, including the necessary traffic controls to allow for construction-related traffic to enter and exit the site.
- Should project construction activities require temporary vehicle lane, bicycle lane, and/or sidewalk closures, the Applicant (Developer) shall coordinate with the Director of Public Works regarding timing and duration of proposed temporary lane and/or sidewalk closures to ensure the closures do not impact operations of adjacent uses or emergency access.
- Identify the routes that construction vehicles must utilize for the delivery of construction materials (i.e., lumber, tiles, piping, windows, etc.), to access the site, traffic controls and detours, and proposed construction phasing plan for the project.
- Specify all grading and equipment operations shall not be conducted between the hours of 8:00 p.m. and 7:00 a.m. Monday through Saturday, and/or any time on Sunday or a Federal holiday, pursuant to Section 11.10.014, Special Provisions, of the Dana Point Municipal Code.

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- Should project construction activities occur during general drop-off and pick-up hours for nearby schools (i.e., Nobis Preschool), traffic signs, traffic cone arrangements, and flaggers shall assist with ensuring safe pedestrian access along the project frontage for students.
- Require the Applicant (Developer) to keep all haul routes clean and free of debris including, but not limited to, gravel and dirt, as a result of its operations. The Applicant (Developer) shall clean adjacent streets, as directed by the Director of Public Works, of any material which may have been spilled, tracked, or blown onto adjacent streets or areas.
- All construction-related parking and staging of vehicles shall be kept out of the adjacent public roadways and shall occur on-site.
- Traffic controls shall be implemented for any street closure, detour, or other disruption to traffic circulation and shall maintain emergency access to the site.

Finding:

Changes or alterations have been required in, or incorporated into, the project that avoid or substantially lessen the significant environmental effect as identified in the Draft EIR. These changes are identified in the form of the mitigation measure above. Upon implementation of the required mitigation, the potentially significant impact would be reduced to a less than significant level. The City of Dana Point hereby finds that implementation of the mitigation measure is feasible, and the measure is therefore adopted.

CUMULATIVE Future development, combined with other related projects, could substantially increase hazards due to a geometric design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment), and result in cumulative impacts.

Support for this environmental impact conclusion is included in Section 5.7, *Transportation*, and in particular, starting on page 5.7-20 of the Draft EIR.

Cumulative projects could result in an increase in hazards due to a geometric design feature or incompatible use. However, cumulative projects would be evaluated on a case-by-case basis through the development review process of their respective cities to determine the appropriate land use permit for authorizing their use and the conditions for their establishment and operation. The development review would ensure that safe access

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and circulation to and within the development area would be provided. Additionally, access to development sites would be required to comply with all applicable Municipal Code and City design standards and would be reviewed by the City and the OCFA to ensure that inadequate design features or incompatible uses do not occur as development occurs.

The proposed project would involve an increase in residential development above existing conditions. The proposed residential development is not anticipated to result in significant safety design hazards during project operations. Implementation of Mitigation Measure TRA-1 would be required during construction activities to ensure safety practices during construction. The project would also be subject to applicable Municipal Code and City design standards and would be reviewed by the Director of Public Works and the OCFA to ensure that inadequate design features or incompatible uses do not occur. As such, the proposed project would not significantly contribute to a cumulative impact involving inadequate design features or incompatible uses. Impacts in this regard would be less than significant.

Mitigation Measures:

TRA-1 Prior to issuance of any grading and/or demolition permits, whichever occurs first, the Applicant (Developer) shall prepare a Construction Management Plan (CMP) to be submitted for review and approval by the City of Dana Point Director of Public Works. The requirement for a CMP shall be incorporated into the Project specifications and subject to verification by the Director of Public Works prior to final plan approval. The CMP shall include, at a minimum, the following measures, which shall be implemented during all construction activities as overseen by the Construction Contractor:

- Meet the standards established in the current California Manual on Uniform Traffic Control Device (MUTCD) as well as City of Dana Point requirements. The CMP shall be prepared by the contractor and submitted to the Director of Public Works for approval pertaining to off-site work, including sidewalk construction, building façade, underground utilities, and any work that would require temporary curb lane closures. The plan shall be developed according to the MUTCD (latest edition) guidelines, including plans for traffic signs, traffic cone arrangements, and flaggers to assist with pedestrian and traffic.
- Submit the CMP to the California Department of Transportation (Caltrans) and City of San Juan Capistrano for review and comment, prior to approval by the Director of Public Works, should construction hauling utilize facilities within these jurisdictions.

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- Identify traffic control for any street closure, detour, or other disruption to traffic circulation, including the necessary traffic controls to allow for construction-related traffic to enter and exit the site.
- Should project construction activities require temporary vehicle lane, bicycle lane, and/or sidewalk closures, the Applicant (Developer) shall coordinate with the Director of Public Works regarding timing and duration of proposed temporary lane and/or sidewalk closures to ensure the closures do not impact operations of adjacent uses or emergency access.
- Identify the routes that construction vehicles must utilize for the delivery of construction materials (i.e., lumber, tiles, piping, windows, etc.), to access the site, traffic controls and detours, and proposed construction phasing plan for the project.
- Specify all grading and equipment operations shall not be conducted between the hours of 8:00 p.m. and 7:00 a.m. Monday through Saturday, and/or any time on Sunday or a Federal holiday, pursuant to Section 11.10.014, Special Provisions, of the Dana Point Municipal Code.
- Should project construction activities occur during general drop-off and pick-up hours for nearby schools (i.e., Nobis Preschool), traffic signs, traffic cone arrangements, and flaggers shall assist with ensuring safe pedestrian access along the project frontage for students.
- Require the Applicant (Developer) to keep all haul routes clean and free of debris including, but not limited to, gravel and dirt, as a result of its operations. The Applicant (Developer) shall clean adjacent streets, as directed by the Director of Public Works, of any material which may have been spilled, tracked, or blown onto adjacent streets or areas.
- All construction-related parking and staging of vehicles shall be kept out of the adjacent public roadways and shall occur on-site.
- Traffic controls shall be implemented for any street closure, detour, or other disruption to traffic circulation and shall maintain emergency access to the site.

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Finding:

Changes or alterations have been required in, or incorporated into, the project that avoid or substantially lessen the significant environmental effect as identified in the Draft EIR. These changes are identified in the form of the mitigation measure above. Upon implementation of the required mitigation, the potentially significant impact would be reduced to a less than significant level. The City of Dana Point hereby finds that implementation of the mitigation measure is feasible, and the measure is therefore adopted.

CUMULATIVE Future development, combined with other related projects, could result in inadequate emergency access.

Support for this environmental impact conclusion is included in Section 5.7, *Transportation*, and in particular, starting on page 5.7-21 of the Draft EIR.

Cumulative projects could result in inadequate emergency access in the area. However, future projects would be required to comply with the City's development review process on a case-by-case basis, including review for compliance with the City's Municipal Code pertaining to maintaining/providing emergency access. New developments would also be required to comply with all applicable fire and building codes and ordinances for construction and access to the site during both construction and operational phases. Individual projects would be reviewed by the Director of Public Works and OCFA to determine the specific fire requirements applicable to the specific development and to ensure compliance with these requirements. This would ensure that new developments would provide adequate emergency access to and from each site. Further, the City and OCFA would review any modifications to existing roadways to ensure that adequate emergency access or emergency response would be maintained. Emergency response and evacuation procedures would be coordinated through the City in coordination with the OCSD and OCFA.

The project would involve an increase in residential development above existing conditions. Project operations are not anticipated to significantly affect emergency access. Further, implementation of Mitigation Measure TRA-1 would ensure emergency access to the project site during construction activities. The project would comply with Municipal Codes 8.02 and 8.04 and comply with design standards outlined under the California Building Code and the California Fire Code. Additionally, the project would be subject to site plan review under the OCFA and the OCSD to ensure compliance with regional fire and emergency access standards and requirements. With the implementation of Mitigation Measure TRA-1, as well as compliance with State, regional, and local standards and regulations, the project would not significantly contribute to a cumulatively considerable impact regarding emergency access. As such, a less than significant impact would result in this regard.

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Mitigation Measures:

- TRA-1 Prior to issuance of any grading and/or demolition permits, whichever occurs first, the Applicant (Developer) shall prepare a Construction Management Plan (CMP) to be submitted for review and approval by the City of Dana Point Director of Public Works. The requirement for a CMP shall be incorporated into the Project specifications and subject to verification by the Director of Public Works prior to final plan approval. The CMP shall include, at a minimum, the following measures, which shall be implemented during all construction activities as overseen by the Construction Contractor:
- Meet the standards established in the current California Manual on Uniform Traffic Control Device (MUTCD) as well as City of Dana Point requirements. The CMP shall be prepared by the contractor and submitted to the Director of Public Works for approval pertaining to off-site work, including sidewalk construction, building façade, underground utilities, and any work that would require temporary curb lane closures. The plan shall be developed according to the MUTCD (latest edition) guidelines, including plans for traffic signs, traffic cone arrangements, and flaggers to assist with pedestrian and traffic.
 - Submit the CMP to the California Department of Transportation (Caltrans) and City of San Juan Capistrano for review and comment, prior to approval by the Director of Public Works, should construction hauling utilize facilities within these jurisdictions.
 - Identify traffic control for any street closure, detour, or other disruption to traffic circulation, including the necessary traffic controls to allow for construction-related traffic to enter and exit the site.
 - Should project construction activities require temporary vehicle lane, bicycle lane, and/or sidewalk closures, the Applicant (Developer) shall coordinate with the Director of Public Works regarding timing and duration of proposed temporary lane and/or sidewalk closures to ensure the closures do not impact operations of adjacent uses or emergency access.
 - Identify the routes that construction vehicles must utilize for the delivery of construction materials (i.e., lumber, tiles, piping,

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windows, etc.), to access the site, traffic controls and detours, and proposed construction phasing plan for the project.

- Specify all grading and equipment operations shall not be conducted between the hours of 8:00 p.m. and 7:00 a.m. Monday through Saturday, and/or any time on Sunday or a Federal holiday, pursuant to Section 11.10.014, Special Provisions, of the Dana Point Municipal Code.
- Should project construction activities occur during general drop-off and pick-up hours for nearby schools (i.e., Nobis Preschool), traffic signs, traffic cone arrangements, and flaggers shall assist with ensuring safe pedestrian access along the project frontage for students.
- Require the Applicant (Developer) to keep all haul routes clean and free of debris including, but not limited to, gravel and dirt, as a result of its operations. The Applicant (Developer) shall clean adjacent streets, as directed by the Director of Public Works, of any material which may have been spilled, tracked, or blown onto adjacent streets or areas.
- All construction-related parking and staging of vehicles shall be kept out of the adjacent public roadways and shall occur on-site.
- Traffic controls shall be implemented for any street closure, detour, or other disruption to traffic circulation and shall maintain emergency access to the site.

Finding:

Changes or alterations have been required in, or incorporated into, the project that avoid or substantially lessen the significant environmental effect as identified in the Draft EIR. These changes are identified in the form of the mitigation measure above. Upon implementation of the required mitigation, the potentially significant impact would be reduced to a less than significant level. The City of Dana Point hereby finds that implementation of the mitigation measure is feasible, and the measure is therefore adopted.

6. Tribal Cultural Resources

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CUL-3 The project could cause a significant impact to a tribal cultural resource.

Support for this environmental impact conclusion is included in Section 5.3, *Tribal and Cultural Resources*, and in particular, starting on page 5.3-19 of the Draft EIR.

The City sent letters inviting tribes to consult on the project per Assembly Bill 52 and Senate Bill 18 on April 15, 2021. The Rincon Band of Luiseño Indians (Rincon Band) responded on April 30, 2021, stating that the project site is not located within Rincon Band's specific Area of Historic Interest. As such, no consultation was requested. No other responses from the Native American Heritage Commission individuals or tribal organizations were received.

Based on the records search, literature review, field survey results, and tribal consultation results, there is low potential for unknown tribal cultural resources to be discovered on-site during site disturbance activities. The project proposes excavation activities for the purpose of the underground parking structure. As such, project excavation could encounter native soils which has the potential to support undiscovered tribal cultural resources. If tribal cultural resources are encountered during project construction, Mitigation Measure CUL-1 would require all project construction efforts to halt until an archaeologist examines the site, identifies the archaeological significance of the find, and recommends a course of action which must be implemented. Implementation of Mitigation Measures CUL-1 would ensure that appropriate protocols are in place in the event unknown cultural resources, including archaeological and tribal cultural resources, are discovered during ground-disturbing activities. As such, impacts to tribal cultural resources would be reduced to less than significant levels.

Mitigation Measures:

- CUL-1 Unanticipated Discovery of Cultural Resources. The project Applicant shall retain a qualified archaeologist who meets the Secretary of the Interior's Professional Qualifications Standards for archaeology to conduct Worker's Environmental Awareness Program (WEAP) training for archaeological sensitivity for all construction personnel prior to the commencement of any ground disturbing activities. Archaeological sensitivity training should include a description of the types of cultural resources that may be encountered, cultural sensitivity issues, regulatory issues, and the proper protocol for treatment of the materials in the event of a find. If archaeological resources are encountered during ground-disturbing activities, work in the immediate area should be halted and the archaeologist shall evaluate the find. If the resources are Native American human remains, the County Coroner and the Native American Heritage Commission shall be contacted as mandated by law. If necessary, the evaluation may require preparation of a treatment plan

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and archaeological testing for California Register of Historical Resources (CRHR) eligibility. The treatment plan shall be reviewed and approved by the qualified archaeologist. If the discovery proves to be significant under CEQA and cannot be avoided by the project, additional work may be warranted, such as data recovery excavation, and, if so, shall be identified by the archaeologist to mitigate any such significant impacts to cultural resources, if identified.

Finding:

Changes or alterations have been required in, or incorporated into, the project that avoid or substantially lessen the significant environmental effect as identified in the Draft EIR. These changes are identified in the form of the mitigation measure above. Upon implementation of the required mitigation, the potentially significant impact would be reduced to a less than significant level. The City of Dana Point hereby finds that implementation of the mitigation measure is feasible, and the measure is therefore adopted.

CUMULATIVE The project, combined with other related cumulative projects, could cause a cumulatively considerable impacts to tribal cultural resources.

Support for this environmental impact conclusion is included in Section 5.3, *Tribal and Cultural Resources*, and in particular, starting on page 5.3-20 of the Draft EIR.

Project-related impacts to tribal cultural resources have been determined to be less than significant with implementation of Mitigation Measures CUL-1. Future cumulative projects would be evaluated on a project-by-project basis to determine the extent of potential impacts to site-specific tribal cultural resources. Related projects would be required to adhere to State and Federal regulations, as well as project-specific mitigation measures.

Implementation of Mitigation Measures CUL-1 would reduce potentially significant project impacts to tribal cultural resources to less than significant levels. Thus, the project's less than significant impacts would not be cumulatively considerable.

Mitigation Measures:

CUL-1 Unanticipated Discovery of Cultural Resources. The project Applicant shall retain a qualified archaeologist who meets the Secretary of the Interior's Professional Qualifications Standards for archaeology to conduct Worker's Environmental Awareness Program (WEAP) training for archaeological sensitivity for all construction personnel prior to the commencement of any ground disturbing activities. Archaeological sensitivity training should include a description of the types of cultural resources that may be encountered,

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cultural sensitivity issues, regulatory issues, and the proper protocol for treatment of the materials in the event of a find. If archaeological resources are encountered during ground-disturbing activities, work in the immediate area should be halted and the archaeologist shall evaluate the find. If the resources are Native American human remains, the County Coroner and the Native American Heritage Commission shall be contacted as mandated by law. If necessary, the evaluation may require preparation of a treatment plan and archaeological testing for California Register of Historical Resources (CRHR) eligibility. The treatment plan shall be reviewed and approved by the qualified archaeologist. If the discovery proves to be significant under CEQA and cannot be avoided by the project, additional work may be warranted, such as data recovery excavation, and, if so, shall be identified by the archaeologist to mitigate any such significant impacts to cultural resources, if identified.

Finding:

Changes or alterations have been required in, or incorporated into, the project that avoid or substantially lessen the significant environmental effect as identified in the Draft EIR. These changes are identified in the form of the mitigation measure above. Upon implementation of the required mitigation, the potentially significant impact would be reduced to a less than significant level. The City of Dana Point hereby finds that implementation of the mitigation measure is feasible, and the measure is therefore adopted.

D. FINDINGS ON SIGNIFICANT UNAVOIDABLE IMPACTS

Significant and unavoidable impacts are those impacts in which mitigation measures were found to be infeasible or would not lessen impacts to less than significant levels. The Draft EIR did not identify any significant and unavoidable impacts associated with the proposed project.

E. FINDINGS ON RECIRCULATION

CEQA Guidelines Section 15088.5(a) requires a lead agency to "recirculate an EIR when significant new information is added to the EIR after public notice is given of the availability of the Draft EIR for public review under Section 15087 but before certification. As used in this section, the term 'information' can include changes in the project or environmental setting as well as additional data or other information. New information added to an EIR is not 'significant' unless the EIR is changed in a way that deprives the public of a meaningful

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opportunity to comment upon a substantial adverse environmental effect of the project or a feasible way to mitigate or avoid such an effect (including a feasible project alternative) that the project's proponents have declined to implement."

Comment letters received on the Draft EIR and responses to those comment letters provided in the Final EIR do not identify any significant new information requiring recirculation. Further, it is acknowledged that the project Applicant has proposed slight modifications to the proposed project. Such changes have been documented in Final EIR Section 2.0, Revisions to Information Presented in the Draft EIR. Based on the analysis presented in Final EIR Section 2.0, these revisions to the project do not change the conclusions presented in the Draft EIR. These modifications are not considered to result in any new or substantially greater significant impacts as compared to those identified in the Draft EIR, or the consideration of new or different alternatives or mitigation measures. As a result, pursuant to CEQA Guidelines Section 15088.5, a recirculation of the Draft EIR is not required.

F. FINDINGS ON PROJECT ALTERNATIVES

CEQA requires that the discussion of alternatives focus on alternatives to the project or its location that are capable of avoiding or substantially lessening any significant effects of the project, as well as an analysis of what the environmental effects of not proceeding with the project would be as part of the "no project" alternative analysis. As discussed above, all environmental impacts could be mitigated below a level of significance and no significant and unavoidable impacts would result.

The Draft EIR analyzed two alternatives to the proposed project that could avoid or substantially lessen the project's potentially significant impacts.

1. "No Project" Alternative

In accordance with the *CEQA Guidelines*, "the no project analysis shall discuss the existing conditions ..., as well as what would be reasonably expected to occur in the foreseeable future if the project were not approved, based on current plans and consistent with available infrastructure and community services." The *CEQA Guidelines* continue to state that "in certain instances, the no project alternative means 'no build' wherein the existing environmental setting is maintained." The No Project Alternative includes a discussion and analysis of the existing baseline conditions at the time the Notice of Preparation was published on July 19, 2021. The "No Project" scenario is described and analyzed to enable the decision-makers to compare the impacts of approving the proposed project with the impacts of not approving the proposed project.

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Therefore, the "No Project" Alternative assumes the circumstance under which the proposed project does not proceed, and the project site's current General Plan land use designations and zoning remain as is. Based on the General Plan Land Use Map, the project site is designated "Community Facility" (CF) and "Recreation/Open Space" (R/OS) and is situated within the Coastal Overlay District boundary. Based on the City's Zoning Map, the project site is zoned "Community Facilities" (CF) and "Recreation" (REC). The northwestern portion of the project site is also located in the Floodplain Overlay District (FP-2) boundary.

Given that the site is currently developed with uses consistent with the existing land use designations and zoning (i.e., CUSD Grounds Department facilities), it is reasonably expected that buildout of the site under existing designations and zoning would be the existing CUSD facilities. Thus, the "No Project" Alternative is essentially a 'no build' alternative wherein the existing environmental setting is maintained. Specifically, the site would continue to operate as a CUSD Grounds Department facility for operations, maintenance, storage, bus/vehicle wash area, and refueling of school buses and other district vehicles. The existing structures on-site would remain, and no new development would occur.

Unlike the proposed project, the "No Project" Alternative would not require a General Plan Amendment, Zone Change, Specific Plan, Vesting Tentative Parcel Map, Local Coastal Program Amendment, Coastal Development Permit, Site Development Permit, Development Agreement, or Site Plan Review.

Finding:

The City Council rejects the No Project Alternative for the following reasons: (1) this alternative is essentially a "no build" alternative in which no new development would occur; and (2) this alternative would not achieve any of the project's basic objectives. In addition, this alternative would not provide any of the community benefits to the City and CUSD that would be provided through the development agreement to be approved concurrent with the proposed project.

2. "Village Commercial/ Residential Zoning District Development" Alternative

The "Village Commercial/Residential Zoning District Development" Alternative aims to develop the project site assuming the portion of the site currently designated and zoned CF is redesignated to Commercial/Residential and rezoned to Village Commercial/Residential (V-C/R), similar to adjacent properties to the north and west. The adjacent properties to the north and west were redesignated and rezoned to Commercial/Residential and V-C/R, respectively, as part of the Doheny Village Zoning

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District Update Project (approved by Dana Point City Council in July 2021). As such, it is reasonable to include an alternative to the proposed project in which the site is redesignated and rezoned and developed similar to its adjacent properties within Doheny Village. As part of this development alternative, the 1.1-acre on-site parcel along Sepulveda Avenue, currently designated Open Space and zoned REC, would not be redesignated or rezoned.

Based on the V-C/R zoning district development standards, the V-C/R Zoning District Development Alternative would demolish the existing CUSD Grounds Department facility and allow for construction of a multi-family residential development.

The "V-C/R Zoning District Development" Alternative would develop a 114-unit multi-family residential development on 4.4 acres of the project site. The remaining 1.1-acre parcel along Sepulveda Avenue would be graded and landscaped with turf, to serve as public open space to be owned and maintained by the City of Dana Point Parks Division.

The multi-family residential development would construct seven three-story apartment buildings and one leasing/amenity building. The one-story, 5,500-square foot leasing/amenity building would be located near the main entry at Victoria Boulevard and Via Santa Rosa. A secondary gated entry would be provided at a second driveway along Victoria Boulevard at the northeast corner of the site. The seven apartment buildings would be three-stories (ranging from 35 to 40 feet in height) and would include 87 tuck-under (covered) parking spaces on the ground level. Carports and uncovered parking spaces (75 and 64 spaces, respectively) would also be provided throughout the site and along the eastern and southern project boundary. In addition to the amenity and leasing building, a community pool is proposed in the center of the site.

This alternative would develop 192 fewer residential units than the proposed project at a substantially lower density of 20.7 dwelling units per acre. However, it is noted that the V-C/R district would allow a maximum density of 30 dwelling units per acre, up to 132 dwelling units at the project site. The residential buildings would be three stories in height. This Alternative would also construct off-street surface parking spaces and "tuck-under" garage spaces to accommodate the new apartment complex.

While this alternative would provide 1.1 acres of public open space along Sepulveda Avenue, it would provide less private open space compared to the project. Additionally, this alternative would not develop the private courtyards or the dual-purposed landscaped emergency vehicle access road along the eastern and southern project boundary provided by the proposed project. The various private residential amenities proposed under the project in the southern portion of the site would not be provided.

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Similar to the proposed project, the "V-C/R Zoning District Development" Alternative would require a General Plan Amendment, Zone Change, Local Coastal Program Amendment, Coastal Development Permit, Vesting Tentative Parcel Map, and Site Plan Review. This alternative would not require a Specific Plan. The CUSD property is public land subject to the provisions of the Surplus Land Act, which requires at least 15 percent lower income units. As such, similar to the proposed project, this alternative would also be required to provide at least 15 percent affordable units. However, given the lower density proposed, the affordable units would be proportionately decreased.

Finding:

The City Council rejects the "V-C/R Zoning District Development" Alternative for the following reasons: (1) the project would achieve 11 of the project's basic objectives but not to the extent as the proposed project for some objectives; and (2) this alternative's reduced density would result in fewer affordable units and fewer public and private amenities compared to the proposed project. In addition, this alternative would not provide any of the community benefits to the City and CUSD that would be provided through the development agreement to be approved concurrent with the proposed project.

ENVIRONMENTALLY SUPERIOR ALTERNATIVE

The No Project Alternative is the environmentally superior alternative, as it would avoid or lessen most of the project's environmental impacts. However, according *CEQA Guidelines* Section 15126.6(e), "if the environmentally superior alternative is the "no project" alternative, the EIR shall also identify an environmentally superior alternative among the other alternatives." Accordingly, the "V-C/R Zoning District Development" Alternative is considered environmentally superior to the proposed project.

It is acknowledged that the "No Project" Alternative would not meet any of the project's basic objectives. This alternative would not provide new housing in the City and would not redevelop an underutilized parcel. No pedestrian-oriented development would be provided under this alternative. Beautification methods, such as landscaping and streetscaping enhancements, would not be provided. Although the existing landscaped area (along the project site's western boundary) would remain designated and zoned open space, the "No Project" Alternative would not provide any new active open space areas at the northwest corner or southern portion of the project site.

Accordingly, because the fewer number of units would result in correspondingly reduced impacts for specific environmental issues, the "V-C/R Zoning District Development" Alternative is considered environmentally superior to the proposed project. The "V-C/R Zoning District Development" Alternative would result in reduced environmental impacts regarding tribal and cultural resources; air quality; greenhouse gas emissions; energy;

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noise; and public services and recreation. This alternative would achieve the project's basic objectives, although not to the extent of the to the proposed project. This alternative would develop a 114-unit multi-family development with at least 15 percent affordable units (i.e., at least 17 low-income units). However, the proposed project would provide a 306-unit development and provide substantially more affordable housing units. The "V-C/R Zoning District Development" Alternative would maintain the existing perimeter sidewalks, provide landscaping along Victoria Boulevard, and provide a 1.1-acre public open space along Sepulveda Avenue. However, the proposed landscaping along Victoria Boulevard and Sepulveda Avenue under this alternative would not be as substantive as the proposed project. The proposed open space under this alternative would not provide as much of a focal element for the public realm as the project. Specifically, the Victoria Shore Park proposed as the corner of Sepulveda Avenue and Victoria Boulevard would not be implemented. Additionally, this alternative would not provide other open space and recreational amenities such as the Arrival Promenade, rooftop garden, public paseos, private courtyards, and dog park.

ACTION DOCUMENT G: Draft City Council Resolution No. 24-06-18-XX for CDP, SDP, VTPM

RESOLUTION NO. 24-06-18-XX

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, DENYING THE APPEAL AND UPHOLDING THE PLANNING COMMISSION APPROVAL OF COASTAL DEVELOPMENT PERMIT CDP20-0005, SITE DEVELOPMENT PERMIT SDP20-0007, AND TENTATIVE PARCEL MAP TPM20-0001 TO CONSTRUCT A 306 UNIT APARTMENT COMPLEX WITH AN ATTACHED SIX STORY PARKING STRUCTURE, ASSOCIATED AMENITIES, AND SITE IMPROVEMENTS AT 26126 VICTORIA BOULEVARD

Applicant: Toll Brothers Apartment Living
Owner: Capistrano Unified School District

The City Council for the City of Dana Point does hereby resolve as follows:

WHEREAS, Capistrano Unified School District (the "Owner"), owns the real property located at 26126 Victoria Boulevard and identified by Assessor's Parcel Number 668-361-01 (the "Property"); and

WHEREAS, the Toll Brothers Apartment Living (the "Applicant") filed a verified application to establish a Specific Plan at the subject property with corresponding requests for a Coastal Development Permit to allow the proposed development within the Coastal Overlay District (Coastal Zone), Site Development Permits to allow the construction of a multi-family apartment complex and parking structure within the Floodplain Overlay (FP-2), and Tentative Parcel Map to consolidate the underlying lots, all of which is contingent upon City Council approval of General Plan Amendment GPA20-0002, Zone Change ZC24-0001, Specific Plan SP24-0001, Local Coastal Plan Amendment LCPA20-0002, and Development Agreement DA24-0001 for the subject property; and

WHEREAS, said verified application constitutes a request as provided by Title 9 of the Dana Point Municipal Code; and

WHEREAS, the project was noticed and the Planning Commission held a duly noticed public hearing as prescribed by law on May 13, 2024, to consider a General Plan Amendment GPA20-0002, Zone Change ZC24-0001, Specific Plan SP24-0001, Local Coastal Plan Amendment LCPA20-0002, and Coastal Development Permit CDP20-0005, Site Development Permit SDP20-0007, Tentative Parcel Map TPM20-0001, and Development Agreement DA24-0001; and

WHEREAS, at said public hearing, upon hearing and considering all testimony and arguments, if any, of all persons desiring to be heard, said Commission considered all factors relating to Coastal Development Permit CDP20-0005, Site Development Permit SDP20-0007, Tentative Parcel Map TPM20-0001 and approved the project 5-0; and

WHEREAS, on the 23rd day of May, 2024, Supporters Alliance for Environmental Responsibility ("SAFER") submitted an appeal of the Planning Commission approval (attached as Supporting Document 9 to the City's Staff Report for this item); and

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WHEREAS, the City Council did, on the 18th day of June, 2024, held a duly noticed public hearing as prescribed by law to consider said appeal; and

WHEREAS, in accordance with the requirements of the California Environmental Quality Act (CEQA), California Public Resources Code sections 21000 et seq., the State CEQA Guidelines, 14 C.C.R. section 15000 et seq, the City has prepared a Final Environmental Impact Report (EIR) for the Victoria Boulevard Apartments, State Clearinghouse No. 2021070304, (the "Final Project EIR"), a full, true and correct copy of which is on file with the City Clerk of the City of Dana Point; and,

WHEREAS, at said public hearing, the City Council considered SAFER's Appeal Letter (Supporting Document 9), as well as the Response to SAFER's Appeal Letter drafted which responded to the various CEQA related issues raised in SAFER's Appeal Letter (a copy of which is attached as Supporting Document 10 to the City's Staff Report), as well as all of the other evidence presented; and

WHEREAS, at said public hearing, upon hearing and considering all testimony and arguments, if any, of all persons desiring to be heard, said Council considered all factors relating to Coastal Development Permit CDP20-0005, Site Development Permit SDP20-0007, Tentative Parcel Map TPM20-0001,

NOW, THEREFORE, BE IT HEREBY RESOLVED by the City Council of the City of Dana Point as follows;

- A) The above recitations are true and correct.
- B) The City Council has considered all of the evidence presented at the public hearing, hereby overrules SAFER's appeal, and upholds the Planning Commission's approval of Tentative Parcel Map TPM20-0001, Coastal Development Permit CDP20-0005, Site Development Permit SDP20-0007, as set forth in the findings and subject to the conditions of approval detailed below.

Findings:

- C) Based on the evidence presented at the public hearing, the City Council overrules SAFER's appeal, upholds the Planning Commission's approval of Tentative Parcel Map TPM20-0001, and adopts the following findings, subject to conditions:

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- 1) That the proposed map is consistent with the City's General Plan in that, the subdivision of the existing property is consistent with the proposed GPA, ZC, Specific Plan, and LCPA that are being processed concurrently with this application, and if approved, would result in a permitted density of 55.5 dwelling units per acre, which is consistent with the density proposed by the project. The project increases the supply and diversity of housing types, including providing 46 affordable residential units in the City of Dana Point to comply with the goals and policies of the Housing Element. The project promotes pedestrian-oriented development, consistent with the goals of the Doheny Village by providing housing within walking distance of places of business, employment, and public transportation; consolidating the driveways on Victoria and Sepulveda Blvd. to minimize pedestrian and vehicle conflicts; and constructing new and wider public sidewalks as well as a new Class III bicycle lane.
- 2) That the design and improvement of the proposed subdivision is consistent with the City's General Plan in that, the project design conforms to the proposed General Plan Amendment and Victoria Boulevard Specific Plan, which is being processed concurrently with this VTM. Specifically, the design and improvement of the subdivision is consistent with the proposed Victoria Boulevard Specific Plan's development standards for the multi-family apartment complex, parking structure, recreation buildings, and site improvements. The property has been utilized as one parcel as a school bus yard for several decades with the 34 underlying lots never merged into one parcel which is achieved with the TPM.

The project is consistent with Urban Design Element Policy 2.1: "Consider the distinct architectural and landscape character of each community. To the maximum extent feasible, protect special communities and neighborhoods which, because of their unique characteristics, are popular visitor destination points for recreational uses" in that, the project promotes the character and surf heritage of the historic Doheny Village District by constructing new open spaces, new public parking, new and widened public sidewalks adorned with surf benches, a new Class III bicycle lane, and consolidating the driveways on Victoria and Sepulveda Blvd to minimize conflicts between pedestrians and vehicles and encourage the development of a pedestrian friendly recreational uses. The proposed VTM is consistent with the proposed Specific Plan's development standards and design guidelines, which encourage unified landscaping, open spaces, and architecture that contribute towards the Coastal Contemporary design theme of Doheny Village.

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The project also complies with Urban Design Element Policy 5.3 "Encourage buildings and exterior spaces that are carefully scaled to human size and pedestrian activity." The Project creates approximately 141,540 square feet (3.3 acres) of open space, including a total of 17,666 square feet of public open space such as Victoria Shore Park (at the corner of Sepulveda Avenue and Victoria Boulevard) as well as a Dog Park and public paseos along the former La Playa Avenue right-of-way. The project also creates a 10-foot pedestrian sidewalk along Victoria Blvd. and Sepulveda Blvd., that replaces the existing four foot wide sidewalk(s), creates a new Class III bicycle lane, and consolidates the driveways on Victoria and Sepulveda Blvd., and thus minimizes conflicts between pedestrians and vehicles. The project is limited to two- and three-stories along Victoria Boulevard. The project design incorporates courtyards and a public park at the intersection of Victoria Boulevard and Sepulveda Avenue. The roof top recreational buildings are centrally located to reduce the visibility and massing of the Project from the adjacent public right of way.

- 3) That the site is physically suitable for the proposed type of development in that, the property is appropriately located and sized to accommodate the 306-unit multi-family residential complex. More specifically, the project is surrounded by a mixture of multi-family residential and commercial uses and the EIR that was prepared for the project determined any and all potential impacts would be mitigated. In addition, the project provides all required parking on-site, increases the amount of public parking available in the right of way, and maintains existing public views of the ocean. Moreover, in addition to the 306 residential units on the Property, construction of the proposed project will result in in approximately 141,540 square feet (3.3 acres) of open space including recreation areas, one public park, two courtyards, two public paseos, as well as widened public sidewalks along Sepulveda Blvd. and Victoria Blvd., and a Class III bicycle lane.

The project also provides the necessary improvements to create vehicular, pedestrian, and bicycle access associated with the project without resulting in any unmitigated traffic impacts. The project complies with Circulation Element Policy 4.5 which states: "Promote new development that is designed in a manner that (1) facilitates provision or extension of transit service, (2) provides on-site commercial and recreational facilities to discourage mid-day travel, and (3) provides non-automobile circulation within the development" in that, the project site is located in an urbanized area with sidewalks and bike paths along

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roadways within project vicinity to facilitate non-automobile circulation related to the project. While the project would not provide commercial uses on-site, the project would provide a number of new recreational and open space amenities, including one public park, two courtyards, and two public paseos, two widened public sidewalk(s), and a new Class III bicycle lane. Additionally, the site is located within Doheny Village that has existing commercial uses within walking distance.

- 4) That the requirements of the California Environmental Quality Act (CEQA) have been satisfied in that, a EIR (State Clearinghouse No. 2021070304) was prepared in accordance with Section 15080 of the California Environmental Quality Act (CEQA), which assessed the impacts of the project on the environment and determined that implementation of the proposed project would not result in any significant and unavoidable adverse impacts, and all potentially significant impacts will be mitigated.
- 5) That the site is physically suitable for the proposed density of development in that, the project is consistent with the proposed General Plan Amendment, Zoning Change, and Specific Plan that are being processed concurrently with this application, and if approved, would allow for 55.5 dwelling units per acre. Construction of the project not only results in 306 multi-family residential units but also results in the development of approximately 141,540 square feet (3.3 acres) of open space including recreation areas, one public park, two courtyards, and two public paseos. In addition, the project provides all required parking on-site, creates additional public parking in the right of way, and will maintain existing public views of the ocean. An EIR was completed for the project which concluded that there are no environmental impacts related to traffic, utilities, and infrastructure for the proposed 306-unit apartment complex, recreational amenities, and site improvements.
- 6) That the design of the subdivision and the proposed improvements are not likely to cause substantial environmental damage or substantial and avoidable injury to fish or wildlife habitat in that, the project's EIR (State Clearinghouse No. 2021070304) was prepared in accordance with Section 15080 of the California Environmental Quality Act (CEQA), which assessed the impacts of the project on the environment, and determined that implementation of the proposed project would not result in any significant and unavoidable adverse impacts, and that all potentially significant impacts will be mitigated. Additionally, the existing site is currently developed with hardscape, asphalt, and buildings for the current school bus yard that has no fish or wildlife habitat on site.

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- 7) That the design of the subdivision and the proposed improvements are not likely to cause serious public health problems in that, the subdivision results in the consolidation of 34 underlying lots which is reflective of the current use of the site as what appears to be one parcel. The project is designed in accordance with all applicable codes which will be reviewed during rough and precise grading and building plan check prior to issuance of grading or building permits to implement the proposed improvements associated with the tentative parcel map. In addition, the proposed project will result in additional open space and public recreational opportunities including the construction of a two widened public sidewalk(s), a new Class III bicycle lane, approximately 141,540 square feet (3.3 acres) of open space including recreation areas, one public park, two courtyards, and two public paseos.
- 8) That the design of the subdivision and the proposed improvements will not conflict with easements of record or established by court judgment or acquired by the public at large for access through or use of property within the proposed subdivision; or, if such easements exist, that alternate easements for access or for use will be provided and these will be substantially equivalent to ones previously acquired by the public in that, existing easements on the property are in the process of being abandoned or quitclaimed or will be as part of recordation of the final map; none of which have been established by court judgment or acquired by the public at large for access through or use of the Property within the proposed subdivision.
- 9) That the design and improvement of the proposed subdivision are suitable for the uses proposed and the subdivision can be developed in compliance with the applicable zoning regulations in that, the proposed project is consistent with surrounding multi-family residential and commercial uses, and provides all required parking on-site, creates new public parking in the right of way, results in approximately 141,540 square feet (3.3 acres) of open space including recreation areas, one public park, two courtyards, two public paseos, two widened public sidewalks, a new Class III bicycle lane, and maintains existing public views of the ocean. Moreover, the proposed subdivision has been designed in conformance with the standards contained in the proposed General Plan Amendment, Zone Change, Specific Plan, and Local Coastal Program Amendment, which are being processed concurrently with this application, and if approved, would be constructed in compliance with those regulations. Specifically, the project complies with the proposed Specific Plan's standards related to height, setbacks, lot coverage, open space, and landscape coverage requirements. Additionally, the

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City completed an EIR for the project and concluded any potential environmental impacts would be mitigated.

10) That the subdivision is not located in a fee area, or if located in a fee area, the subdivider has met the requirements or payment of the applicable fees or the subdivision would not allow development of a project which would contribute to the need for the facility for which a fee is required **in that, the approval of the proposed project will be conditioned upon the applicant's payment of all applicable fees for the development of the project to City, in compliance with the City's regulations and/or the terms and provisions contained in Development Agreement DA24-0001.**

11) That the subdivision is located in an area which has access to adequate utilities and public services to support the development proposed within the subdivision or that the subdivision includes the provisions and improvements necessary to ensure availability of such utilities and services **in that, the project is an infill development with adequate utilities and public services to support the proposed development. The City completed an EIR for the project which concluded that there would be no environmental impacts related to traffic, utilities, and infrastructure for the proposed 306-unit apartment complex, recreational amenities, and site improvements.**

D) Based on the evidence presented at the public hearing, the City Council overrules SAFER's appeal, upholds the Planning Commission's approval of Site Development Permit SDP20-0007, and adopts the following findings, subject to conditions:

1) That the site design is in compliance with the development standards of the Dana Point Zoning Code **in that, the project complies with the proposed General Plan Amendment, Zone Change, Specific Plan, and Local Coastal Program Amendment which are being processed concurrently with this application. The Specific Plan establishes specific standards related to height, setbacks, lot coverage, open space, and landscape coverage requirements. The Specific Plan limits height along Victoria Boulevard to be under 50 foot for the first 40 feet from the street. The project design is under this height limitation, with two- and three-stories along Victoria Boulevard, and the project design incorporates courtyards and a public park at the intersection of Victoria Boulevard and Sepulveda Avenue. The roof top recreational buildings are centrally located to reduce the visibility and massing of the project and will be 82 feet which is three feet under the maximum height of 85 feet per the proposed Victoria Boulevard Specific Plan.**

- 2) That the site is suitable for the proposed use and development in that, Doheny Village has a diverse range of housing types, including multi-family, mobile homes, affordable housing, and live/work units, which is a unique feature within the City. The project would enhance the site's compatibility with adjacent uses as compared to the current school bus yard use.

The project site is situated adjacent to the I-5 freeway and is designed to maintain existing public views of the ocean. The project is designed with two- and three-stories along Victoria Boulevard and the project design incorporates courtyards, a public park at the intersection of Victoria Boulevard and Sepulveda Avenue, and a public paseo adjacent to the I-5 offramp. The roof top recreational buildings are centrally located to reduce the visibility and massing of the project. Moreover, construction of the project not only results in 306 multi-family residential units, courtyards, and a public park, but also creates additional public parking in the right of way, two widened public sidewalks, a new Class III bicycle lane, and the consolidation of the driveways on Victoria and Sepulveda Blvd., all of which encourage safe pedestrian, vehicular, and bicycle access to the project and the surrounding neighborhood.

- 3) That the project is in compliance with all elements of the General Plan and all applicable provisions of the Urban Design Guidelines in that, in that, the project complies with the proposed General Plan Amendment, Zone Change, Specific Plan, and Local Coastal Program Amendment, which are being processed concurrently with this application. More specifically, the project complies with Land Use Element Goal 1, which states: "Achieve a desirable mixture of land uses to meet the residential, commercial, industrial, recreational, open space, cultural and public service needs of the City residents" and Goal 2, which provides: "Achieve compatibility and enhance relationships among land uses in the community" in that the project would modify the industrial bus yard use to multi-family residential, a use which is consistent with the mix of uses in Doheny Village and in the immediate vicinity of the project site. The project complies with Housing Element Goal 1 which aims to "Provide a variety of residential developments and an adequate supply of housing to meet the existing and future needs of City residents." This alignment is evident in the project's diverse housing offerings, including 36 studios, 153 one-bedroom units, 105 two-bedroom units, 12 three-bedroom units, and 46 affordable units.

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The project was evaluated with the General Plan's Urban Design Element and Design Guidelines to ensure it complies with its goals and policies; however, the Urban Design Element does not include guidance for unique, coastal, high-density projects. The Specific Plan Design Guidelines (Section 4) were created to address the unique scope to ensure a high-quality residential community that is compatible with the neighborhood. The Specific Plan also establishes a "Reduced building height zone" where no portion of the building would exceed a height of 50 feet within 40 feet of the Victoria Boulevard right-of-way, and projections in excess of 50 feet are not permitted. The project proposes two- and three-stories, which would be well within the height allowed in the "Reduced building height zone," and results in reducing the overall mass and creates a pedestrian scale, vertical breaks, and streetscapes; barriers between the parking garage and the proposed dwelling units and the public; and encourages a high level of design to improve scenic quality at the project site.

- 4) That the site and structural design is appropriate for the site and function of the proposed use, without requiring a particular style or type of architecture in that, the proposed development includes several site improvements necessary to implement development on the property. The project will be reviewed by Building, Planning, Public Works, and OCFA to ensure the structural design complies with all the applicable codes and the Victoria Boulevard Specific Plan. The project plans for Building Permit review will be evaluated by the City departments to ensure the project complies with the Design Guidelines established in the Victoria Boulevard Specific Plan.

To ensure the project is appropriate for the site in terms of scale, the project provides ample open space and recreational uses (such as, courtyards, a private park, and a public paseo), and a height along the Victoria Boulevard frontage is limited to two- and three-stories. The project also centrally locates the sixth story recreational buildings on the roof to limit their visibility from the street. The height limitation, courtyards and location of sixth floor recreational buildings reduces the massing and bulk of the project.

- E) Based on the evidence presented at the public hearing, the City Council overrules SAFER's appeal, upholds the Planning Commission's approval of Coastal Development Permit CDP20-0005, and adopts the following findings, subject to conditions:

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- 1) That the project is in conformity with the certified Local Coastal Program as defined in Chapter 9.75 of this Zoning Code. (Coastal Act/30333, 30604(b); 14 Cal. Code of Regulations/13096) **in that, the project is consistent with the proposed General Plan Amendment, Zone Change, Specific Plan, and LCPA, that are being processed concurrently with this application, and which if approved, would change the land use designation from Community Facilities (CF) and Recreation (REC) to the proposed Victoria Boulevard Specific Plan (Specific Plan), which would allow for the development of the proposed project to occur. These amendments align with the General Plan, as the current CF land use designation for 4.4 acres of the 5.5 acre site permits residential uses, and the property is surrounded by both residential and institutional uses. These amendments, and the development of the project consistent with these amendments, would enhance the site's compatibility with adjacent uses as compared to the current school bus yard use and would be in conformance with the certified LCPA, if and when it is approved by the City Council.**
- 2) That the proposed development, if located between the nearest public roadway and the sea or shoreline of any body of water, is in conformity with the public access and public recreation policies of Chapter Three of the Coastal Act. (Coastal Act/30333, 30604(c); 14 Cal. Code of Regulations/13096) **in that, the project site is located landward of the nearest public roadway and the sea and is not required to provide public access. Moreover, the project does not impact public access to the coast as nearby coastal access is 1,050 feet away at Doheny State Beach. The project would result in the creation of 306 residential units, of which, 46 units would be deed restricted affordable for a period of 55 years (five percent very low-, five percent low-, and five percent moderate-income units of the overall unit count) and create more affordable housing within the City of Dana Point in the Coastal Zone. For the reasons stated the project conforms to the public access and recreation policies of Chapter Three of the California Coastal Act.**
- 3) That the proposed development conforms with Public Resources Code Section 21000 and following and that there are no feasible mitigation measures or feasible alternatives available which would substantially lessen any significant adverse impact that the activity may have on the environment. (Coastal Act/30333; 14 Cal. Code of Regulations/13096) **in that, the project's EIR (State Clearinghouse No. 2021070304) was prepared in accordance with Section 15080 of the California Environmental Quality Act (CEQA), and it assessed the impacts of the project on the environment and determined that**

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implementation of the proposed project would not result in any significant and unavoidable adverse impacts, and all potentially significant impacts will be mitigated. Additionally, the existing site is developed with hardscape, asphalt, and buildings for the current school bus yard that has no habitat or wildlife on site.

- 4) That the project is exempt from providing public access in that, no public access ways exist (lateral or vertical) on or near the project site, and as a result, no public access to the public tidelands and coast would be adversely affected by the implementation of the proposed project. Public access to Trust lands (the beach and ocean) exists 1,050 feet from the subject property to the southwest at Doheny State Beach. Additional public access is also available to the northwest at the Dana Point Harbor. Public access would be unaffected by the implementation of the project.
- 5) That the proposed development will be sited and designed to prevent adverse impacts to environmentally sensitive habitats and scenic resources located in adjacent parks and recreation areas, and will provide adequate buffer areas to protect such resources in that, the project site is developed with an asphalt paving, hardscape, and buildings for the Capistrano Unified School District bus yard and there is no sensitive habitat or scenic resources that exist on-site or adjacent to the property. Additionally, the project completed an EIR (State Clearinghouse No. 2021070304) to evaluate the project and determined that any potential environmental impacts would be mitigated.
- 6) That the proposed development will minimize the alterations of natural landforms and will not result in undue risks from geologic and erosional forces and/or flood and fire hazards in that, the project site is generally flat with no natural land formations and is fully developed with an asphalt paving, hardscape, and buildings for the Capistrano Unified School District bus yard. Additionally, the project completed an EIR (State Clearinghouse No. 2021070304) to evaluate the project and determined that any potential impacts would be mitigated. The EIR evaluated the site's geology and soil conditions to ensure there are no geological and erosional forces.

The City's Zoning Map identifies a portion of the property along Sepulveda Avenue that is located within the FP-2 Floodplain Overlay. The hydrology analysis for the project in the EIR concluded that the majority of the project site is located within the FEMA Flood Zone 'X' per FEMA Flood Insurance Rate Map (FIRM) No. 06059C0508K, which was revised on March 21, 2019. Flood Zone 'X' represents areas of minimum flood hazard. A

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portion of the site along Sepulveda Avenue is shown to be slightly within or adjacent to FEMA Flood Zone 'A' (no Base Flood Elevation determined). The City has provided a supplemental draft FEMA flood map and reference exhibits from a Letter of Map Revision (LOMR) for the San Juan Creek area that is in the process of being adopted. Per this updated study and FIRM, the Flood Zone 'A' is delineated to be retained almost completely within the public right-of-way of Sepulveda Avenue. The LOMR study determines the flooding depths within Sepulveda Avenue to be 1.5 feet, which is the best available data to determine the Base Flood Elevation within this zone.

- 7) That the proposed development will be visually compatible with the character of surrounding areas, and, where feasible, will restore and enhance visual quality in visually degraded areas, in that the project incorporates multiple design features to ensure visual compatibility and quality, including specifically, the Specific Plan, which establishes a "Reduced building height zone" where no portion of the building would exceed a height of 50 feet within 40 feet of the Victoria Boulevard right-of-way and no projections in excess of 50 feet are not permitted. The proposed project design complies with the Specific Plan standards with a limited height of two-and three-stories along Victoria Boulevard which reduces the overall mass and provides a pedestrian scale, vertical breaks, and enhanced streetscape in order to be visually compatible with and enhance the character of the surrounding areas.

In addition, Chapter 4 of the Specific Plan includes guidelines for site planning, architectural, landscaping, signage, lighting, art-in-public places, and sustainability, which ensure visual compatibility and enhance visual quality. Specifically, the Site planning guidelines include elements to reduce the appearance of overall mass and provide pedestrian scale, vertical breaks, and streetscapes; create barriers between the parking structure, dwelling units, and the public; and encourage a high level of design to improve scenic quality at the project site.

Moreover, the project's primary community entry would occur along Sepulveda Avenue with an arrival promenade to serve as a gateway into the development. The Arrival Promenade enhances visual quality by providing an enhanced entry drive paving, an art wall, synthetic turf, and parkway landscaping, among other amenities to provide a "sense of place" and function as Common Open Space. Similarly, the rooftop amenity area serves as Common Open Space for residents. The rooftop amenity area would be centrally located on the roof of the structure and designed to have limited visibility from Victoria Boulevard,

Sepulveda Avenue, or surrounding properties. Courtyards, plazas, and open space areas on-site would occur on the interior of the residential community surrounded by residential units and building facilities, or along the exterior of the development facing a public street to provide visual interest, and likewise would be compatible with and enhance the visual quality of the surrounding community.

- 8) That the proposed development will conform with the General Plan, Zoning Code, applicable Specific Plan, Local Coastal Program, or any other applicable adopted plans and programs in that, the project is consistent with the proposed General Plan Amendment, Zone Change, Specific Plan, and LCPA, which are being processed concurrently with this application, and which if approved, would allow for the proposed development to occur by changing the land use designation from Community Facilities (CF) and Recreation (REC) to the proposed Victoria Boulevard Specific Plan (Specific Plan). These amendments align with the General Plan, as the CF land use designation permits residential uses, and the property is surrounded by both residential and institutional uses. These amendments, and the development of the project consistent with these amendments, would enhance the site's compatibility with adjacent uses over the current school bus yard use and would be in conformance with City's plans and programs.
- F) The No Net Loss Law, or Government Code 65863, requires cities to ensure that development opportunities remain available throughout the planning period to accommodate a jurisdiction's regional housing need assessment (RHNA). In the event a city approves a project with a lower density than that which is identified in the city's housing element, the city must make findings that the remaining sites identified in the housing element are adequate to meet the city's RHNA. Here, development of the Property at a lower density (306 total units, and 46 affordable units) than that which was identified in the Housing Element (365 total units, and 57 affordable units) is consistent with Government Code Section 65863(b) in that (1) the reduced density is consistent with the General Plan Amendment, which is being processed concurrently with this application, and (2) the remaining sites identified in the City's housing element are adequate to meet the City's RHNA. More Specifically, the subject site was included in the City's General Plan Housing Element and projected the potential for construction of 57 income restricted units (38 low- and 19-moderate income), assuming a total of 365 units were constructed. The project proposes 306 residential units, which results in 46 income restricted units (31 low- and 15-moderate income). The proposed project would result in 59 fewer total units, and eleven (11) fewer income restricted units (7

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fewer low- and 4 fewer moderate-income) than assumed would to contribute towards meeting the City's 6th Cycle Regional Housing Needs Assessment (RHNA). However, the Housing Element identified a housing inventory *surplus* of 184 income restricted units (56 low- and 128 moderate-income). This surplus has not been impacted or utilized by any other project in the City. As a result, there are adequate sites remaining to accommodate the City's RHNA. Approval of the proposed project, however, would reduce the City's housing inventory surplus to 175 income restricted units (49 low- and 170-moderate income). In sum, the housing inventory remains sufficient to meet the City's RHNA and complies with the No Net Loss Law (Government Code 65863).

Conditions:

A. General:

1. Approval of this application allows a Tentative Parcel Map TPM20-0001 to merge the underlying parcels into one lot and a Coastal Development Permit CDP20-0005, and Site Development Permit SDP20-0007 construct a 306 unit apartment complex with a parking structure with one level of subterranean parking, rooftop recreational buildings, and site improvements that is contingent upon City Council approval of all of the following: General Plan Amendment GPA20-0002, Zone Change ZC24-0001, Specific Plan SP24-0001, Development Agreement DA24-0001, Local Coastal Program Amendment No. LCPA20-0002, and EIR No. 2021070304 at the subject property identified by Assessor's Parcel Number 668-361-01. In the event the City Council does not approve any one of the above-listed entitlements, approval of this VTPM20-0001, CDP20-0005, SDP20-0007 shall be null and void. (PLN)
2. The discretionary permit(s) shall be subject to the terms outline in the Development Agreement DA24-0001. (PLN)
3. The application is approved for the location and design of the uses, structures, features, and materials, shown on the approved plans. Any relocation, alteration, or addition to any use, structure, feature, or material, not specifically approved by this application, will nullify this approving action. If any changes are proposed regarding the location or alteration to the appearance or use of any structure, an amendment to this permit shall be submitted for approval by the Director of Community Development. If the Director of Community Development determines that the proposed change complies with the provisions and the spirit and intent of this approval action, and that the action would have been the same for the amendment as for the approved plans, the

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Director may approve the amendment without requiring a new public hearing. (PLN)

4. Failure to abide by and faithfully comply with any and all conditions attached to the granting of this permit shall constitute grounds for revocation of said permit. (PLN)
5. The applicant or any successor-in-interest shall defend, indemnify, and hold harmless the City of Dana Point ("CITY"), its agents, officers, or employees from any claim, action, or proceeding against the CITY, its agents, officers, or employees to attack, set aside, void, or annul an approval or any other action of the CITY, its advisory agencies, appeal boards, or legislative body concerning the project. Applicant's duty to defend, indemnify, and hold harmless the City shall include paying the CITY's attorney's fees, costs and expenses incurred concerning the claim, action, or proceeding.

The applicant or any successor-in-interest shall further protect, defend, indemnify and hold harmless the City, its officers, employees, and agents from any and all claims, actions, or proceedings against the City, its officers, employees, or agents arising out of or resulting from the negligence of the applicant or the applicant's agents, employees, or contractors. Applicant's duty to defend, indemnify, and hold harmless the City shall include paying the CITY's attorney's fees, costs and expenses incurred concerning the claim, action, or proceeding.

The applicant shall also reimburse the City for City Attorney fees and costs associated with the review of the proposed project and any other related documentation, and in the event of a legal challenge associated with the project, the applicant shall provide the City with a deposit or other security deemed sufficient by the City Manager to insure that its defense and indemnification obligations are satisfied. (PLN)

6. The applicant and applicant's successors in interest shall be fully responsible for knowing and complying with all conditions of approval, including making known the conditions to City staff for future governmental permits or actions on the project site. (PLN)
7. The applicant and applicant's successors in interest shall be responsible for payment of all applicable fees along with reimbursement for all City expense in ensuring compliance with these conditions. (PLN)

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8. City Council approval of Coastal Development Permit CDP20-0005, Site Development Permit SDP20-0007, Tentative Parcel Map TPM20-0001 shall be null and void until City Council approval of General Plan Amendment GPA20-0002, Zone Change ZC24-0001, Specific Plan SP24-0001, Development Agreement DA24-0001 and approval and adoption of the Environmental Impact Report (State Clearinghouse No. 2021070304) Development Agreement DA24-0001, and approval and adoption of the Environmental Impact Report (State Clearinghouse No. 2021070304), and subsequent certification of LCPA20-0002 by the California Coastal Commission. (PLN)
9. The applicant shall be responsible for coordination with SDG&E, AT&T California, SCWD, Southern California Gas Company, Cox Communication Services, and all other applicable utilities for the provision of all utility services. (PWE)
10. All utilities shown to be relocated or required to be relocated per the development shall be relocated underground. (PWE)
11. All proposed utilities within the project shall be installed underground. (PWE)
12. Building materials, unlicensed vehicles, construction equipment, portable toilets, and related items shall not be placed in the public right-of-way, unless a separate encroachment permit is secured. (PWE)
13. The applicant shall exercise special care during the construction phase of this project to prevent any off-site siltation or dust. The applicant shall provide erosion control measures and temporary desiltation/detention basins as required and use water or other measures to control dust. The applicant shall maintain the temporary basins and erosion control devices until the Director of Public Works/City Engineer approves of the removal of said facilities. Failure to do so shall obligate the City to repair/replace as appropriate and charge the applicant. (PWE)
14. Prior to the issuance of any grading or building permits, the applicant shall demonstrate that coverage has been obtained under the State of California's General Permit for Stormwater Discharges Associated with Construction Activity. (PWE)
15. A Water Quality Management Plan (WQMP) is required as a part of all phases of this project. The applicant shall meet all current NPDES Permit requirements, including a construction SWPPP. (PWE)

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16. The applicant shall submit a haul route plan and secure Director of Public Works/City Engineer approval and a separate Encroachment permit before any trucking commences on the Project. The City Engineer may restrict the number of daily trucks allowed to avoid traffic impacts. Further, the applicant shall only truck during weekday, non-peak hour traffic periods, excluding weekends, City events, and holidays. (PWE)
17. Any damage to existing public or adjacent private property facilities shall be repaired or replaced to the satisfaction of the City Engineer, and per City Standards. (PWE)
18. All proposed work within California State Department of Transportation (Caltrans) right-of-way will require an encroachment permit from Caltrans. (PWE)
19. Temporary fencing with decorative screening shall be provided around work areas for each Phase, unless otherwise approved by the City Engineer. (PWE)
20. The Applicant shall keep the Project area and all surrounding streets free of trash and debris. The applicant shall collect trash as needed to the satisfaction of the Director of Public Works/City Engineer. (PWE)
21. Prior to the issuance of the applicable permits, the applicant shall complete and provide documentation that the applicable mitigation measures for Environmental Impact Report (State Clearinghouse No. 2021070304). (PWE)

B. Prior to recordation of the final tract map for any phase or combination thereof the applicant shall meet the following conditions:

22. A proposed Final Map shall be submitted for review and approval in accordance with the requirements of the Public Works Department and Community Development Department. The final map must be in substantial compliance with Tentative Tract Map as determined by the Director of Community Development and the Director of Public Works/City Engineer. Said map shall be prepared as required by the City of Dana Point Subdivision Code. (PWE)
23. Any and all taxes and fees required to be paid to the County of Orange shall be paid to the County of Orange. The Final Map submitted to the City for signatures shall have the County Treasurer-Tax Collector's Certificate signed. Please note this separate process is required. (PWE)

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24. All existing and proposed easements shall be shown and labeled on the Final Map clearly indicating the easement ownership, location, purpose and width. A copy of the recorded easements shall be included along with the plan submittal for review by the Director of Public Works/City Engineer. The Final Map shall also include a note to identify any easements proposed to be vacated with the Map. (PWE)
25. All easements vacated, relocated, or released per separate instrument shall be noted on the map. The separate instrument or quit-claim documents from the governing utility shall be submitted. (PWE)
26. Utility easements shall be provided to the specifications of the appropriate utility companies and subject to review and approval by the Director of Public Works/City Engineer. (PWE)
27. The applicant shall submit the Final Map to the County of Orange for review and Approval. A copy of the approval shall be submitted to the Public Works Department. (PWE)
28. Applicant shall provide to the City a copy of a current title report not less than six months old and any other survey documentation in relation to the subject subdivision. (PWE)
29. Applicant shall provide to the City a subdivision guarantee not less than six months old from the title company. (PWE)
30. The applicant shall enter into any encroachment agreement with the City of Dana Point for any private improvements in the public right-of-way, as needed. (PWE)
31. The applicant shall submit "will serve" letters from the applicable utility districts or agencies providing services to the property. (PWE)
32. The applicant shall submit evidence of the availability of an adequate water supply for fire protection for review and approval by the Fire Chief. A copy of the documentation shall be submitted to the Public Works and Engineering Department. (PWE)
33. The approved Fire Master Plan shall be submitted to the City of Dana Point Public Works Department. (PWE)
34. All monuments shall be set, or a security provided, to ensure all monuments will be set in accordance with the County of Orange and City of Dana Point standards. (PWE)

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35. As required, the applicant shall enter into a Subdivision Improvement Agreement for the design, construction, and installation of the private and public improvements in accordance with plans and specifications, meeting the approval of the Director of Public Works/City Engineer. A security to guarantee the performance of work described in the Subdivision Improvement Agreement will be required, up to 100% of the value of the work shall be posted to the satisfaction of the Director of Public Works/City Engineer and the City Attorney. (PWE)
- C. **Prior to issuance of any grading permit applicant shall meet the following conditions:**
 36. The applicant shall apply for a Grading Permit. The application will include grading plans, in compliance with City standards, the City's municipal code, and the Grading Manual, for review and approval by the Director of Public Works/City Engineer. The applicant shall include all plans and documents in their submittal as required by the current Public Works Department's plan check policies. All grading work must be in compliance with the approved plan and completed to the satisfaction of the Director of Public Works/City Engineer. (PWE)
 37. The application shall include a Construction Staging Plan for the grading activities of the project. The Construction Staging Plans shall include the location of all planned activities and all remaining portions of the site not under construction. It shall include (at minimum) all stockpile locations, entrances, erosion and sediment controls, parking, delivery areas, as well as construction staging areas. The staging plan shall take into account all noise regulations and the separation of construction activities to neighboring residences. (PWE)
 38. A detailed design level geotechnical report shall be prepared, submitted and reviewed by the Director of Public Works/City Engineer. (PWE)
 39. The applicant shall prepare all needed reports and implement all required actions, for each phase, to meet current water quality regulations including, but not limited to, a Water Quality Management Plan (WQMP), a Storm Water Pollution Prevention Program, and all other required reports/actions for NPDES Permit compliance. (PWE)
 40. The applicant shall provide any and all compliance documents and reports related to the removal of all contaminants or soil mitigation measures required on-site. Final clearance letter for site required to be submitted to Public Works. (PWE)

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41. The project Applicant shall retain a qualified environmental professional with Phase II/Site Characterization experience to remove and handle all hazardous materials and structures according to the Soil Management Plan Confirmation soil samples shall be collected within the excavated areas. (PWE)
42. Prior to initiation of construction activities, the contractor shall establish procedures in the event that unknown wastes or contamination source or indicator are encountered during construction. If unknown wastes or suspect materials are discovered during construction, the contractor shall immediately cease work in the vicinity of the suspected contaminant, remove workers and the public from the area, and notify the Director of Public Works. (PWE)
43. The project Applicant shall provide a technical paleontological assessment prepared by a qualified paleontologist, assessing the sensitivity of the project site for buried paleontological resources to the City of Dana Point Planning Division for review and approval. (PWE)
44. Surety to guarantee the completion of the project grading, including erosion control, up to 100% of the approved Engineer's cost estimate shall be posted to the satisfaction of the City Engineer and the City Attorney. (PWE)
45. The City of Dana Point and/or applicant shall retain a qualified archaeological monitor. The monitor shall be retained by the applicant and shall prepare a monitoring plan for construction activities in conformance with the project Mitigation Measures and State regulations. The monitor shall be present at the pre-grade meeting. (PWE)
46. The applicant shall submit a final landscape and irrigation plan for review and approval by the Engineering Department. The landscape and irrigation plans shall include work in the public right of way adjacent to the Project. (PWE)

D. Prior to Building Plan Check Submittal for any phase:

47. The cover sheet of the building construction documents shall contain the City's conditions of approval and it shall be attached to each set of plans submitted for City approval or shall be printed on the title sheet verbatim. (PLN)
48. Building plan check submittal shall be submitted electronically online through the City's [Digital Portal](#). Electronic plan review submittal requirements and the Digital Portal may be found on the City's website here: [City of Dana Point Building & Safety](#). (BLD)

E. Prior to issuance of a building permit or release on certain related inspections for any phase, the applicant shall meet the following conditions:

49. The project requires a building permit which shall comply with the 2022 Building Code or the current Building Code adopted by the City. (BLD)
50. Orange County Fire Authority (OCFA) approval shall be obtained prior to the issuance of all applicable permits.(OCFA)
51. The applicant shall prepare and process a Final Map. The applicant shall submit a Final Map, in compliance with City standards, for review and approval by the Director of Public Works/City Engineer and the County of Orange Surveyor's office. Upon City and County review and approval, the Final Map will be recorded with the County Recorder. (PWE)
52. The applicant shall obtain a Grading Permit and complete all associated work. (PWE)
53. The applicant shall submit a rough grade certification for review and approval by the Director of Public Works/City Engineer by separate submittal. The rough grade certification by the civil engineer (along with the City's standard Civil Engineer's Certification Form for Rough Grading) shall approve the grading as being substantially completed in conformance with the approved grading plan. (PWE)
54. The applicant shall submit a rough grade certification from the geotechnical professional for review and approval by the Director of Public Works/City Engineer by separate submittal. The rough grade certification by the geotechnical professional (City's standard Geotechnical Engineer's Certification Template for Rough Grading) shall approve the grading as being substantially completed in conformance with the approved grading plans and report. (PWE)
55. A licensed land surveyor shall document all pad grades to the nearest 0.1-feet to the satisfaction of the Director of Public Works/City Engineer and the Director of Community Development. The civil engineer and/or surveyor shall specifically certify that the elevation of the graded pad is in compliance with the vertical (grade) position approved for the project. (PWE)
56. An as-graded geotechnical report and certification shall be prepared by the project geotechnical consultant following grading of the subject site. The report should include the results of all field density testing, depth of reprocessing and recompaction, as well as a map

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depicting the limits of grading. Locations of all density testing, restricted use zones, settlement monuments, and geologic conditions exposed during grading. The report should include conclusions and recommendations regarding applicable setbacks, foundation recommendations, erosion control and any other relevant geotechnical aspects of the site. The report shall state that grading of the site, including associated appurtenances, as being completed in conformance with the recommendations of the preliminary geotechnical report. (PWE)

57. All pending fees shall be paid in full. (PWE)
58. The applicant shall provide all required information and obtain necessary approvals to satisfy the requirements of 9.05.240 of the Dana Point Municipal Code regarding the "Art in Public Places" program, unless otherwise indicated in the Development Agreement DA24-0001. (PLN)
59. Building address shall be located facing street fronting property.
60. Prior to commencement of framing, the applicant shall submit a foundation certification, by survey that the structure will be constructed in compliance with the dimensions shown on plans approved by the City Council, including finish floor elevations and setbacks to property lines included as part of CDP20-0005, SDP20-0007, VTPM20-0001. The City's standard "Setback Certification" form shall be prepared by a licensed civil engineer/surveyor and be delivered to the City of Dana Point Building and Planning Divisions for review and approval. (PLN)
61. Prior to release of the roof sheathing inspection, the applicant shall certify by a survey or other appropriate method that the height of the structures and any encroachments above the height limit are in compliance with plans approved by the City Council and the structure heights included as part of CDP20-0005, SDP20-0007, VTPM20-0001. The City's standard "Height Certification" form shall be prepared by a licensed civil engineer/surveyor and be delivered to the City of Dana Point Building and Planning Divisions for review and approval before release of final roof sheathing is granted. (PLN)

F. Prior to issuance of an Encroachment or Improvement Permit for any phase:

62. The applicant shall obtain a Grading Permit. (PWE)

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63. All public right-of-way improvements require advanced approval by the Director of Public Works/City Engineer. All proposed improvements within the City of Dana Point streets right-of-way require an approved encroachment permit, prior to commencement of work. (PWE)
64. All improvements within the public right-of-way shall be constructed per City Standards, the City Standard Encroachment Permit Conditions, and as indicated by the Director of Public Works/City Engineer. (PWE)
65. The applicant shall apply for an Encroachment/Improvement Permit. The application will include street improvement plans and utility improvement plans, in compliance with City standards, for review and approval by the Director of Public Works/City Engineer. The applicant shall include all plans and documents in their submittal as required by the current Public Works Department's plan check policies. All improvements must be in compliance with the approved plan and completed to the satisfaction of the Director of Public Works/City Engineer. (PWE)
66. The application shall include a Construction Staging Plan for the improvements to the project. The Construction Staging Plans for the improvement permit or encroachment permit shall include the location of all planned activities and all remaining portions of the site not under construction. It shall include (at minimum) all material stockpile locations, entrances, erosion and sediment controls as well as construction staging areas. The staging plan shall consider all noise regulations and the separation of construction activities to neighboring residences. (PWE)
67. The proposed Emergency Vehicle Access (EVA) and Public Open Space (Public Paseo) shall be constructed of decorative concrete or pavers meeting all requirements of OCFA as approved by the Director of Community Development. The final pavement of the EVA and Public Paseo shall not be asphalt. (PWE)
68. The applicant shall provide a City of Dana Point and OCFA turnaround at the dead end of Sepulveda Avenue. The preferred option shall include the developer shall provide design and application materials for a Caltrans Encroachment permit application. Should the design proposal on Caltrans right of way be approved the applicant shall construct the cul-de-sac and all associated improvements. (PWE)
69. The applicant shall design and construct a minimum of 10-foot sidewalks along Victoria Boulevard and Sepulveda Boulevard per the Director of Public Works/City Engineer. (PWE)

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70. The applicant shall provide a minimum of 10-feet separation between all storm drain facilities and proposed trees within the Sepulveda Boulevard and Victoria Boulevard parkways. (PWE)
71. The applicant shall provide a designated loading and unloading zone for delivery services to the satisfaction of the Director of Public Works/City Engineer. (PWE)
72. The applicant shall design and construct improvements along Victoria Boulevard and Sepulveda Boulevard to provide for public parking in accordance with the recommendations of the Director of Public Works/City Engineer and Community Development Director. (PWE)
73. The applicant shall design and construct additional street lighting and all associated infrastructure along Victoria Boulevard and Sepulveda Boulevard with the proposed improvements and parking along the street frontages, per the approval of Director of Public Works/City Engineer. All lighting infrastructure and street lighting in this area shall be owned and maintained by the applicant and any successor of interest. (PWE)
74. The applicant shall coordinate improvements at the intersection of Doheny Park Rd at Las Vegas Ave/State Route 1 (SR-1) Northbound On/Off Ramps with the City of Dana Point and Caltrans to improve the level of service. (PWE)
75. The applicant shall be responsible for all coordination and requirements in accordance with City of San Juan Capistrano TS Policy 310 for any impacts at the intersection at Camino Capistrano at Stonehill Drive/I-5 Northbound On-Ramp. (PWE)
76. The improvement plan shall include a final utility plan as approved by South Coast Water District, San Diego Gas and Electric, and all other utilities identifying all improvements, including off-site improvements, required to provide adequate services to the proposed development, for each phase. (PWE)
77. The applicant shall provide approved plans from South Coast Water District for all utility improvements to the Public Works Department. (PWE)
78. The applicant shall provide approval from South Coast Water District for the upsizing of approximately 55 Lineal Feet of 10-inch water line to 12-inch water line near the intersection of Camino Capistrano and Via Canon. All costs of improvements to upsize this facility shall be borne by the applicant. (PWE)

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- 79. The applicant shall provide approval from South Coast Water District for the project cost share of the project to the Lift Station 12 upgrades. (PWE)
 - 80. The final utility plan(s) shall include the final approved location of all meters, backflow prevention devices, vaults, and other associate equipment for all utilities and fire prevention, for all phases. All fire prevention equipment, utility meters, utility equipment, etc, servicing the development (each phase) shall be within the proposed development and not in the public right-of-way. (PWE)
 - 81. A final Drainage Study will be submitted for review and approval to the Director of Public Works/City Engineer. The drainage study shall provide area wide information on storm flows and provide assurances that the existing storm drainage system in the area is adequate to support drainage of the site. (PWE)
 - 82. Surety to guarantee the completion of the project street improvements and drainage improvements, including erosion control, up to 100% of the approved Engineer's cost estimate shall be posted to the satisfaction of the City Engineer and the City Attorney. (PWE)
 - 83. All pending fees shall be paid in full. (PWE)
- G. Prior to the issuance of a certificate of use and occupancy or during operation of the project for any phase the applicant shall meet the following:**
- 84. The applicant shall incorporate principles reflective of Crime Prevention Through Environmental Design (CPTED) to reduce opportunities for, and vulnerability to, criminal behavior and help create a sense of community. (PLN & OCSD)
 - 85. All landscaping and irrigation shall be installed per the approved final landscape and irrigation plan. The State licensed landscape architect that prepared the approved plans shall provide the "Landscape Installation Certificate of Completion" form required by the City's *Submittal Requirements and Guidelines* for implementation of the Chapter 9.55 (Water Efficient Landscape Standards and Requirements) and all required information required of subsection (4) thereon to the Director of Community Development. The Community Development Department shall inspect the site to ensure that the landscaping has been installed in accordance with the approved plans. (PLN) (PWE)

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86. **Final Occupancy Inspections:** Prior to issuance of temporary or final certificate of occupancy, all OCFA inspections shall be completed to the satisfaction of the OCFA inspector and be in substantial compliance with codes and standards applicable to the project and commensurate with the type of occupancy (temporary or final) requested. Inspections shall be scheduled at least five days in advance by calling OCFA Inspection Scheduling at 714-573-6150. (OCFA)
87. Prior to the issuance of certificates of use and occupancy, the applicant/owner shall install the public art component subject to the provisions of with Section 9.05.240 of the Dana Point Municipal Code or pay the required fee. (PLN)
88. The applicant shall schedule a final inspection with the Community Development Department at the site that shall include a review of, among other things, landscaping, finish architecture/materials, approved through discretionary action, and compliance with any outstanding project conditions of approval. (PLN)
89. The proposed parks and right-of-way improvements shall be constructed and approved by the Parks Department and Public Works Department.
90. A Final Geotechnical Report shall be prepared by the project geotechnical consultant in accordance with the City of Dana Point Grading Manual.
91. A written certification per City standards and approval by the Geotechnical Engineer approving the precise grading as being substantially in conformance with the approved precise grading plan.
92. A written certification per City standards and approval by the Civil Engineer approving the precise grading as being substantially in conformance with the approved precise grading plan and which specifically approves construction of line and grade for all engineered drainage devices, utility work, retaining walls, and all other improvements.
93. An As-Built Grading Plan shall be prepared by the Civil Engineer of Record.
94. Any and all outstanding fees associated with any part of the entire project shall be paid.

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95. The applicant shall submit, to the Public Works and Engineering Department, a copy of the recorded Final Map as approved by the City Council and recorded with the Office of the County Recorder.
96. The applicant shall obtain all utility agencies' final approval of the project improvement plans.
97. All works of improvements outlined in the Subdivision Improvement Agreement are completed and approved by the City of Dana Point.
98. The applicant shall dedicate and process all required easement, including, but not limited to, public access easements.
99. A written certification per City standards and approval by the Civil Engineer approving any street improvements as being substantially in conformance with the approved street improvement plans including all improvements thereon.
100. The applicant shall complete all of the landscaping, irrigation and tree installation work per the approved Landscape Plans, including work on both public and private property.
101. The applicant shall provide a full WQMP which:
 - a. Demonstrate that all structural best management practices (BMPs) described in the Project WQMP have been constructed and installed in conformance with approved plans and specifications.
 - b. Demonstrate that applicant is prepared to implement all non-structural BMPs described in the Project WQMP.
 - c. Demonstrate that an adequate number of copies of the approved Project WQMP are available onsite.
 - d. Submit for review, and receive approval by the City for an Operations and Maintenance (O&M) Plan for all BMPs.
 - e. Certification from the project Civil Engineer or Landscape Architect of Record that all BMPs and WQMP elements have been constructed and installed as designed with the approved plans and WQMP.
102. Prior to offering on-site parking to San Felipe de Jesus Church, any other off-site property or business, the applicant shall obtain A Minor Site Development Permit per Dana Point Zoning Code Section 9.35.060(c)(3), to allow joint parking.

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PASSED, APPROVED, AND ADOPTED this ____ day of _____, 2024.

JAMEY FEDERICO, MAYOR

ATTEST:

SHAYNA SHARKE,
CITY CLERK

STATE OF CALIFORNIA)
COUNTY OF ORANGE) ss
CITY OF DANA POINT)

I, SHAYNA SHARKE, City Clerk of the City of Dana Point, California, do hereby certify that the foregoing Resolution No. 24-06-18-xx was duly introduced at a regular meeting of the City Council on the 18th day of June, 2024, and was duly adopted and passed at a regular meeting of the City Council on the ____ day of _____, 2024, by the following vote, to wit:

AYES:

NOES:

ABSTAIN:

ABSENT:

SHAYNA SHARKE, CITY CLERK

SUPPORTING DOCUMENT H: Vicinity Map



Vicinity Map

26126 Victoria Boulevard (APN:668-361-01)
GPA20-0002, ZC24-0001, SP24-0001, LCPA20-0002, DA24-0001,
CDP20-0005, SDP20-0007, VTPM20-0001



SUPPORTING DOCUMENT I: City Council Resolution 21-02-02-04**RESOLUTION NO. 21-02-02-04****A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
DANA POINT, CALIFORNIA INITIATING A GENERAL PLAN
AMENDMENT AND THE VICTORIA BOULEVARD
SPECIFIC PLAN**

The City Council for the City of Dana Point does hereby resolve as follows:

WHEREAS, Chapter 9.61.080(b) of the Zoning Code states that the City Council may initiate General Plan Amendments; and

WHEREAS, Chapter 9.33.020 of the Zoning Code states that the City Council shall initiate the preparation of all Specific Plans; and

WHEREAS, John Hyde of Toll Brothers Apartment Living, ("Applicant") has filed a Specific Plan and General Plan Amendment request on behalf of Capistrano Unified School District ("Property Owner"), the owners of real property, commonly referred to as 26126 Victoria Boulevard (APN 668-361-02) ("Property"); and

WHEREAS, the Applicant filed a General Plan Amendment request for conversion of 4.4 acres of Community Facilities District and 1.1 acres of Recreation District to Specific Plan District, for a total of 5.5 acres, allow an increase of residential density from 30.0 to up to 66.4 dwelling units per acre, and policies related to affordable housing; and

WHEREAS, the project shall be limited to 365 total units including affordable units on site, and any units authorized in accordance with state density bonus requirements, as set forth in California Government Code Section 65915, with the total number of units and methodology for exercising density bonus rights to be set forth in a development agreement.

WHEREAS, the Applicant submitted the draft Victoria Boulevard Specific Plan, which specifically addresses changes in the Zoning Code and would supersede and/or supplement land use applicable to the subject Property, including the previously adopted ordinances, standards, and guidelines.

NOW, THEREFORE, the City Council of the City of Dana Point, California, does resolve, declare, determine and order as follows:

1. That a General Plan Amendment and Specific Plan District are authorized to be initiated in order to review a proposal for an apartment complex containing up to 365 total units (including those authorized as part of a density bonus requirement) at 26126 Victoria Boulevard provided the project incorporates the components detailed below:

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To Ensure Building Mass/Bulk is compatible with the neighboring area,

- i. Along Victoria Boulevard and 50-feet of Sepulveda as measured from the Victoria Boulevard front property line, the building shall be no more than 50-feet in height and adequately setback at varying distances to create open space, a non-linear street frontage, minimize shadowing, and compatibility with neighboring properties, and
- ii. Building heights up to 65-feet may be permitted 40-feet from the front property line of Victoria Boulevard, and
- iii. An allowance of an additional 10-feet in height may be permitted for roof mounted equipment and recreational amenities; additionally, another 10-feet in height may be permitted for recreational structures provided they are located in the middle to rear of the property, and
- iv. The project shall incorporate principles reflective of Crime Prevention Through Environmental Design (CPTED) to reduce opportunities for, and vulnerability to, criminal behavior and help create a sense of community.

Public Benefits provided by the project shall include, but are not limited to:

- i. Establishment of no less than 1.1 acres of public open space either on-site or within Doheny Village, a portion of which shall include active recreational uses which may be located along La Playa Avenue,
- ii. Off-site street improvements on Victoria Boulevard as well as other neighboring streets shall include, but are not limited to, 30 percent increase in public parking along project frontages and improved bike amenities in contribution to the City's effort to improve multi-modal connectivity.

Consistent with the goals of the City's Housing Element, the project shall:

- i. Create no less than 15 percent affordable housing units, which shall include not less than 5% very-low income units to be constructed on-site, and 5% low- and 5% moderate-income housing units to be constructed either on- or off-site in the City of Dana Point.

A Development Agreement shall be negotiated and considered for approval in combination with the legislative actions and project entitlement.

- i. The applicant shall enter into a Development Agreement with the City of Dana Point to provide greater certainty to the City and the applicant. The development agreement shall include public benefits that extend beyond those which may be forthcoming through project approvals, as well as other negotiated terms.
- ii. The Development Agreement shall specify the manner in which the developer chooses to exercise its rights under applicable density bonus laws and regulations.

2. That the requested Victoria Boulevard Specific Plan and amendments to the General Plan require further analysis of potential impacts in accordance with the applicable provisions of State Law and Dana Point Zoning Code Chapters 9.33 and 9.61.
3. That the establishment of the Specific Plan District before the adoption of the

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Specific Plan prohibits the issuance of grading permits, building permits, or land use permits, and do not in any way predispose land use or development.

PASSED, APPROVED and ADOPTED at a regular meeting of the City Council of the City of Dana Point, California, held on this 2nd day of February, 2021.


JAMEY FEDERICO
MAYOR

ATTEST:


KATHY WARD
CITY CLERK

STATE OF CALIFORNIA)
COUNTY OF ORANGE) ss
CITY OF DANA POINT)

I, Kathy Ward, City Clerk of the City of Dana Point, California do hereby certify that the foregoing Resolution No. 21-02-02-04 was duly adopted and passed at a regular meeting of the City Council on the 2nd day of February, 2021, by the following roll-call vote, to wit:

AYES: Council Member Mike Frost, Council Member Michael Villar, and Mayor Jamey M. Federico

NOES: Council Member Richard A. Viczorek, and Mayor Pro Tem Joseph L. Muller

ABSENT: None

ABSTAIN: None


KATHY WARD
CITY CLERK

SUPPORTING DOCUMENT J: Victoria Boulevard Specific Plan

LINK TO DOCUMENT ON CITY WEBSITE

<https://www.danapoint.org/home/showpublisheddocument/37917/638506991837094173>

SUPPORTING DOCUMENT K: Draft EIR

LINK TO DOCUMENT ON CITY WEBSITE

<https://www.danapoint.org/home/showpublisheddocument/35574/638097230446700000>

SUPPORTING DOCUMENT L: Final EIR

LINK TO DOCUMENT ON CITY WEBSITE

<https://www.danapoint.org/home/showpublisheddocument/36955/638307976565700000>

SUPPORTING DOCUMENT M: Victoria Boulevard Apartments Traffic Impact Analysis

LINK TO DOCUMENT ON CITY WEBSITE

<https://www.danapoint.org/home/showpublisheddocument/37911/638506695310147975>

SUPPORTING DOCUMENT N: Project Sample Materials Board



SUPPORTING DOCUMENT O: Planning Commission Staff Report Hearing Minutes,
May 13, 2024

**CITY OF DANA POINT
PLANNING COMMISSION
AGENDA REPORT**

DATE: MAY 13, 2024

TO: DANA POINT PLANNING COMMISSION

FROM: COMMUNITY DEVELOPMENT DEPARTMENT
BRENDA WISNESKI, DIRECTOR OF COMMUNITY DEVELOPMENT
JOHN CIAMPA, PRINCIPAL PLANNER

SUBJECT: GENERAL PLAN AMENDMENT GPA20-0002, ZONE CHANGE ZC24-0001, SPECIFIC PLAN SP24-0001, LOCAL COASTAL PROGRAM AMENDMENT LCPA20-0002, COASTAL DEVELOPMENT PERMIT CDP20-0005, SITE DEVELOPMENT PERMIT SDP20-0007, VESTING TENTATIVE PARCEL MAP VTPM20-0001, DEVELOPMENT AGREEMENT DA24-0001, AND CERTIFICATION OF AN ENVIRONMENTAL IMPACT REPORT TO ALLOW THE SUBDIVISION OF THE SUBJECT SITE AND THE CONSTRUCTION OF A 306 UNIT APARTMENT COMPLEX, SIX LEVEL PARKING STRUCTURE, RECREATIONAL AMENITIES, AND SITE IMPROVEMENTS AT 26126 VICTORIA BOULEVARD

RECOMMENDATION: That the Planning Commission:

- (1) Adopt a Resolution recommending City Council approval and adoption General Plan Amendment GPA20-0002, (Action Document 1);
- (2) Adopt a Resolution recommending City Council approval and adoption Zone Change ZC24-0001, (Action Document 2);
- (3) Adopt a Resolution recommending City Council approval and adoption Local Coastal Program Amendment LCPA20-0002, (Action Document 3);
- (4) Adopt a Resolution, recommending City Council approval and adoption certification of Final Environmental Impact Report SCH#2021070304 (Action Document 4);
- (5) Adopt a Resolution recommending the City Council enter into a Development Agreement DA24-0001 with the property owners (Action Document 5);

PLANNING COMMISSION AGENDA REPORT
VICTORIA BOULEVARD APARTMENTS
MAY 13, 2024
PAGE 2

(6) Adopt a Resolution recommending City Council approval of the Victoria Boulevard Specific Plan SP24-0001 (Action Document 6); and

(7) Adopt a Resolution approving Coastal Development Permit CDP20-0005, Site Development Permit SDP20-0007, and Vesting Tentative Parcel Map VTPM20-0001 (Action Document 7).

APPLICANT: Toll Brothers Apartment Living/Capistrano Unified School District

PROPERTY OWNER: Capistrano Unified School District

REQUEST: A request for a General Plan Amendment, Zone Change, Specific Plan, Local Coastal Program Amendment, Coastal Development Permit, Site Development Permit, Vesting Tentative Parcel Map and development agreement to allow a 306-unit apartment complex with a six level (one basement level) 586 space parking structure, recreational amenities, and site improvements.

LOCATION: 26126 Victoria Boulevard (APN: 668-361-01)

NOTICE: Public Hearing notices were mailed to property owners within 500 feet, and to occupants within 100 feet of the site on April 26, 2024. The same notice was published in the Dana Point Times on April 26, 2024, and notices were posted on April 26, 2024, at Dana Point City Hall, the Dana Point post office, and the Capistrano Beach post office.

ENVIRONMENTAL: Pursuant to the provisions of the California Environmental Quality Act (CEQA), an Environmental Impact Report (SCH# 2021070304) has been prepared for the proposed project and the Final EIR is available on the City's website for public review.

ISSUES:

- Are the objectives of the Victoria Boulevard Specific Plan in keeping with the City's objectives?
- Does Victoria Boulevard Specific Plan and project contribute and provide benefits to the surrounding neighborhood and the community as a whole?

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- Is the Victoria Boulevard Specific Plan and project consistent with and not detrimental to the protection of public health, safety, and general welfare?

BACKGROUND:

On February 2, 2021, the City Council approved the initiation of a General Plan Amendment and a Specific Plan District for the Victoria Boulevard Apartments (Supporting Document 2) authorizing the review of a proposal for an apartment complex containing up to 365 total units provided the project included the following components:

To Ensure Building Mass/Bulk is compatible with the neighboring area,

- i. Along Victoria Boulevard and 50-feet of Sepulveda as measured from the Victoria Boulevard front property line, the building shall be no more than 50-feet in height and adequately setback at varying distances to create open space, a non-linear street frontage, minimize shadowing, and compatibility with neighboring properties, and
- ii. Building heights up to 65-feet (not including projections) may be permitted 40-feet from the front property line of Victoria Boulevard, and
- iii. An allowance of an additional 10-feet in height may be permitted for roof mounted equipment and recreational amenities, and
- iv. The project shall incorporate principles reflective of Crime Prevention Through Environmental Design (CPTED) to reduce opportunities for, and vulnerability to, criminal behavior and help create a sense of community.

Public Benefits provided by the project shall include, but are not limited to:

- i. Establishment of no less than 1.1 acres of public open space either on-site or within Doheny Village, a portion of which shall include active recreational uses which may be located along La Playa Avenue,
- ii. Off-site street improvements on Victoria Boulevard as well as other neighboring streets shall include, but are not limited to, 30 percent increase in public parking along project frontages and improved bike amenities in contribution to the City's effort to improve multi-modal connectivity.

Consistent with the goals of the City's Housing Element, the project shall:

- i. Create no less than 15 percent affordable housing units, which shall include not less than 5% very-low income units to be constructed on-site, and 5% low- and 5% moderate-income housing units to be constructed either on- or off-site in the City of Dana Point.

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A Development Agreement shall be negotiated and considered for approval in combination with the legislative actions and project entitlement.

- i. The applicant shall enter into a Development Agreement with the City of Dana Point to provide greater certainty to the City and the applicant. The development agreement shall include public benefits that extend beyond those which may be forthcoming through project approvals, as well as other negotiated terms.
- ii. The Development Agreement shall specify the manner in which the developer chooses to exercise its rights under applicable density bonus laws and regulations.

The project site is situated at 26126 Victoria Boulevard, on the southeast corner of Victoria Boulevard and Sepulveda Boulevard in the southeastern portion of Doheny Village, with the Interstate 5 off-ramp to Pacific Coast Highway to the south. Currently, the site is split-zoned with 4.4 acres designated as Community Facilities District and 1.1 acres designated as Recreation District. The subject site is adjacent to San Felipe de Jesus Catholic Church and Capo Beach Church to the west, multi-family residential uses, institutional uses (such as OCFA and Cox Cable), and Nobis Preschool to the north. The site is bordered by the following zoning districts:

Table 1: Development Standards For Adjacent Properties

	West	North	South
Zoning District	CF; V-C/R	V-C/R	OS
Existing Uses	Religious Uses	MFR, Fire Station, Preschool	Caltrans ROW
Maximum Density	30 DU/AC	30-50 DU/AC	0 DU/AC
Maximum Building Height	35-40 feet 3 stories	35-50 feet 3 stories	18 feet 1 story
Floor Area Ratio	.4:1; N/A	N/A	.1:1
Minimum Front Setback	20 feet; 5 feet	5 feet	50 feet
Minimum Side Setback	10 feet; 0 feet	0 feet	25 feet
Minimum Rear Setback	20 feet; 0 feet	0 feet	
Minimum Open Space and Landscaping	200 SF/du; 100 SF/du 20%; 5%	100 SF/du 5%	90%

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Community Outreach

On February 2, 2021, in the course of initiating the General Plan Amendment and a Specific Plan District, the City Council approved the contract with Michael Baker International to prepare the Environmental Impact Report (EIR) for the project. In July 2021, an Initial Study was prepared, and a Notice of Preparation was sent to various agencies and interested parties, in addition to an advertisement published in the Dana Point Times. An EIR scoping meeting was held on August 5, 2021, and a joint Planning Commission/City Council Community Workshop took place on November 16, 2022. During the Community Workshop, the applicant, Toll Brothers Apartment Living, provided a presentation at Dana Hills High School, and public comments were received with approximately 50 people in attendance.

On January 20, 2023, the Draft EIR (Supporting Document 4) was posted on the City's environmental webpage for public review. A Notice of Availability (NOA) was sent to property owners and occupants within 500' of the project area, regulatory agencies, and posted in the Dana Point Times. The Draft EIR, Appendices, NOA, and Notice of Completion (NOC) were also posted to the State Clearinghouse (SCH) CEQAnet web portal (<https://ceqanet.opr.ca.gov/>) under SCH No. 2021070304. On February 27, 2023, the Planning Commission conducted a Community Workshop during the Draft EIR public review period. The 45-day public comment period ended on March 6, 2023, though late letters were accepted through March 9, 2023.

In response to public comments received through the Draft EIR and the Applicant's community outreach efforts, a revised project application was submitted, modifying the Victoria Boulevard Specific Plan (Supporting Document 3) and the project. The City's consultant has prepared the response to comments and Final EIR (Supporting Document 5) based on the revised project.

On September 23, 2023, the Planning Commission received a project update for the Victoria Boulevard Specific Plan and Final EIR. The Final EIR, Draft EIR, technical reports in the Appendix can be found online: <https://www.danapoint.org/departments/community-development/planning/environmental-documents>

DISCUSSION:

Specific Plan

Section 9.33 of the Dana Point Zoning Code establishes the process and requirements to create Specific Plans. The purpose of a Specific Plan is to provide an orderly and efficient development of the project site, in accordance with the General Plan.

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The Victoria Boulevard Specific Plan serves both planning and regulatory functions including land use regulations, circulation patterns, public facilities and infrastructure requirements, and development standards. Under the Specific Plan, development density within the project area would not exceed 55.5 dwelling units per acre, yielding a maximum of 306 dwelling units on the 5.51-acre project site. Of the total unit count, a minimum of five percent very low-, five percent low-, and five percent moderate-income units (yielding a total of no less than 46 affordable units) are required to be provided and distributed throughout the project.

The Specific Plan allows for a maximum building height of 65-feet, with an additional 10-feet permitted for roof-top equipment or architectural projections. Additionally, another 10-feet in height may be permitted for recreational structures.

To create visual interest and promote a pedestrian-friendly streetscape that is compatible with the surrounding community, the Specific Plan includes a "Reduced Building Height Zone" where no portion of the building would exceed a height of 50 feet within 40 feet of the Victoria Boulevard right-of-way, additionally, at least 2/3 of the building facade in this area shall be setback more than 10-feet.

A minimum of 1.065 acres of public open space and 0.80 acre of frontage open space shall be provided within the Specific Plan area.

Project frontage along Victoria Boulevard shall be reconfigured to include angled parking to provide additional parking and a Class 3 bike route. The sidewalk along Victoria Boulevard and Sepulveda Avenue will be a minimum 10-feet wide to accommodate pedestrian and bicycle travel.

The proposed project shall comply with the Specific Plan regulations, as well as all other applicable City regulations.

Proposed Project

The project proposes the demolition of the existing Capistrano Unified School District (CUSD) bus yard and a 306-unit apartment complex with an attached six-story (seven-level) parking structure. Forty-six (46) of the units would be rented to low income individuals, and subject to a 55 year deed restriction. The residential component of the apartment building would span two to five stories, while the rooftop would house recreational facilities, providing the sixth level. The project provides approximately 141,540 square feet (3.306 acres) of open space, including the proposed Victoria Shore Park (located at the southeastern corner of Sepulveda Avenue and Victoria Boulevard), a Dog Park, and two public paseos along the former La Playa Avenue right-of-way. Recreational amenities feature a rooftop garden, a fitness room, a pool deck, and a clubhouse.

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The project is a Coastal Contemporary design with large, operable windows and glazed doors, balconies, terraces, loggias, and roof decks with overhangs, awnings, canopies, trellises, and plantings. Exterior colors and materials, roof forms, and primary architectural components are proposed to reinforce the architectural style of the building (Supporting Document 7).

The proposed structure varies in height from two-stories to five stories, with the rooftop recreational facilities providing the sixth level. Specifically, the structure is two- and three-stories along Victoria Boulevard, and three and five stories along Sepulveda Avenue. The roof deck recreational structures, where the structure is at its greatest height (6 stories or 82 feet), are located in the middle of the structure.

The proposed project design is well within the limits of the Reduced Building Height Zone with structures along Victoria Boulevard limited to two- and three-stories, ranging in height from approximately 26-feet to 36.44-feet. Additionally, the required setbacks provide greater articulation with the use of private courtyards and staggering the building front setbacks.

The project has undergone several years of review and has evolved based on feedback from the public and City staff. Initially, it was submitted as a 349-unit (including 53 affordable units) six-story apartment complex with 669 parking stalls. The project scope has been scaled back to enhance its compatibility with the community.

General Plan Amendment

Land Use Element

Doheny Village has a diverse range of housing types, including multi-family, mobile homes, affordable housing, and live/work units, which is a unique feature within the City. The project proposed General Plan Amendment to change the land use designation from Community Facilities (CF) and Recreation (REC) to the proposed Victoria Boulevard Specific Plan (Specific Plan). The proposed change would allow for an increase in density and height for the residential project. Importantly, the amendment aligns with the General Plan, as the CF land use designation permits residential uses, and the property is surrounded by both residential and institutional uses. This amendment and project would enhance the site's compatibility with adjacent uses over the current school bus yard use.

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Exhibit 1: Site Comparison



Existing Bus Yard



Proposed Project

Housing Element

The proposed project was included in the City's General Plan Housing Element and projected the potential for construction of 57 income restricted units on the site, assuming a total of 365 units were constructed (38 low- and 19-moderate income). The project proposes 306 residential units, which results in 46 income restricted units (16 very-low, 15 low- and 15-moderate income). While the proposed project would result in eleven (11) fewer income restricted units than assumed would contribute towards meeting the City's 6th Cycle Regional Housing Needs Assessment (RHNA), the Housing Element identified a housing inventory *surplus* of 184 income restricted units (56 very low/low- and 128 moderate-income). The proposed project would reduce the housing inventory surplus to 175 income restricted units (49 low- and 170-moderate income). Therefore, the housing inventory remains sufficient to meet the City's RHNA and complies with the No Net Loss Law (Government Code 65863).

The project aligns with Housing Element Goal 1, which aims to "Provide a variety of residential developments and an adequate supply of housing to meet the existing and future needs of City residents." This alignment is evident in the project's diverse housing offerings, including various income limits offering 36 studios, 153 one-bedroom units, 105 two-bedroom units, and 12 three-bedroom units.

To fulfill Housing Element Goal 2, "Assisting in the provision of housing affordable to lower-income households," the project commits to 46 deed-restricted affordable units for a 55-year period. These units will include a minimum of five percent very low-income, five percent low-income, and five percent moderate-income units of the overall unit count.

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For further details, refer to Table 2, which provides an analysis of the project's compliance with the applicable Housing Element policies.

Table 2: Housing Element Analysis

Policy	Compliance Analysis
Policy 1.1: Encourage affordable housing construction beyond levels identified by the RHNA.	Consistent. The project includes an affordable component consisting of a minimum of five percent very low-, five percent low-, and five percent moderate-income units of the overall unit count.
Policy 1.2: Provide a variety of housing opportunities for all income levels of the City through land uses and densities.	Consistent. The Specific Plan area would allow development of a combination of studio, one-, two-, and three-bedroom market rate and affordable unit types.
Policy 1.3: Coordinate new residential development with the provision of infrastructure and public services.	Consistent. The project would develop on-site infrastructure improvements as detailed in Section 3.4, Infrastructure Plan, of the Specific Plan. The existing public service facilities, including water, wastewater, stormwater, and solid waste services would adequately accommodate the proposed project.
Policy 1.4: Locate higher density residential development close to public transportation.	Consistent. The project is a high-density residential development. The closest bus stop is approximately 4,500 feet southwest of the Specific Plan area at the intersection of Del Obispo and Pacific Coast Highway and is serviced by OCTA routes 1 and 91.
Policy 2.1: Support innovative public, private, and nonprofit efforts in the development and financing of affordable housing, particularly for lower income households, the elderly, large families, the physically impaired, and single-parent households.	Consistent. The project applicant is a private developer and is proposing to develop a multi-family residential apartment community with a combination of market rate and affordable unit types. The project would provide a minimum of five percent very low-, five percent low-, and five percent moderate-income units of the overall unit count.
Policy 2.3: Require that housing constructed for lower and moderate income households is not concentrated in any single portion of the City.	Consistent. The project proposes both market rate and affordable unit types within the Specific Plan area and thus, would not be developed as only affordable housing.

Circulation Element

The Environmental Impact Report (EIR) assessed the project's alignment with the Circulation Element and its potential impacts on the community and concluded the project aligns with the adopted plans, programs, and policies. Project aspects that supported this conclusion include:

- The project is forecasted to result in approximately 2,920 new daily weekday trips, including 391 new trips during the Saturday midday peak hours, and 357 new trips during the Sunday peak hour.
- The project would result in no significant traffic impacts at the study intersections.

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- Situated in an urban area, the project is near retail establishments, making it convenient for residents to walk to nearby amenities.
- The proposed project would introduce up to 796 additional residents to the City, representing a 2.4 percent increase from the current population of 32,943 persons. The increased population may increase the demand for transit facilities in the project vicinity, but would not require new or expanded facilities.
- The project would consolidate driveways along Victoria Boulevard and Sepulveda Avenue, minimizing conflicts between pedestrians and vehicles.
- In accordance with the DPZC, the project provides 586 parking stalls within the seven-level parking structure (including one basement level).
- A Class III bicycle route would be created along the project frontage of Victoria Boulevard and shared-use, 10-foot sidewalks would be located along Sepulveda Avenue and Victoria Boulevard allowing for bicycle travel.

The project complies with the Circulation Element Policies as discussed below:

Table 3: Circulation Element Analysis

Policy	Compliance Analysis
Policy 1.11: Require that proposal for major new developments include a future traffic impact analysis which identifies measures to mitigate any identified project impacts.	Consistent. The traffic impact analysis concluded that, all study intersections are forecast to operate within acceptable LOS (D or better) during the peak hours, with the exception to the intersection of Camino Capistrano at Stonehill Drive/I-5 Northbound On-Ramp in Year 2045. Implementation of the recommended improvements at the Camino Capistrano at Stonehill Drive/I-5 NB On-Ramp would be minimized to acceptable LOS (D or better) during peak hours. Recommended improvements include: <ul style="list-style-type: none"> • Restripe the northbound approach (and southbound approach, as necessary) to accommodate two northbound left turn lanes • Change north-south signal operation from split phasing to protected left-turn phasing; and • Install eastbound right-turn overlap signal phasing
Policy 1.12: Encourage new development which facilitates transit services, provides for non-automobile circulation, and minimizes vehicle miles traveled.	Consistent. The proposed residential community would be located within Doheny Village that includes a number of various land use types, including commercial, retail, industrial, and other residential uses. Additionally, the site is served by existing OCTA transit service, pedestrian sidewalks, and existing and planned bicycle lanes along adjacent roadways. Thus, future project residents would be able to utilize multiple modes of transportation. The proposed land use type would encourage reduced vehicle miles traveled and minimized associated air pollution.

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Policy 1.13: Minimize pedestrian and vehicular conflicts.	Consistent. The driveways along Victoria Blvd. and Sepulveda Ave. would be reduced and consolidated to minimize pedestrian and vehicular conflicts. The Emergency Vehicle Access (EVA) road, which can be accessed by pedestrians and bicyclists, would be restricted to emergency vehicles only via removable bollards (or similar devices).
Policy 1.14: Establish landscaping buffers and building setback requirements along all roads where appropriate.	Consistent. Landscape along the site perimeter is proposed to provide a buffer between the existing roadway rights-of-way and 10-foot minimum building setbacks from Sepulveda Avenue and Victoria Boulevard are required.
Policy 4.5: Promote new development that is designed in a manner that (1) facilitates provision or extension of transit service, (2) provides on-site commercial and recreational facilities to discourage mid-day travel, and (3) provides non-automobile circulation within the development.	Consistent. Refer to responses below with corresponding numbers. (1) project site is located in an urbanized area with sidewalks and bike paths along roadways within project vicinity to facilitate non-automobile circulation from the project (2) While the project would not provide commercial uses on-site, the project would provide a number of recreational amenities. Refer to response to Land Use Element Policy 1.4. Additionally, the site is located within Doherty Village that has existing commercial uses in walking distance. (3) Refer to response to Land Use Element Policy 1.8.
Policy 4.7: Encourage the provision of safe, attractive, and clearly identifiable transit stops and related high quality pedestrian facilities throughout the community.	Consistent. High quality pedestrian facilities would be provided throughout the residential community. The project would develop a system of interior and exterior pathways that connect to existing sidewalks along Victoria Boulevard and Sepulveda Avenue. Additionally, enhanced paving, boardwalks, parkways, and landscaping would emphasize pedestrian pathways.
Policy 6.1: Consolidate parking, where appropriate, to reduce the number of ingress and egress points onto arterials.	Consistent. The project proposes an attached six-story (seven level) parking structure in the center of the site with 586 spaces. The parking structure would be accessed from the primary project entryway along Sepulveda Avenue or the secondary vehicular driveway along Victoria Boulevard.

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Urban Design Element

The project was evaluated with the General Plan's Urban Design Element to ensure it complies with its goals and policies; however, the Element does not include guidance for unique, coastal, high-density projects. The Specific Plan Design Guidelines (Section 4) was created to address the unique scope to ensure a high-quality residential community that is compatible with the neighborhood.

The Specific Plan establishes a "Reduced building height zone" where no portion of the building would exceed a height of 50 feet within 40 feet of the Victoria Boulevard right-of-way. The height limitation along Victoria Boulevard reduces the overall mass and provide pedestrian scale, vertical breaks, and streetscapes; create barriers between the parking garage and the proposed dwelling units and the public; and encourage a high level of design to improve scenic quality at the project site.

Chapter 4 of the Specific Plan includes guidelines for site planning, architectural, landscaping, signage, lighting, art-in-public places, and sustainability. Site planning guidelines include elements to reduce the appearance of overall mass and provide pedestrian scale, vertical breaks, and streetscapes; create barriers between the parking garage and the proposed dwelling units and the public; and encourage a high level of design to improve scenic quality at the project site.

The project's primary community entry would occur along Sepulveda Avenue with an arrival promenade to serve as a gateway into the development. The Arrival Promenade provides an enhanced entry drive paving, an art wall, a synthetic turf, and parkway landscaping, among other amenities to provide a "sense of place" and function as Common Open Space. Similarly, the rooftop amenity area would serve as a Common Open Space for residents. The rooftop amenity area would be centrally located on the roof of the structure and designed to have limited visibility from Victoria Boulevard, Sepulveda Avenue, or surrounding properties. Courtyards, plazas, and open space areas on-site would occur on the interior of the residential community surrounded by residential units and building facilities, or along the exterior of the development facing a public street to provide visual interest.

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The project complies with the Goals and Policies of the Urban Design Element as identified in the analysis table below.

TABLE 4: URBAN DESIGN ELEMENT ANALYSIS

Goal/Policy	Compliance Analysis
LUE Policy 1.1 "Develop citywide linkages through landscaping and lighting along major street corridors, the project would the proposed project would not impact existing landscaping and lighting along major street corridors"	Consistent. Public improvements associated with the project include a public park with active and passive recreation amenities (Victoria Shore Park) proposed at the southeastern corner of Victoria Boulevard and Sepulveda Avenue, enhanced landscape and streetscape amenities, additional public parking within the right-of-way areas, construction of a cul-de-sac at the Sepulveda Avenue terminus, a Dog Park, and two public paseos. Specifically, Landscape and Streetscape amenities would include ample landscaping and seating; new curb, gutter, and 10-foot sidewalk along Victoria Boulevard; new sidewalk along Sepulveda Boulevard; a cul-de-sac and sidewalk at Sepulveda Boulevard dead-end; and surf benches along sidewalk on Victoria Boulevard.
LUE Policy 1.2 "Improve the visual character of major street corridors."	Consistent. Specific Plan Section 4.5, states that development within the Specific Plan area is subject to Municipal Code Section 9.05.240.
Policy 1.7: Initiate a program for public art.	Consistent. The proposed Specific Plan is an implementation tool that prioritizes preservation of the unique history and character of Doheny Village. One of the project objectives for the Specific Plan is to promote the character and surf heritage of the historical Doheny Village District. Thus, the proposed Specific Plan's development standards and design guidelines encourage unified landscaping, open spaces, and architecture that contribute towards the Coastal Contemporary design theme of Doheny Village.
Policy 2.1: Consider the distinct architectural and landscape character of each community. To the maximum extent feasible, protect special communities and neighborhoods which, because of their unique characteristics, are popular visitor destination points for recreational uses.	Consistent. The project proposes extensive landscaping, common open space areas, and recreational amenities throughout the Specific Plan area. Street trees, shrubs, and groundcover are also proposed along the site perimeter adjacent to Victoria Boulevard and Sepulveda Avenue.
Policy 2.5: Encourage neighborhood street landscaping programs to improve the quality of public spaces in residential areas.	Consistent. The project construct approximately 144,018 square feet (3.306 acres) of open space. A total of 1.065 acres of public open space would include Victoria Shore Park (at the southeastern corner of Sepulveda Avenue and Victoria Boulevard) as well as a Dog Park and two public paseos along the former La Playa Avenue right-of-way.

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Policy 4.3: Develop stronger pedestrian, bicycle, and visual linkages between public spaces and to and along the shoreline and bluffs.	Consistent. The residential community is designed to be pedestrian-friendly with both public and private open spaces, outdoor amenities, courtyard spaces, rooftop amenity areas, corner park and landscaping, and recreation spaces surrounding the residential components. Pedestrian circulation would be provided throughout the development by a system of interior and exterior pathways that connect the residential community to the City's adjacent sidewalks. The project would also implement a Class III bicycle route along Victoria Boulevard and provide bicycle storage in the private courtyards and at the Arrival Promenade to facilitate easy access between the City's existing bicycle network and the Specific Plan area.
Policy 5.2: Encourage site and building design that takes advantage of the City's excellent climate to maximize indoor-outdoor spatial relationships.	Consistent. The residential units surround outdoor courtyards throughout the site. The project includes a rooftop garden and extensive outdoor common open space areas recreational amenities that encourage residents to take advantage of the City's climate.
Policy 5.3: Encourage buildings and exterior spaces that are carefully-scaled to human size and pedestrian activity.	Consistent. The project constructs approximately 144,018 square feet (3.306 acres) of open space. A total of 1.065 acres of public open space would include Victoria Shore Park (at the southeastern corner of Sepulveda Avenue and Victoria Boulevard) as well as a Dog Park and two public paseos along the former La Playa Avenue right-of-way.
Policy 5.6: Encourage aesthetic roof treatment as an important architectural design feature.	Consistent. Specific Plan Section 4.8.2, Minimize Heat Island, includes guidelines to reduce the heat island effect by encouraging the use of low albedo materials in paving, roofing, and building materials, and encouraging utilizing green roofs.
Policy 6.3: Increase Doheny Village's economic vitality and its contribution to the City's economic development goals.	Consistent. The project would provide housing within Doheny Village and future residents would indirectly contribute towards the economic vitality of the City by shopping, dining, and working in Dana Point. The proposed development would also revitalize the underutilized property and address the Statewide housing crisis with a local approach by increasing density and availability of multi-family residential uses in Dana Point.

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Zone Change

The project area falls under the CF and REC zoning districts of the Dana Point Zoning Code. The proposed Zone Change modifies the 1993 Zoning Map within the project area, transitioning the site's zoning from CF and REC to the Victoria Boulevard Specific Plan. The planned residential community will be situated within Doheny Village, which encompasses a mix of land use types, including commercial, retail, industrial, and other residential uses. Recently, the Doheny Village Plan was approved and certified, designating the area surrounding the project site as the Village Commercial/Residential District (V-C/R). This designation anticipates the potential implementation of a Specific Plan for this site, allowing for multi-family residential development.

While both the existing zoning designation and the Specific Plan permit residential uses, the proposal seeks to increase the allowed density and height (as outlined in Table 5: Existing and Proposed Development Standards). By replacing the current bus yard use with a multi-family residential project, the site's compatibility with the surrounding residential and institutional uses, as well as the Doheny Village Plan, would be improved. A portion of the site, 1.1 acres (47,916 sq. ft.), is currently zoned Recreation. The proposed project would result in 1.065 (46,399 sq. ft.) of public open space, including a park, dog park and public paseo.

Comparison of Development Standards

The following table summarizes the existing CF and REC Zoning Districts in comparison to the proposed Specific Plan:

TABLE 5: EXISTING AND PROPOSED DEVELOPMENT STANDARDS

	Existing (CF District) Lot Area: 4.4 ac (191,664 SF)	Existing (REC District) Lot Area: 1.1 ac (47,916 SF)	Proposed (Specific Plan) Lot Area: 5.5 ac (239,580 SF)(1)	Change
Maximum Lot Coverage	60% of lot area (114,998 SF)	20% of lot area (9,583 SF)	80% of lot area (191,664 SF)	+67,083 SF
Maximum Density	30 du/ac	0 du/ac	55.5 du/ac	+25.5 du/ac
Maximum Number of dwelling units	132 du	0	306 du	+174 du
Minimum Lot Area per dwelling unit			600 SF/du	
Floor Area Ratio	N/A	.1:1	1.6:1	

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Maximum Height	31-35 feet 3 stories	31-35 feet 2 stories	65 feet (residential) plus 10 feet for architectural projections; 50 feet along Victoria, 85 feet (garage + amenity)*	+30 feet +15 feet
Minimum Front Setback (Sepulveda Blvd)	20 feet	50 feet	10 feet	-10 feet
Minimum Side Setback (Victoria Blvd)	10 feet	50 feet	10 feet	
Minimum Side Setback (PCH)	10 feet	50 feet	26 feet	+16 feet
Minimum Rear Setback	20 feet			
Minimum Building Separation	10 feet		6 feet or CBC	-4 feet
Minimum Landscape Coverage	20% of lot area (38,333 SF)	20% of lot area (9,583 SF)	10% of lot area (23,958 SF)	-10% (23,958 SF)
Minimum Open Space Private Common	200 SF/du 25% ac	80% of lot area (38,333 SF)	100 SF/du	-100 SF/du

The proposed project incorporates various design features to address the building's height and massing, including multiple courtyards, two- and three-stories along the Victoria Boulevard frontage, and strategically locating the sixth-floor recreation buildings in the middle of the structure. As a result, the residential portion of the structure reaches a maximum height of 57 feet, while the centrally positioned recreation buildings achieve a maximum height of 82 feet (Specific Plan maximum height is 85 feet). These design choices effectively reduce the overall massing of the building and enhance its compatibility with the surrounding area.

In comparison to the Doheny Village development standards, allow for a maximum height of 50 feet for the Village Commercial/Residential (V-C/R) zone, the proposed project's height remains within the permissible limits, allowing for a maximum height of 65 feet.

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EXHIBIT: 2 SPECIFIC PLAN HEIGHT



Local Coastal Plan Amendment

Pursuant to DPZC Section 9.61.080, amendments may be proposed to the General Plan and zoning districts, modify district boundaries, create a Specific Plan or revise the provisions of the DPZC to add, remove, or modify regulations pursuant to the provisions of the Government Code. The project's proposed amendments to the General Plan, Zone Change, and Specific Plan all require an LCPA to permit the proposed project and are analyzed in this report. The analysis of the proposed amendments is identified in the report's sections above. The requested amendments are subject to Coastal Commission certification.

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Final Environmental Impact Report SCH#2021070304

The City, as lead agency, determined that the Victoria Boulevard Apartments is a "Project" within the definition of the CEQA. CEQA requires the preparation of an EIR prior to approving any project that may have a significant impact on the environment. For the purposes of CEQA, the term "project" refers to the whole of an action, which has the potential for resulting in a direct physical change or a reasonably foreseeable indirect physical change in the environment (CEQA Guidelines Section 15378(a)).

An EIR must disclose the expected direct and indirect environmental impacts associated with a project, including impacts that cannot be avoided, growth-inducing effects, impacts found not to be significant, and significant cumulative impacts, as well as identify mitigation measures and alternatives to the proposed project that could reduce or avoid its adverse environmental impacts. CEQA requires government agencies to consider and, where feasible, minimize environmental impacts of the proposed development, and an obligation to balance a variety of public objectives, including economic, environmental, and social factors. The City's third-party environmental consultant, Michael Baker International, worked with City staff to prepare the EIR.

A Notice of Preparation (NOP) was prepared and distributed for a 30-day public review period from July 19, 2021, through August 17, 2021. A public scoping meeting was held on August 5, 2021. Furthermore, in accordance with Senate Bill 18 and Government Code 69352.3, and Assembly Bill 52 and Government Code 21000, the City sent notification letters to the appropriate tribal organizations on April 15, 2021, to comply with the requirements for tribal consultation.

The Draft EIR was completed on March 6, 2023, which evaluates potential environmental impacts associated with the implementation of the Victoria Boulevard Apartments. The Draft EIR also discusses alternatives to the project, and proposes mitigation measures that will offset, minimize, or otherwise avoid significant environmental impacts. The Draft EIR was prepared in accordance with CEQA, California Resources Code Section 21000 et seq.; the Guidelines for the California Environmental Quality Act (California Code of Regulations, Title 14, Chapter 3).

All topical areas that were analyzed were determined to have:

- No Impact;
- Less than Significant Impact; or
- Less than Significant Impact with the Incorporation of Mitigation Measures.

No significant unavoidable impacts would occur as a result of the project.

A summary of the environmental issues and mitigation summary can be found in Section 1.4 of the Draft EIR. Mitigation measures would be required for the following: Tribal and Cultural Resources, Geology/Soils, Hazards/Hazardous Materials, Transportation, Air Quality, and Noise.

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A Notice of Availability (NOA) for the Draft EIR was distributed for a 45-day public review period from January 20, 2023 supporting to March 6, 2023. On February 27, 2023, a community workshop to receive public comments on the Draft EIR. A total of 80 comment letters were received during the public review period for the Draft EIR. Responses to those comments resulted in minor changes to the EIR which are documented in the Final EIR. The Final EIR consists of the Response to Comments, Errata, and Mitigation Monitoring and Reporting Program (MMRP). The MMRP checklist provides verification that all applicable mitigation measures relative to environmental impacts are monitored and reported to ensure compliance during project implementation.

The Final EIR was prepared in accordance with CEQA requirements to evaluate the potential environmental impacts in addition to an analysis that includes recent revisions to the Victoria Boulevard Apartments project.

The Final EIR consists of the following sections:

- Introduction;
- Revisions to Information Presented in the Draft EIR;
- Response to Comments;
- Errata; and
- Mitigation Monitoring and Reporting Program.

Development Agreement

An application for a Development Agreement has been submitted in accordance with DPZC Chapter 9.73. As authorized by Government Code Section 65864 et seq., Development Agreements provide for the vesting of the laws, statutes, ordinances, regulations, standards and policies in existence as of the effective date of the Development Agreement that will be applicable to the project. The Development Agreement can include public benefits that extend beyond those which may be forthcoming through project approvals, as well as other negotiated terms. If any physical improvements beyond those proposed to be constructed on the project site are identified in the Development Agreement, those improvements have been identified and evaluated in the EIR.

The parties to the Development Agreement include the City of Dana Point, the Capistrano Unified School District and Toll Brothers (the applicant) and has been negotiated and considered for approval in combination with the legislative actions and project entitlement.

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The proposed Development Agreement includes an obligation to create a funding mechanism which yields a substantial contribution to be utilized exclusively on improvements to Dana Hills High School at the earliest commercially feasible time. In addition, the Development Agreement includes a substantial contribution to the City to be utilized for community benefits as directed by the City Council and include the following:

- Enhanced landscape and streetscape amenities
 - No less than 27 on-street parking spaces along the southside of Victoria Boulevard
 - No less than 13 on-street parking spaces along the eastside of Sepulveda Avenue
 - Street amenities to include landscaping and surf bench seating
 - New curb, gutter, and 10 feet wide sidewalk along Victoria Boulevard
 - New curb, gutter, driveways, and 10 feet wide sidewalk along Sepulveda Boulevard
 - Relocation of catch basin at the corner of Victoria and other storm drain modifications to accommodate street improvements
 - Caltrans drainage culvert to be modified/replaced with junction structure
 - Required upgrades to South Coast Water District system
 - Cul-de-sac and sidewalk at Sepulveda Boulevard dead-end
- Open space easement for Victoria Shore Park, public street and frontage, dog park, and paseos – improvements to be maintained by the developer in perpetuity
- Affordable Housing Agreement
 - 15 percent of total units subject to affordability
 - Minimum affordability period of 55 years
 - No less than 1/3 of the affordable units rented as Very Low Income
 - No less than 1/3 of the affordable units rented as Low Income
 - Remaining affordable units rented as Moderate Income
 - Quality and range of sizes/types shall be substantially equal to the quality and range of sizes in types of project's market rate units
 - Location of units shall be distributed throughout the project
- Community benefit of \$6,300,000 to satisfy all City park/recreation, park in-lieu, and public art fees.

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Pursuant to DPZC Section 9.73.120, the Planning Commission must make the following findings in order to recommend approval of any development agreement:

1. *That the proposed development agreement is consistent with the objectives, policies, general land uses and programs specified in the General Plan and any applicable Specific Plan;*
2. *That the proposed development agreement is consistent with the City's Growth Management Element and adequately provides for the installation and operation of the infrastructure required to service each phase of the subject development;*
3. *That the development proposed in association with the subject development agreement is compatible with the uses authorized in the district in which the real property is located;*
4. *That the proposed development agreement is in conformity with the public necessity, public convenience, general welfare, and good land use practices;*
5. *That the proposed development agreement provides for public benefits to a degree which warrants any concessions granted by the City;*
6. *That the proposed development agreement will in no way be detrimental to the public health, safety, and general welfare;*
7. *That the proposed development agreement will not adversely affect the orderly development of property;*
8. *That the proposed development agreement will have a positive fiscal impact on the City.*

Coastal Development Permit

The proposed project is located within the City's Coastal Overlay District and is not located within the Appeals Jurisdiction of the California Coastal Commission (CCC). Section 9.69.020 of the DPZC states that a Coastal Development Permit (CDP) is required for all development located within the Coastal Overlay District. The multi-family apartment complex is proposed on a developed site with no environmentally sensitive habitat and is landward of the first public road, thereby not resulting in any impacts to coastal access. The project has completed an EIR to ensure that any potential project impacts would be mitigated.

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Pursuant to Section 9.69.070 "Basis for Action on Coastal Development Permit Applications" of the DPZC, every Coastal Development Permit requires the following findings:

1. *That the proposed development is in conformity with the certified Local Coastal Program as defined in Chapter 9.75 of this Zoning Code; and,*
2. *That the proposed development, if located between the nearest public roadway and the sea or shoreline of any body of water, is in conformity with the public access and public recreation policies of Chapter Three of the Coastal Act; and,*
3. *That the proposed development conforms with Public Resources Code Section 21000 and following and that there are no feasible mitigation measures or feasible alternatives available which would substantially lessen any significant adverse impact that the activity may have on the environment; and,*
4. *That the proposed development be sited and designed to prevent adverse impacts to environmentally sensitive habitats and scenic resources located in adjacent parks and recreation areas, and will provide adequate buffer areas to protect such resources; and,*
5. *That the proposed development will minimize the alterations of natural landforms and will not result in undue risks from geologic and erosional forces and/or flood and fire hazards; and,*
6. *That the proposed development be visually compatible with the character of surrounding areas, and, where feasible, will restore and enhance visual quality in visually degraded areas; and*
7. *That the proposed development conforms to the General Plan, Local Coastal Program and Zoning Code.*

Staff finds the proposed project is consistent with the basis of approval for a CDP as outlined in Section 9.69.070 of the DPZC. Responses supporting approval of the project based on the above-quoted findings are detailed in the attached draft Planning Commission Resolution.

Site Development Permit

A Site Development Permit (SDP) is required per Section 9.71 of the DPZC because the project proposes a multi-family residential development. Additionally, Section 9.31 requires an SDP because the project is proposing development with the City's Floodplain Overlay 2 (FP-2) District because the subject property is located in the 100 year (A) Flood Zone.

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As stated in the sections above, the project requires a General Plan Amendment, Zone Change, Specific Plan, and LCPA to modify the land use and development standards from the underlying Community Facility and Recreation Open Space General Plan and Zoning designations to develop the 306-unit apartment complex. The proposed development is located in Doheny Village which has a mix of different housing types including single-family and multi-family. The design of the project includes multiple courtyards, a 50 foot height limit along the Victoria Boulevard frontage, and centrally locates the sixth-floor recreation buildings on the roof to establish a project that reduces its massing and is compatible with the area. Additionally, the context of the site adjacent to the I-5 freeway off-ramp reduces compatibility and visual concerns related to the project. The proposed use is consistent with the area in that the existing Community Facilities zone and the proposed Specific Plan both allow multi-family residential uses, and the proposed project is more compatible with the area than the bus yard.

Development within the Floodplain Overlay District

The City's Zoning Map identifies a portion of the property along Sepulveda Avenue that is located within the FP-2 Floodplain Overlay. The hydrology analysis for the project through the EIR concluded that the majority of the project site is located within the FEMA Flood Zone 'X' per FEMA Flood Insurance Rate Map (FIRM) No. 06059C0508K, which was revised on March 21, 2019. Flood Zone 'X' represents areas of minimum flood hazard. A portion of the site along Sepulveda Avenue is shown to be slightly within or adjacent to FEMA Flood Zone 'A' (no Base Flood Elevation determined). The City has provided a supplemental draft FEMA flood map and reference exhibits from a Letter of Map Revision (LOMR) for the San Juan Creek area that is in the process of being adopted. Per this updated study and FIRM, the Flood Zone 'A' is delineated to be retained almost completely within the public right-of-way of Sepulveda Avenue. The LOMR study determines the flooding depths within Sepulveda Avenue to be 1.5 feet, which is the best available data to determine the Base Flood Elevation within this zone.

Pursuant to Section 9.71.050 "Basis for Approval, Conditional Approval, or Denial of a Site Development Permit" of the DPZC, every Site Development Permit requires the following findings:

1. *That the site design is in compliance with the development standards of the Dana Point Zoning Code; and,*
2. *That the site is suitable of the site for the proposed use and development; and,*
3. *That the project is in compliance with all elements of the General Plan and all applicable provisions of the Urban Design Guidelines; and,*
4. *That the site and structural design is appropriate for the site and function of the proposed use, without requiring a particular style or type of architecture; and,*

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5. *That the requirements of the California Environmental Quality Act have been satisfied in that the project qualifies for both Class 1 (Section 15301) and Class 3 (Section 15303) exemptions pursuant to the applicable provisions of the California Environmental Quality Act (CEQA).*

Staff finds the proposed project is consistent with the basis of approval for a SDP as outlined in Section 9.71.050 of the DPZC. Responses supporting approval of the project based on the above-quoted findings are detailed in the attached draft Planning Commission Resolution.

Vesting Tentative Parcel Map

Section 7.05 of the Dana Point Municipal Code requires a Tentative Parcel Map (TPM) to merge the 34 underlying lots of the site to form one lot for the project. The applicant is also proposing a Vesting Map per Section 7.03.070 of the Dana Point Municipal Code to ensure the existing regulations, conditions, and fees in place during at the time of submittal.

Section 7.05.060 of the Dana Point Municipal Code identifies the following findings to approve a subdivision of land, requiring:

1. *That the proposed map is consistent with the City's General Plan; and*
2. *That the design and improvement of the proposed subdivision is consistent with the City's General Plan; and*
3. *That the site is physically suitable for the proposed type of development; and*
4. *That the requirements of the California Environmental Quality Act have been satisfied; and*
5. *That the site is physically suitable for the proposed density of development;*
6. *That the design of the subdivision and the proposed improvements are not likely to cause substantial environmental damage or substantial and avoidable injury to fish or wildlife or their habitat; and*
7. *That the design of the subdivision and the proposed improvements are not likely to cause serious public health problems; and*

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8. *That the design of the subdivision and the proposed improvements will not conflict with easements of record or established by court judgment or acquired by the public at large for access through or use of property within the proposed subdivision; or, if such easements exist, that alternate easements for access or for use will be provided and these will be substantially equivalent to ones previously acquired by the public; and*
9. *That the design and improvement of the proposed subdivision are suitable for the uses proposed and the subdivision can be developed in compliance with the applicable zoning regulations pursuant to Section 7.05.055; and*
10. *That the subdivision is not located in a fee area or, if located in a fee area, the subdivider has met the requirements for payment of the applicable fees or the subdivision would not allow development of a project which would contribute to the need for the facility for which a fee is required; and*
11. *That the subdivision is located in an area which has access to adequate utilities and public services to support the development proposed within the subdivision or that the subdivision includes the provisions and improvements necessary to ensure availability of such utilities and services.*

Staff finds the proposed project is consistent with the basis of approval for a VTPM as outlined in Section 7.05.060 of the Dana Point Municipal Code. Responses supporting approval of the project based on the above-quoted findings are detailed in the attached draft Planning Commission Resolution.

CORRESPONDENCE: City staff received written correspondence that is provided as Supporting Documents 8 and 9.

NOTIFICATION/FOLLOW-UP: On May 7, 2024, email notifications of the project update were sent to interested parties on the notification list and agendas were posted at Dana Point City Hall, the Dana Point and Capistrano Beach Branch Post Offices.

CONCLUSION: Based on the above analysis, Staff recommends that the Planning Commission recommends adoption and approval of the proposed General Plan Amendment GPA20-0002, Zone Change ZC24-0001, and Development Agreement DA24-0001 to the City Council and approve the attached draft Resolutions containing required findings for approval of the EIR and ZC20-0002. Staff also recommends that the Planning Commission adopt the draft Resolution approving Coastal Development Permit CDP20-0005, Site Development Permit SDP20-0007, and Vesting Tentative Parcel Map VTPM20-0001 allowing the subdivision of the subject site and the construction of a 306 unit apartment complex, six level parking structure (one basement level), 46 affordable housing units, recreational amenities and site improvements.

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ATTACHMENTS:

Action Documents

1. Draft Planning Commission Resolution No. 24-05-13-XX for GPA
2. Draft Planning Commission Resolution No. 24-05-13-XX for ZC
3. Draft Planning Commission Resolution No. 24-05-13-XX for LCPA
4. Draft Planning Commission Resolution No. 24-05-13-XX for EIR
5. Draft Planning Commission Resolution No. 24-05-13-XX for DA
6. Draft Planning Commission Resolution No. 24-05-13-XX for Specific Plan
7. Draft Planning Commission Resolution No. 24-05-13-XX for CDP, SDP, VTPM

Supporting Documents:

1. Vicinity Map
2. City Council Resolution 21-02-02-04
3. Draft Victoria Boulevard Specific Plan – October 2023 (Available Online:
<https://www.danapoint.org/home/showpublisheddocument/37917/638506991837094173>)
4. Draft EIR (Available Online:
<https://www.danapoint.org/home/showpublisheddocument/35574/638097230446700000>)
5. Final EIR (Available Online:
<https://www.danapoint.org/home/showpublisheddocument/36955/638307976565700000>)
6. Traffic Impact Analysis (Available Online:
<https://www.danapoint.org/home/showpublisheddocument/37911/638506695310147975>)
7. Project Sample Materials Board
8. Public Comments
9. Comments Provided by Toll Brothers
10. Project Plans (Available Online:
<https://www.danapoint.org/home/showpublisheddocument/37746/638487933902570000>)

**CITY OF DANA POINT
PLANNING COMMISSION
REGULAR MEETING ACTION MINUTES**

May 13, 2024
6:02 p.m. – 8:42 p.m.

City Hall Offices
Council Chamber (#210)
33282 Golden Lantern
Dana Point, CA 92629

CALL TO ORDER

Chair Opel called the Regular Meeting of the Dana Point Planning Commission to order at 6:02 p.m.

PLEDGE OF ALLEGIANCE

Commissioner Dhingra led the Pledge of Allegiance.

ROLL CALL

Planning Commission Members Present: Chair Mary Opel, Vice-Chair Eric Nelson, Commissioner Luke Boughen, Commissioner Deana Christakes, Commissioner Ashok Dhingra

Planning Commission Members Absent: None

Staff Present: Brenda Wisneski (Director of Community Development), Jennifer Farrell (Deputy City Attorney), Kurth B. Nelson III (Principal Planner), Danny Giometti (Senior Planner), Chris Johnson (Principal Planner), Martha Ochoa (Management Analyst) and Deanna Despot (Senior Administrative Assistant)

A. APPROVAL OF MINUTES

ITEM 1: MINUTES OF REGULAR PLANNING COMMISSION FROM APRIL 22, 2024

ACTION: Motion made by Commissioner Dhingra, seconded Commissioner Boughen to approve the Minutes of the Regular Planning Commission Meeting of April 22, 2024. Motion carried 5-0-0.

AYES: Opel, Nelson, Boughen, Christakes, Dhingra
NOES: None
ABSENT: None
ABSTAIN: None

B. PUBLIC COMMENTS

There were no Public Comments.

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C. CONSENT CALENDAR

There were no items on the Consent Calendar.

D. PUBLIC HEARING

ITEM 2: ANTENNA USE PERMIT AUP24-0001; COASTAL DEVELOPMENT PERMIT CDP24-0007 AND MINOR CONDITIONAL USE PERMIT CUP24-0002 TO PERMIT THE INSTALLATION OF PANEL AND MICROWAVE ANTENNAS HOUSED WITHIN A FAUX MANSARD ROOFTOP ENCLOSURE, PROJECTING A MAXIMUM OF 7.29-FEET ABOVE THE TOP OF THE EXISTING ROOFLINE. THE PROJECT ALSO INCLUDES THE INSTALLATION OF WALL MOUNTED PANEL ANTENNAS HOUSED WITHIN AN ENCLOSURE ALONG THE SOUTHERN SIDE WALL OF THE EXISTING BUILDING

Applicant: Peter Blied/Plancom Inc.

Owner: Blue Lantern Property, LLC

Location: 34085 Pacific Coast Highway (APN: 672-231-07)

Request: Approval of entitlements to permit the installation of roof and wall mounted panel and microwave antennas on an existing building located at 34085 Pacific Coast Highway.

Recommendation: This item has been pulled by staff. No action is necessary.

Environmental: Pursuant to the California Environmental Quality Act (CEQA), the project is categorically exempt per Section 15301 of the CEQA Guidelines (Class 1 – Existing Facility) since the project consists of a minor alteration to an existing structure.

PUBLIC COMMENTS

There were no Public Comments.

ACTION: No action taken. This item was pulled by staff.

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ITEM 3: COASTAL DEVELOPMENT PERMIT CDP23-0025 AND MINOR SITE DEVELOPMENT PERMIT SDP24-0012(M) FOR THE PARTIAL DEMOLITION, ADDITION AND REMODEL TO AN EXISTING NONCONFORMING, TWO-STORY, SINGLE-FAMILY DWELLING LOCATED ON A COASTAL BLUFF LOT

Applicant: Ali Samsami at CJ Light and Associates

Owner: Jeffrey and Orsi Crawford

Location: 33 Monarch Bay Drive (APN 670-141-39)

Request: Approval of a Coastal Development Permit and Minor Site Development Permit for the partial demolition, addition and remodel to a nonconforming, two-story, single-family dwelling within the City's Coastal Zone and the Appeals Jurisdiction of the California Coastal Commission.

Recommendation: That the Planning Commission adopt the attached resolution approving Coastal Development Permit CDP23-0025 and Minor Site Development Permit SDP24-0012(M).

Environmental: Pursuant to the California Environmental Quality Act (CEQA), the project is found to be Categorically Exempt per Section 15301(a) (Class 1 – Existing Facilities) in that the project involves alterations to an existing single-family dwelling.

Danny Giometti (Senior Planner) provided a staff report and answered questions from the Planning Commissioners.

PUBLIC COMMENTS

There were no Public Comments.

ACTION: Motion made by Commissioner Dhingra, seconded by Commissioner Christakes to adopt the resolution approving Coastal Development Permit CDP23-0025 and Minor Site Development Permit SDP24-0012(M). Motion carried 5-0-0.

AYES: Opel, Nelson, Boughen, Christakes, Dhingra
NOES: None
ABSENT: None
ABSTAIN: None

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ITEM 4: COASTAL DEVELOPMENT PERMIT CDP24-0006 TO ESTABLISH A CAFE WITHIN AN EXISTING BUILDING AND TO DEVELOP AN OUTDOOR PATIO, LOCATED AT 24200 DANA POINT HARBOR DRIVE

Applicant: Jim Miller (Coffee Importers)

Owner: County of Orange

Location: 24200 Dana Point Harbor Drive (APN: 682-171-05)

Request: A request to establish a café (Coffee Importers) within an existing 2,613 square foot building and the development of a 1,250 square foot outdoor dining area.

Recommendation: That the Planning Commission adopt the Resolution approving Coastal Development Permit CDP24-0006.

Environmental: This project is categorically exempt (Class 1 - Section 15301(a) – Existing Facilities) from the provisions of the California Environmental Quality Act (CEQA) since the project involves leasing an existing building and proposes minor interior and exterior alterations to accommodate the proposed use.

Alyssa Gonzales (Associate Planner) provided a staff report and answered questions from the Planning Commissioners.

PUBLIC COMMENTS

Steven Carpenter (Capistrano Beach) spoke in support of the item.

Toni Nelson (Capo Cares) spoke in support of the item.

ACTION: Motion made by Vice-Chair Nelson, seconded by Commissioner Dhingra to adopt the Resolution approving Coastal Development Permit CDP24-0006. Motion carried 5-0-0.

AYES: Opel, Nelson, Boughen, Christakes, Dhingra
NOES: None
ABSENT: None
ABSTAIN: None

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ITEM 5: GENERAL PLAN AMENDMENT GPA20-0002, ZONE CHANGE ZC24-0001, SPECIFIC PLAN SP24-0001, LOCAL COASTAL PROGRAM AMENDMENT LCPA20-0002, COASTAL DEVELOPMENT PERMIT CDP20-0005, SITE DEVELOPMENT PERMIT SDP20-0007, VESTING TENTATIVE PARCEL MAP VTPM20-0001, DEVELOPMENT AGREEMENT DA24-0001, AND CERTIFICATION OF AN ENVIRONMENTAL IMPACT REPORT TO ALLOW THE SUBDIVISION OF THE SUBJECT SITE AND THE CONSTRUCTION OF A 306 UNIT APARTMENT COMPLEX, SIX LEVEL PARKING STRUCTURE, RECREATIONAL AMENITIES, AND SITE IMPROVEMENTS AT 26126 VICTORIA BOULEVARD

Applicant: Toll Brothers Apartment Living

Owner: Capistrano Unified School District

Location: 26126 Victoria Boulevard (APN: 668-361-01)

Request: A request for a General Plan Amendment, Zone Change, Specific Plan, Local Coastal Program Amendment, Coastal Development Permit, Site Development Permit, Vesting Tentative Parcel Map and development agreement to allow a 306-unit apartment complex with a six level (one basement level) 586 space parking structure, recreational amenities, and site improvements.

Recommendation: That the Planning Commission:

- (1) Adopt a Resolution recommending City Council approval and adoption General Plan Amendment GPA20-0002, (Action Document 1);
- (2) Adopt a Resolution recommending City Council approval and adoption Zone Change ZC24-0001, (Action Document 2);
- (3) Adopt a Resolution recommending City Council approval and adoption Local Coastal Program Amendment LCPA20-0002, (Action Document 3);
- (4) Adopt a Resolution, recommending City Council approval and adoption certification of Final Environmental Impact Report SCH#2021070304 (Action Document 4);

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- (5) Adopt a Resolution recommending the City Council enter into a Development Agreement DA24-0001 with the property owners (Action Document 5);
- (6) Adopt a Resolution recommending City Council approval of the Victoria Boulevard Specific Plan SP24-0001 (Action Document 6); and
- (7) Adopt a Resolution approving Coastal Development Permit CDP20-0005, Site Development Permit SDP20-0007, and Vesting Tentative Parcel Map VTPM20-0001 (Action Document 7).

Environmental:

Pursuant to the provisions of the California Environmental Quality Act (CEQA), an Environmental Impact Report (SCH# 2021070304) has been prepared for the proposed project and the Final EIR is available on the City's website for public review.

John Chiampa (Principal Planner) provided a staff report and answered questions from the Planning Commissioners.

Michael McCann (Toll Prothers Apartment Living) provided a presentation.

Giancarlo Ganddini, PE, PTP (Ganddini Group, Inc) answered questions from the Planning Commissioners.

PUBLIC COMMENTS

Chase Preciado (Lozeau Drury LLP) spoke in opposition of the item.

Don Kappauf (Capo Beach) spoke in support of the item.

Richard Law (Capo Beach) spoke in opposition of the item.

Brent Neumeyer (Capo Beach) spoke opposition of the item.

Tom McNicholas (Langa Niguel) spoke in support of the item.

Jim Schad (Dana Point) spoke in opposition of the item.

Steven Carpenter (Capistrano Beach) spoke in opposition of the item.

Keith Johannes (Dana Point Historical Society) spoke neutrally of the item.

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Chip Ahlswede (Apartment Association of Orange County) spoke in support of the item.

Rick Morgan (Dana Point) spoke in opposition of the item.

Melissa Caldwell (DHHS PTSA) spoke in support of the item.

Toni Nelson (Capo Cares) spoke in support of the item.

Debbi Mellah (Capo Beach) spoke in opposition of the item.

Katie Andersen (Dana Hills High School) spoke in support of the item.

Joe Soto (Capo Beach) spoke in opposition of the item.

John Tafoya (Western States Regional Council of Carpenters) spoke in opposition of the item.

Zen Ziejewski (Capo Beach) spoke in support of the item.

Larry Dorn (Newport Beach) spoke in opposition of the item.

Rachael Palisin (Capo Beach) spoke in opposition of the item.

ACTION: Motion made by Commissioner Dhingra, seconded by Vice-Chair Nelson to approve (1) adopt a Resolution recommending City Council approval and adoption General Plan Amendment GPA20-0002, (2) adopt a Resolution recommending City Council approval and adoption Zone Change ZC24-000, (3) adopt a Resolution recommending City Council approval and adoption Local Coastal Program Amendment LCPA20-0002, (4) adopt a Resolution recommending City Council approval and adoption certification of Final Environmental Impact Report SCH#2021070304, (5) adopt a Resolution recommending the City Council enter into a Development Agreement DA24-0001 with the property owners, (6) adopt a Resolution recommending City Council approval of the Victoria Boulevard Specific Plan SP24-0001, (7) adopt a Resolution approving Coastal Development Permit CDP20-0005, Site Development Permit SDP20-0007, and Vesting Tentative Parcel Map VTPM20-0001 with an added Condition, 102. Prior to offering on-site parking to San Felipe de Jesus Church, any other off-site property or business, the applicant shall obtain a Minor Site Development Permit per Dana Point Zoning Code Section 9.35.060(c)(3), to allow joint parking. Motion carried 5-0-0.

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AYES: Opel, Nelson, Boughen, Christakes, Dhingra
NOES: None
ABSENT: None
ABSTAIN: None

E. OLD BUSINESS

There was no Old Business.

F. NEW BUSINESS

There was no New Business.

G. STAFF REPORTS

Brenda Wisneski (Community Development Director) announced the upcoming General Plan Advisory Committee Community Open House scheduled for June 5, 2024 at 6:00 p.m. at the Dana Point Community Center.

H. COMMISSIONER COMMENTS

There were no Commissioner Comments.

I. ADJOURNMENT

Chair Opel adjourned the meeting at 8:48 p.m. The *next* Regular Meeting of the Planning Commission will be held on Monday, May 27, 2024, beginning at 6:00 p.m. (or as soon thereafter) in the City Council Chambers located at 33282 Golden Lantern, Suite 210, Dana Point, California.



Mary Opel, Planning Commission Chair

SUPPORTING DOCUMENT P: Appeal Letter

T 510.836.4200
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May 13, 2024

Via Email

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CC: Brenda Wisneski, Community
Development Director

**Re: Comment on the Environmental Impact Report prepared for the Victoria
Boulevard Apartments, State Clearinghouse No. 2021070304**

Dear Chair Opel and Honorable Members of the Planning Commission,

I am writing on behalf of Supporters Alliance for Environmental Responsibility ("SAFER") and its members living and working in and around the City of Dana Point regarding the Environmental Impact Report ("EIR") prepared for the Victoria Boulevard Apartments Project ("Project"). SAFER's review of the EIR was assisted by Baseline Environmental Consulting and indoor air quality expert Francis Offermann, CIH, whose written comments and CVs are attached as Exhibits A and B, respectively.

As discussed below, the City lacks substantial evidence to support the EIR's conclusions that the Project will not have a significant impact on climate change, human health, air quality, and noise. Additionally, the EIR violates CEQA because it fails to evaluate the feasibility of increasing reliance on renewable resources such as making using 100% renewable energy for the Project or some lesser amount that is beyond the minimum Title 24 requirements. The EIR also fails to evaluate strategies for reducing reliance on fossil fuels by prohibiting natural gas. Furthermore, the Project violates state and local laws, including the Surplus Land Act and the City's General Plan.

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Accordingly, SAFER requests that the City deny the Project and decline to certify the EIR until the deficiencies of the EIR are remedied and the EIR is recirculated for public review and comment.

PROJECT DESCRIPTION

The Project is located at 26126 Victoria Blvd. in Dana Point, California and includes the construction, use, and maintenance of a two- to three-story residential building complex with 306 dwelling units on a 5.51-acre site in the southeastern portion of the Doheny Village area of the City. The site is currently developed with six structures and is used by the Capistrano Unified School District Grounds Department for operations, maintenance, storage, bus/vehicle wash area, and refueling of school buses and other district vehicles.

LEGAL STANDARD

CEQA requires that an agency analyze the potential environmental impacts of its proposed actions in an EIR, except in certain limited circumstances. The EIR is the very heart of CEQA. (*Dunn-Edwards v. BAAQMD* (1992) 9 Cal.App.4th 644, 652.) “The ‘foremost principle’ in interpreting CEQA is that the Legislature intended the act to be read so as to afford the fullest possible protection to the environment within the reasonable scope of the statutory language.” (*Communities for a Better Environment v. Calif. Resources Agency* (2002) 103 Cal.App.4th 98, 109.)

CEQA has two primary purposes. First, CEQA is designed to inform decision makers and the public about the potential, significant environmental effects of a project. (14 Cal. Code Regs. (“CEQA Guidelines”) § 15002(a)(1).) “Its purpose is to inform the public and its responsible officials of the environmental consequences of their decisions before they are made. Thus, the EIR ‘protects not only the environment but also informed self-government.’” (*Citizens of Goleta Valley v. Board of Supervisors* (1990) 52 Cal.3d 553, 564.) The EIR has been described as “an environmental ‘alarm bell’ whose purpose it is to alert the public and its responsible officials to environmental changes before they have reached ecological points of no return.” (*Berkeley Keep Jets Over the Bay v. Bd. of Port Comm’rs.* (2001) 91 Cal.App.4th 1344, 1354 (“*Berkeley Jets*”); *County of Inyo v. Yorty* (1973) 32 Cal.App.3d 795, 810.)

Second, CEQA requires public agencies to avoid or reduce environmental damage when “feasible” by requiring “environmentally superior” alternatives and all feasible mitigation measures. (CEQA Guidelines § 15002(a)(2) and (3); *see also, Berkeley Jets*, 91 Cal.App.4th 1344, 1354; *Citizens of Goleta Valley v. Board of Supervisors* (1990) 52 Cal.3d 553, 564.) The EIR serves to provide agencies and the public with information about the environmental impacts of a proposed project and to “identify ways that environmental damage can be avoided or significantly reduced.” (CEQA Guidelines § 15002(a)(2).) If the project will have a significant effect on the environment, the agency may approve the project only if it finds that it has “eliminated or substantially lessened all significant effects on the environment where feasible” and that any unavoidable significant effects on the environment are “acceptable due to overriding concerns.” (Pub.Res.Code (“PRC”) § 21081; CEQA Guidelines § 15092(b)(2)(A) & (B).) The

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lead agency may deem a particular impact to be insignificant only if it produces rigorous analysis and concrete substantial evidence justifying the finding. (*Kings County Farm Bureau v. City of Hanford* (1990) 221 Cal.App.3d 692, 732.)

While the courts review an EIR using an “abuse of discretion” standard, “the reviewing court is not to ‘uncritically rely on every study or analysis presented by a project proponent in support of its position. A ‘clearly inadequate or unsupported study is entitled to no judicial deference.’” (*Berkeley Jets*, 91 Cal. App. 4th 1344, 1355 [quoting, *Laurel Heights Improvement Assn. v. Regents of University of California*, 47 Cal. 3d 376, 391 409, fn. 12 (1988)].) “A prejudicial abuse of discretion occurs “if the failure to include relevant information precludes informed decisionmaking and informed public participation, thereby thwarting the statutory goals of the EIR process.” (91 Cal.App.4th at 1355; *see also*, *San Joaquin Raptor/Wildlife Rescue Center v. County of Stanislaus* (1994) 27 Cal.App.4th 713, 722.)

DISCUSSION

I. The EIR Fails to Analyze the Potentially Significant Impact of Diesel Particulate Matter Emissions During Project Construction on Nearby Sensitive Receptors.

Project construction will generate toxic air contaminants like diesel particulate matter (“DPM”) and nearby residences located on adjacent parcels will be exposed to these emissions. (Ex. A, p. 2.) As a cancer-causing agent of concern, DPM contains 40 toxic chemicals, including benzene, arsenic and lead.¹ DPM is listed separately by the State of California as a toxic air contaminant known to cause cancer in humans.² According to the US Environmental Protection Agency, “[e]xposure to diesel exhaust can lead to serious health conditions like asthma and respiratory illnesses and can worsen existing heart and lung disease, especially in children and the elderly. These conditions can result in increased numbers of emergency room visits, hospital admissions, absences from work and school, and premature deaths.”³

¹ www.p65warnings.ca.gov/fact-sheets/diesel-engine-exhaust.

² <https://oehha.ca.gov/media/downloads/proposition-65/p65chemicalslistsinglelisttable2021p.pdf>.

³ <https://www.epa.gov/dera/learn-about-impacts-diesel-exhaust-and-diesel-emissions-reduction-act-dera>.

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Figure 1: Sensitive Receptors (blue)
near the Project Site (red)



Despite this potentially significant impact on human health, the EIR failed to analyze health risks to nearby sensitive receptors during Project construction as a result of DPM emissions. (Ex. A, pp. 2-4.) Instead, the City compared the Project's construction emissions of *criteria air pollutants* and precursors to the South Coast Air Quality District's Localized Significance Thresholds ("LST") in order to reach its conclusion that the Project will not have any health risks. Reliance on LSTs for this purpose does not address the impacts of DPM on nearby residents because DPM is not a criteria air pollutant. There is no LST for diesel particulate matter because LSTs "were not designed to evaluate localized health risks from exposure to TACs such as DPM." (*Id.*, p. 3.)

According to experts at SWAPE,⁴ the Project's DPM emissions will generate cancer risks to infants and children of 128 and 82.6 per one million, which exceeds the South Coast Air Quality District's threshold of significance of 10 per million. SWAPE's comments are substantial evidence that the Project's construction will significantly impact human health. Since the City failed to analyze this impact, it lacks substantial evidence to conclude that the impact will be less than significant. The EIR must be revised to analyze and mitigate this impact.

II. The EIR's Conclusion that the Project will not have a Significant Noise Impact is Not Supported by Substantial Evidence.

For a number of reasons, the EIR's conclusion that the Project's construction noise will not have a significant impact is not supported by substantial evidence.

First, the noise analysis does not include the equipment that will cause the loudest noise. In its analysis of maximum noise levels generated during construction, the EIR reports that

⁴ SWAPE's March 3, 2022 comments were submitted as an attachment to the March 6, 2023 comments of the Southwest Carpenters and are included in the FEIR. (FEIR Comment 02-8.)

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graders would generate the loudest noise level of 82 dBA at nearby sensitive receptors. However, the noise analysis did not include noise generated by pile drivers, which will be needed to install pile foundation for the parking structure. (See, DEIR, pp. 5.4-16 and 5.4-17; Ex. A, p. 6.) Baseline explains that "An impact pile driver would generate a maximum noise level of 101 dBA at 50 feet, which would result in a noise level of 97 dBA at a sensitive receptor located 70 feet away from the project site. This is significantly louder than the noise levels disclosed in the Draft EIR" (Ex. A, p. 6.) Without disclosing noise generated by pile driving, the EIR's conclusion that noise impacts would be less than significant is not supported by substantial evidence.

Second, the EIR's conclusion that construction noise will be less than significant is based on the claim that "... the use of temporary walls or noise barriers at the discretion of the Director of Public Works to block and deflect noise (which would result in a sound reduction of up to 20 dBA)." (DEIR, 5.11-10.) However, the EIR provides no evidence to support this statement. Indeed, "[a]ccording to Appendix A of the Federal Highway Administration's *Roadway Construction Noise Model User's Guide*, a temporary noise barrier that just barely breaks the line-of-sight between the construction equipment and the receptor (e.g., a plywood barrier) can reduce noise levels by about 3 dBA, which is significantly less than the 20 dBA noise reduction reported in the Draft EIR." (Ex. A, p. 6.) Accordingly, even if noise barriers are used, the Project could generate noise at nearby sensitive receptors of up to 94 dBA. (*Id.*)

III. The EIR's Selected Noise Threshold Impermissibly Obscures the Project's Impacts.

"[A] threshold of significance cannot be applied in a way that would foreclose the consideration of other substantial evidence tending to show the environmental effect [] might be significant." (*Protect the Historic Amador Waterways v. Amador Water Agency* (2004) 116 Cal.App.4th 1099, 1109.) Even when an accepted method and standards are used to assess a significant impact, the EIR's analysis can nevertheless be rejected if a reviewing court concludes its characterization of a significant impact does not provide information sufficient to give the public and decisionmakers a complete picture of its nature and scope. (See *Sierra Club v County of Fresno* (2018) 6 Cal.5th 502 [reliance on air pollution control district's standard of significance coupled with description of potential health impacts found inadequate]; *City of Long Beach v City of Los Angeles* (2018) 19 Cal.App.5th 465, 483 [use of industry-accepted protocol to assess project's air pollution impacts provided incomplete analysis of frequency and duration of excessive pollution]; *Berkeley Keep Jets Over the Bay Comm. v Board of Port Comm'rs* (2001) 91 Cal.App.4th 1344, 1372 [EIR's analysis of significance of aircraft noise impacts using standard industry methodology for measuring cumulative noise rejected because single event noise was not also considered].)

The City improperly fails to disclose and mitigate significant construction noise impacts by relying exclusively on the City's General Plan as a threshold of significance. The EIR

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concludes that the Project's construction noise does not constitute a significant impact because the noise is consistent with section 11.10.014 of the City's General Plan, which exempts *any level of noise* associated with construction on real property from the City's noise ordinance standards that otherwise governs noise, as long as the noise is generated between 7:00 am and 8:00 pm Monday through Saturday. (DEIR, 5.11-15 to 5.11-19.) The EIR's reliance on the City's General Plan as a threshold for construction noise violates CEQA because it forecloses the possibility of *any level* of noise to be deemed as a significant impact, no matter how loud.

According to the Federal Transit Administration, construction noise levels that exceed 90 dBA at residential land uses may result in a substantial adverse reaction. (Ex. A, p. 6.) As explained above, piledriving required for Project construction will result in a noise level of 97 dBA to nearby residential users. (*Id.*) This is a significant impact that the City must consider, disclose, and mitigate.

IV. The EIR's Conclusion that the Project is Consistent with Statewide GHG Reduction Plans is Not Supported by Substantial Evidence.

To evaluate the significance of the Project's climate change impacts, the EIR "focuses on [the Project's] consistency with Statewide, regional, and local plans adopted for the purpose of reducing and/or mitigating GHG emissions." (DEIR, p. 5.9-12.) "This evaluation of consistency with such plans is the sole basis for determining the significance of the project's GHG-related impacts on the environment." (*Id.*) "[I]f the project complies with these plans, policies, regulations, and requirements, the project would result in a less than significant impact because it would be consistent with the overarching State and regional plans for GHG reduction." (*Id.*, p. 5.9-13.)

CARB adopted the *2022 Scoping Plan for Achieving Carbon Neutrality* ("2022 Scoping Plan"), in December 2022.⁵ The 2022 Scoping Plan details strategies for achieving California's policy of carbon neutrality by 2045. (*Id.*; Ex. A, pp. 3-4.) Appendix D of the 2022 Scoping Plan⁶ includes recommendations that local government actions that align with the State's climate goals, with a particular focus on transportation electrification, reducing vehicle miles traveled ("VMT"), and building decarbonization. (Ex. A, p. 4.) Table 3 of Appendix D specifically addresses residential and mixed-use projects. (2022 Scoping Plan, App. D, p. 21-22.) "Residential and mixed-use projects that have all of the key project attributes in Table 3 should accommodate growth in a manner consistent with State GHG reduction and equity prioritization

⁵ Despite being released in January 2023, the Draft EIR analyzed the Project's consistency with the 2017 CARB Scoping Plan rather than the 2022 Scoping plan released in December 2022. The FEIR includes a discussion of the 2022 Scoping Plan for the first time.

⁶ <https://ww2.arb.ca.gov/sites/default/files/2022-11/2022-sp-appendix-d-local-actions.pdf> (last accessed March 20, 2024).

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goals.” (*Id.*, p. 21.) The project attributes listed in Table 3 only apply to projects in cities that have not adopted a local climate action plan (“CAP”), such as Dana Point. (*Id.*)

Priority Areas	Key Project Attribute
Transportation Electrification	Provides electric vehicle (EV) charging infrastructure that, at minimum, meets the most ambitious voluntary standard in the California Green Building Standards Code at the time of project approval.
VMT Reduction	Is located on infill sites that are surrounded by existing urban uses and reuses or redevelops previously undeveloped or underutilized land that is presently served by existing utilities and essential public services (e.g., transit, streets, water, sewer).
	Does not result in the loss or conversion of natural and working lands.
	Consists of transit-supportive densities (minimum of 20 residential dwelling units per acre), or is in proximity to existing transit stops (within a half mile), or satisfies more detailed and stringent criteria specified in the region’s Sustainable Communities Strategy.
	Reduces parking requirements by: Eliminating parking requirements or including maximum allowable parking ratios (i.e., the ratio of parking spaces to residential units or square feet); or providing residential parking supply at a ratio of less than one parking space per dwelling unit; or for multifamily residential development, requiring parking costs to be unbundled from costs to rent or own a residential unit.
	At least 20 percent of units included are affordable to lower-income residents.
Building Decarbonization	Results in no net loss of existing affordable units
	Uses all-electric appliances without any natural gas connections and does not use propane or other fossil fuels for space heating, water heating, or indoor cooking.

Source: 2022 Scoping Plan, Appendix D, Table 3, p. 22

The Project is not consistent with the key project attributes described in Table 3 of the 2022 Scoping Plan. For example, the Project does not “meet[] the most ambitious voluntary standard in the California Green Building Standards Code at the time of project approval.” (2022 Scoping Plan, Appendix D, Table 3, p. 22.) The EIR discloses that the Project would comply with the mandatory requirements of the current Title 24 California Green Building Standards (“CalGreen”) (FEIR, p. 2-10). But CalGreen includes two tiers of *voluntary* measures:

- Tier 1 prerequisites set a higher baseline than CalGreen mandatory measures.
- Tier 2 prerequisites include all of Tier 1 prerequisites plus some enhanced or additional measures.

(Ex. A, pp. 4-5.)

CalGreen’s Tier 2 EV charging infrastructure standard is currently the “most ambitious voluntary standard in the California Green Building Standards Code.” (See 2022 Scoping Plan, Appendix D, Table 3, p. 22.) Because the Project does not commit to implementing Tier 2 EV Infrastructure requirements, the Project is inconsistent with the 2022 Scoping Plan.

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In addition, Table 3 requires buildings to use all electric appliances without natural gas connections and prohibits propane or other fossil fuels for space heating, water heating, and indoor cooking. (2022 Scoping Plan, Appendix D, Table 3, p. 22.) Yet the Project would use natural gas for heating and cooking. (FEIR, 2-10.) Table 3 also requires that “[a]t least 20 percent of units included are affordable to lower-income residents.” (2022 Scoping Plan, Appendix D, Table 3, p. 23.) The Project conflicts with this project attribute as well because it only requires 10 percent of the units to be affordable to low-income residents.⁷ (FEIR, p. 3-7.)

By failing to incorporate three key project attributes, the Project is inconsistent with the 2022 Scoping Plan. The Project would have a significant GHG impact by conflicting with a Statewide GHG reduction plan to achieve the State’s carbon neutrality goals by 2045. (Ex. A, p. 5.)

The FEIR attempted to evaluate the Project’s consistency with the 2022 Scoping Plan but did so incorrectly. (See FEIR, pp. 2-9 to 2-11.) Baseline explains that the EIR “erroneously compared the project design to examples of GHG reductions strategies in Appendix D of the 2022 Scoping Plan that are recommended for a local CAP and not an individual project.” (Ex. A, p. 5.) For example, Table 2 of Appendix D lists recommendations local jurisdiction should consider as a starting point when contextualizing the State’s climate goals, GHG emissions inventory sectors, and actions for a CAP target-setting process to help align local targets with the State’s climate goals.” (See 2022 Scoping Plan, Appendix D, p. 15.) One of the actions listed is “All electric appliances in new construction beginning 2026 (residential) and 2029 (commercial).” (2022 Scoping Plan, Appendix D, Table 2, p. 16.) The FEIR then concludes that the Project’s use of natural gas for heating and cooking is consistent with the 2022 Scoping Plan because Project construction is expected to be complete by 2026. (FEIR, p. 2-10.)

The EIR’s conclusion that the Project will not conflict with the 2022 Scoping Plan is not supported by substantial evidence because the EIR did not properly evaluate the project’s consistency with the 2022 Scoping Plan or demonstrate how the project would do its fair share to achieve the State’s long term climate action goal for carbon neutrality by 2045. (Ex. A, p. 6.) The Project conflicts with the 2022 Scoping Plan, which constitutes a significant impact that must be mitigated.

V. The EIR Fails to Disclose and Mitigate the Project’s Significant Indoor Air Quality Impacts.

The EIR fails to discuss, disclose, analyze, and mitigate the significant health risks posed by the Project from Formaldehyde, a toxic air contaminant (“TAC”). Certified Industrial

⁷ Five percent will be affordable to very-low income and five percent to low-income residents. (FEIR, p. 3-7.)

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Hygienist, Francis Offermann, PE, CIH conducted a review of the Project and relevant documents regarding the Project's indoor air emissions. Mr. Offermann is one of the world's leading experts on indoor air quality and has published extensively on the topic. As discussed below and in Mr. Offermann's comments, the Project's emissions of formaldehyde to the air will result in very significant cancer risks to future residents of the Project's residential units. Mr. Offerman's comments and CV are attached as Exhibit B.

Formaldehyde is a known human carcinogen and is listed by the State as a toxic air contaminant ("TAC"). The South Coast Air Quality Management District ("SCAQMD") has established a significance threshold of health risks for carcinogenic TACs of 10 in one million. (Ex. B, p. 3.) The EIR fails to acknowledge the significant indoor air emissions that will result from the Project. Specifically, there is no discussion of impacts or health risks, no analysis, and no identification of mitigations for significant emissions of formaldehyde to air from the Project.

Mr. Offermann explains that many composite wood products typically used in home and apartment building construction contain formaldehyde-based glues which off-gas formaldehyde over a very long period. He states, "[t]he primary source of formaldehyde indoors is composite wood products manufactured with urea-formaldehyde resins, such as plywood, medium density fiberboard, and particleboard. These materials are commonly used in building construction for flooring, cabinetry, baseboards, window shades, interior doors, and window and door trims." (Ex. B, pp. 2-3.)

Mr. Offermann found that future residents of the Project's residential units will be exposed to a cancer risk of 120 per million, even assuming all materials are compliant with the California Air Resources Board's ("CARB") formaldehyde airborne toxics control measure. (Ex. B, pp. 4-5) This is more than 12 times SCAQMD's CEQA significance threshold of 10 per million.

Mr. Offermann concludes that these significant environmental impacts must be analyzed in an EIR and mitigation measures should be imposed to reduce the risk of formaldehyde exposure. (Ex. B, pp. 12-14.) He prescribes a methodology for estimating the Project's formaldehyde emissions in order to do a more project-specific health risk assessment. (*Id.*, p. 9.) Mr. Offermann also suggests several feasible mitigation measures, such as requiring the use of no-added-formaldehyde composite wood products, which are readily available. (*Id.*, p. 19.) Mr. Offermann also suggests requiring air ventilation systems which would reduce formaldehyde levels. (*Id.* p. 13.) Since the EIR does not analyze this impact at all, none of these or other mitigation measures have been considered.

When a Project exceeds a duly adopted CEQA significance threshold, as here, this alone establishes substantial evidence that the project will have a significant adverse environmental impact. Indeed, in many instances, such air quality thresholds are the only criteria reviewed and treated as dispositive in evaluating the significance of a project's air quality impacts. (See, e.g.

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Schenck v. County of Sonoma (2011) 198 Cal.App.4th 949, 960 [County applies Air District's "published CEQA quantitative criteria" and "threshold level of cumulative significance"]; see also *Communities for a Better Environment v. California Resources Agency* (2002) 103 Cal.App.4th 98, 110-111 ["A 'threshold of significance' for a given environmental effect is simply that level at which the lead agency finds the effects of the project to be significant"].)

The California Supreme Court made clear the substantial importance that an air district significance threshold plays in providing substantial evidence of a significant adverse impact. (*Communities for a Better Environment v. South Coast Air Quality Management Dist.* (2010) 48 Cal.4th 310, 327 ["As the District's established significance threshold for NOx is 55 pounds per day, these estimates [of NOx emissions of 201 to 456 pounds per day] constitute substantial evidence supporting a fair argument for a significant adverse impact."].) Since expert evidence demonstrates that the Project will exceed the SCAQMD's CEQA significance threshold, there is substantial evidence that an "unstudied, **potentially significant environmental effect**]" exists. (See *Friends of Coll. of San Mateo Gardens v. San Mateo Cty. Cmty. Coll. Dist.* (2016) 1 Cal.5th 937, 958 [emphasis added].)

The failure of the EIR to address the Project's formaldehyde emissions is contrary to the California Supreme Court's decision in *California Building Industry Ass'n v. Bay Area Air Quality Mgmt. Dist.* (2015) 62 Cal.4th 369, 386 ("CBLA"). In that case, the Supreme Court expressly holds that potential adverse impacts to future users and residents from pollution generated by a proposed project **must be addressed** under CEQA. At issue in CBLA was whether the Air District could enact CEQA Guidelines that advised lead agencies that they must analyze the impacts of adjacent environmental conditions on a project. The Supreme Court held that CEQA does not generally require lead agencies to consider the environment's effects on a project. (CBLA, 62 Cal.4th at 800-01.) However, to the extent a project may exacerbate existing environmental conditions at or near a project site, those would still have to be considered pursuant to CEQA. (*Id.* at 801.) In so holding, the Court expressly held that CEQA's statutory language required lead agencies to disclose and analyze "impacts on **a project's users or residents** that arise **from the project's effects** on the environment." (*Id.* at 800 [emphasis added].)

The carcinogenic formaldehyde emissions identified by Mr. Offermann are not an existing environmental conditions. Those emissions to the air will be from the Project. People will be residing in the Project's buildings once built and emitting formaldehyde. Once built, the Project will begin to emit formaldehyde at levels that pose significant direct and cumulative health risks. The Supreme Court in CBLA expressly finds that this type of air pollution emission and health impact by the project on the environment and a "project's users and residents" must be addressed in the CEQA process. The existing TAC sources near the Project site would have to be considered in evaluating the cumulative effect on future residents of both the Project's TAC emissions as well as those existing off-site emissions.

The Supreme Court's reasoning is well-grounded in CEQA's statutory language. CEQA expressly includes a project's effects on human beings as an effect on the environment that must

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be addressed in an environmental review. “Section 21083(b)(3)’s express language, for example, requires a finding of a ‘significant effect on the environment’ (§ 21083(b)) whenever the ‘environmental effects of a project will cause substantial adverse effects *on human beings*, either directly or indirectly.’” (*CBLA*, 62 Cal.4th at 800.) Likewise, “the Legislature has made clear—in declarations accompanying CEQA’s enactment—that public health and safety are of great importance in the statutory scheme.” (*Id.* [citing e.g., PRC §§ 21000, 21001].) It goes without saying that the future residents of the Project are human beings and their health and safety must be subject to CEQA’s safeguards.

The City has a duty to investigate issues relating to a project’s potential environmental impacts. (*See County Sanitation Dist. No. 2 v. County of Kern*, (2005) 127 Cal.App.4th 1544, 1597–98. [“[U]nder CEQA, the lead agency bears a burden to investigate potential environmental impacts.”].) The proposed buildings will have significant impacts on air quality and health risks by emitting cancer-causing levels of formaldehyde into the air that will expose future residents to cancer risks potentially in excess of SCAQMD’s threshold of significance for cancer health risks of 10 in a million. Currently, outside of Mr. Offermann’s comments, the City does not have any idea what risks will be posed by formaldehyde emissions from the Project. As a result, the City must include an analysis and discussion in an updated EIR which discloses and analyzes the health risks that the Project’s formaldehyde emissions may have on future residents and identifies appropriate mitigation measures.

VI. The Project’s Energy Analysis is Conclusory and Fails to Comply with CEQA.

In pursuit of CEQA’s goals including the long-term protection of the environment, it is paramount that agencies seriously consider ways to transition to a renewable energy future, as outlined in Appendix F of the CEQA Guidelines. CEQA requires an EIR to analyze a project’s energy conservation impacts. (CEQA Guidelines § 15126.2(b).) Energy conservation under CEQA is defined as the “wise and efficient use of energy.” (CEQA Guidelines, App. F, § I.) The “wise and efficient use of energy” is achieved by “(1) decreasing overall per capita energy consumption, (2) decreasing reliance on fossil fuels such as coal, natural gas and oil, and (3) increasing reliance on renewable energy resources.” (*Id.*)

a. The EIR Does Not Comply with Appendix F of the CEQA Guidelines Because it Fails to Analyze How to Reduce Per Capita Energy Consumption.

Without a comprehensive analysis of how the Project can reduce per capita energy consumption, the EIR fails to fulfill the requirements of Appendix F of the CEQA Guidelines. Critical to an analysis of energy conservation under CEQA is the analysis of decreasing overall per capita energy consumption.

Here, the Project will lead to an increase of electricity, natural gas, and fossil fuel consumption. (DEIR, p. 5.10-10.) At full buildout, the Project would increase annual demand for natural gas by 25,393 therms, electricity by 1,874 Megawatt-hours, and fossil fuel by 352,290 gallons during operation. (*Id.*, p. 5.10-8.) However, the analysis does not go beyond listing the increase of non-renewable energy uses as a result of Project construction and operation. The EIR

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attempts to minimize the significant energy impact directly tied to the Project's operation, explaining that such increase in energy use would only lead to a marginal increase in the consumption of energy across the County. However, the EIR never discusses what this energy consumption means to a per capita basis, and the energy analysis fails to consider feasible opportunities for the Project to decrease per capita energy consumption.

The EIR also explains that the Project will decrease transportation-related energy demand by installing EV charging stations. (DEIR, p. 5.10-9.) However, the EIR fails to specify the amount of parking spaces that can and will be designated for electric vehicle (EV) charging, thereby failing to calculate a quantifiable reduction in per capita energy consumption, or discussing whether additional EV chargers are feasible to further reduce reliance on fossil fuels.

As such, the EIR fails to fulfill the requirements under Appendix F of the CEQA Guidelines. The City must therefore recirculate the EIR to include additional environmental review of the energy impacts and how to reduce per capita consumption.

b. The EIR Erroneously Equates Compliance with Title 24 with an Adequate Energy Impact Analysis.

The EIR's conclusion that the Project will not have a significant energy impact is not supported by substantial evidence because mere compliance with the California Building Energy Efficiency Standards (Cal. Code Regs., tit. 24, part 6 ("Title 24")) does not constitute an adequate analysis of energy. (*League to Save Lake Tahoe Mountain Area Preservation Foundation v. County of Placer* (2022) 75 Cal.App.5th 63, 165 ("League to Save Lake Tahoe"); *Ukiah Citizens for Safety First v. City of Ukiah* (2016) 248 Cal. App. 4th 256, 264-65.) In *California Clean Energy v. City of Woodland*, the court held unlawful an EIR's energy analysis which relied solely upon compliance with Title 24 to conclude that energy impacts would be less than significant. (*California Clean Energy Committee v. City of Woodland* (2014) 225 Cal. App. 4th 173, 209-13 ("City of Woodland").)

The courts have recently affirmed *City of Woodland*, explaining that even where "[an] EIR [has] determined the project's impacts on energy resources would be less than significant," a lead agency must still analyze implementation of all "renewable energy options that might have been available or appropriate for [a] project," including to achieve 100 percent on-site renewable power generation. (*League to Save Lake Tahoe*, at 166-67.) Furthermore, the court explained, a lead agency's failure to consider implementation of all feasible renewable energy proposals raised during the environmental review process constitutes a "prejudicial error." (*Id.* at 168.)

Here, the EIR makes much ado about the Project's compliance with state and local building energy codes but relies on such findings to conclude that the Project will not have any significant energy impacts. (DEIR, p. 5.10-1). Compliance with these plans does not satisfy CEQA's requirement to consider the use of all feasible renewable energy alternatives for the proposed Project. Specifically, the EIR reiterates that the Project will be required to comply with Title 24 and would adopt the most current standards, thereby being more energy efficient than

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earlier versions of Title 24. Such analysis comparing prior Title 24 standards to the current standards is irrelevant and misses the point.

Furthermore, rather than committing to the feasible installation of sustainable and green building materials, the EIR instead merely references the benefits of integrating more sustainable materials into the Project design. (DEIR, p. 5.10-9.) However, much like how adherence with Title 24 would be an insufficient analysis under CEQA, encouraging the use of sustainable materials would only achieve compliance with CalGreen Code. Even then, the analysis fails to adequately consider the feasibility of actual implementation into the Project. Absent any express commitment to use sustainable materials, there is no legally binding requirement to integrate them into the design. Additionally, using sustainable materials for construction is irrelevant to the discussion of the energy impacts during operation. As such, aspirational statements on how the Project may reduce energy impacts and conclusory statements that the Project will comply with Title 24 or the CalGreen Code do not constitute adequate analysis of energy impacts. Therefore, the EIR must be recirculated to include further analysis of energy impacts that covers the topics in Appendix F.

c. The EIR Incorrectly Relies on Conclusory Statements Without Adequately Evaluating the Feasibility of Integrating Renewable Energy Features.

Without any substantive discussion on the Project's integration of renewable energy features, the EIR violates Appendix F of the CEQA Guidelines. An EIR's analysis of a project's energy use "should include the project's energy use for all project phases and components, including transportation-related energy, during construction and operation. In addition to building code compliance, other relevant considerations include, among others, the project's size, location, orientation, equipment use and **any renewable energy features that could be incorporated into the project.**" (CEQA Guidelines § 15126.2(b) (emphasis added).) CEQA requires an EIR to discuss whether any renewable energy features could be incorporated into a project as part of its analysis of energy impacts - even if the EIR ultimately finds the energy impact less than significant. (*League to Save Lake Tahoe Mountain Area Pres. Foundation v. County of Placer* (2022) 75 Cal.App.5th 63, 167 ("League to Save Lake Tahoe"); *City of Woodland*, supra, 225 Cal.App.4th at 213 (failing to undertake "an investigation into renewable energy options that might be available or appropriate for a project" violates CEQA).

The EIR fails to address the extent to which the Project design could integrate feasible renewable energy features to decrease reliance on fossil fuels. The EIR must analyze how the Project can reduce its reliance on fossil fuels, increase reliance on renewable energy, and reduce per capita energy consumption. The EIR fails to do so. For example, the EIR omits any evaluation of the feasibility of installing additional solar and EV chargers, and the feasibility of eliminating natural gas for heating and cooking.

In response to the California Department of Transportation ("Caltrans") suggestion to provide EV charging at the Project site, the IR merely states that the Project will comply with Title 24 requirements. (FEIR, p. 3-26.) Wise and efficient use of energy requires more. The EIR

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must include a discussion of the feasibility of providing EF chargers and solar that go beyond Title 24 requirements.

d. The EIR Fails to Consider How the Project can Decrease Fossil Fuel Reliance.

The EIR fails to fulfill CEQA's requirement of analyzing ways it can decrease its reliance on fossil fuels. To achieve the "wise and efficient use of energy," EIRs must analyze ways to decrease reliance on fossil fuels such as natural gas and oil. (CEQA Guidelines, App. F, § L)

Here, the EIR concedes that the Project's operational natural gas demand will increase and does not evaluate the feasibility of using all-electric heating and cooking equipment, negating the need for any natural gas. Without this discussion, the analysis is incomplete and the less-than-significant conclusion is unsupported by substantial evidence.

The EIR explains that the Project will be developed in compliance with the Victoria Boulevard Specific Plan, which, among other things, is intended to encourage sustainable development by promoting energy efficiency in the Project design. (Victoria Boulevard Specific Plan, p. 1-2.) But merely encouraging certain practices is not an analysis of feasibility and does not mean those practices will occur.

VII. The City Must Adopt the Environmentally Superior Reduced-Intensity Alternative.

One of CEQA's fundamental requirements is that the EIR must identify the "environmentally superior alternative." (CEQA Guidelines §1526.6(e)(2); Kostka & Zischke, *Practice Under the California Environmental Quality Act* §15.37 (Cont. Educ. Of the Bar, 2008).) Furthermore, "public agencies should not approve projects as proposed if there are feasible alternatives or feasible mitigation measures available which would substantially lessen the significant environmental effects of the project" (PRC §§ 21002, 21081). Typically, an EIR identifies the environmentally superior alternative, which is analyzed in detail, while other project alternatives receive more cursory review.

An EIR must describe a range of reasonable alternatives to the Project, or to the location of the Project, which would feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the project and evaluate the comparative merits of the alternatives. "An EIR's discussion of alternatives must contain analysis sufficient to allow informed decision making." (*Laurel Heights Improvement Ass'n v. Regents of University of California* (1988) 47 Cal.3d 389, 404). An EIR must also include "detail sufficient to enable those who did not participate in its preparation to understand and to consider meaningfully the issues raised by the proposed project." (*Id.* at 405)

The analysis of project alternatives must contain an accurate quantitative assessment of the impacts of the alternatives. In *Kings County Farm Bureau v. City of Hanford*, the court found the EIR's discussion of a natural gas alternative to a coal-fired power plant project to be

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inadequate because it lacked necessary “quantitative, comparative analysis” of air emissions and water use. (*Kings County Farm Bureau v. City of Hanford* (1990) 221 Cal.App.3d 692, 733-735.)

Here, the City must adopt the Village Commercial/Residential Zoning District Development Alternative (“VC/R”), which the EIR identified as the environmentally superior alternative. This alternative would reduce numerous environmental impacts, including the air quality, noise, and energy impacts identified by SAFER, while also meeting the basic objectives of the Project. (DEIR, pp. 1-23.)

The DEIR evaluated other components of the Project, such as the proposed supply of housing, landscaping, and amenities versus the alternative. Pursuant to the DEIR, proceeding with the environmentally superior alternative “would not be as substantive as the proposed project,” citing issues related to the loss of private amenities included in the proposed Project. However, the reduction in public amenities should be analyzed in comparison to the fact that the alternative would reduce the Project’s clearly significant environmental impacts while still providing much needed housing supply, including affordable housing, for the City. Furthermore, the VC/R Zoning District Development Alternative would also dedicate a 1.1 acre parcel to serve as public open space, thereby increasing open space for the City. (DEIR, p. 7-10.)

There is nothing in the DEIR to suggest that the VC/R Zoning District Development Alternative is infeasible. (DEIR, p. 1-23.) The EIR discussed the infeasibility of a project alternative of moving the Project to a different site. (DEIR, p. 7-4.) However, the VC/R Zoning District Development Alternative is feasible and will be able to meet the Project objectives. (*Id.* p. 7-16.) In fact, the EIR concedes that the alternative would still fulfill the basic objectives of the Project while also reducing the significant environmental impacts related to air quality, energy, GHG, and noise, among others. (*Id.*)

Therefore, given the feasibility of the alternative, the City is required to adopt the environmentally superior VC/R Zoning District Development Alternative.

VIII. The Project Violates the Surplus Land Act Requirement that 15 Percent of Housing Units are Rented as “Affordable Housing.”

The Project site is public land owned by Capistrano Unified School District (CUSD) and as such, the Surplus Lands Act applies. (FEIR, 3-29.) The Surplus Land Act requires 15 percent of units be rented “at affordable housing cost, as defined in Section 50052.5 of the Health and Safety Code, or affordable rent, as defined in Section 50053 of the Health and Safety Code, *to lower income households* as defined in Section 50079.5 of the Health and Safety Code.” (Gov. Code Sections 54233 and 54233.5.) Section 50079.5 defines “lower income households” as including low income households and extremely low income households. It does not include moderate income households.

According to the EIR, the Project would include five percent very low-income, five percent low-income, and five percent *moderate income* housing options. (FEIR, 3-29.) This does not meet the requirements of the Surplus Land Act because moderate-income housing options do

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not qualify. As such, approval of the Project would constitute a failure to proceed in the manner required by law.

IX. The Project is Inconsistent with the General Plan.

For the following reasons set forth below, the Project is inconsistent with the General Plan. A project is inconsistent with a general plan if it conflicts with a general plan policy that is “fundamental, mandatory, and clear,” regardless of whether it is consistent with other general plan policies. (See *Endangered Habitats League v. County of Orange* (2005) 131 Cal.App.4th 777, 782-83; *Families Unafraid to Uphold Rural El Dorado County v. Bd. of Supervisors* (1998) 62 Cal.App.4th 1332, 1341-42 (“*FUTURE*”).) Moreover, even in the absence of such a direct conflict, an ordinance or development project may not be approved if it interferes with or frustrates the general plan’s policies and objectives. (See *Napa Citizens for Honest Government v. Napa County Bd. of Supervisors*, 91 Cal. App.4th 354, 378-79; see also *Leshner Communications v. City of Walnut Creek*, 52 Cal.App.3d 531, 544 (zoning ordinance restricting development conflicted with growth-oriented policies of general plan).)

A determination that a project is consistent with a general plan is subject to an abuse of discretion standard of review and should be overturned if findings are not supported by substantial evidence. (*Families Unafraid to Uphold Rural El Dorado v. Board of Supervisors of El Dorado County* (1998) 62 Cal.App.4th 1334 (“*FUTURE*”); *Napa Citizens for Honest Government v. Napa County Board of Supervisors* (2001) 91 Cal.App.4th 342, 357.) While a city may weigh and balance non-mandatory policies where its general plan expressly gives it this kind of discretion an agency is not free to ignore policies that are clear and mandatory. (*FUTURE*, supra, 62 Cal.App.4th at 1338.)

As applied, the Project conflicts with the General Plan’s Housing Element. In particular, Policy 1.4 of Goal 1 seeks to “[l]ocate higher density residential development close to public transportation.” (DEIR, p. 5.1-16.) The EIR claims the Project is “consistent” with this policy because “[t]he project is a high-density residential development. The closest bus stop is approximately 4,500 feet southwest of the Specific Plan area at the intersection of Del Obispo and Pacific Coast Highway and is serviced by OCTA routes 1 and 91.” (*Id.*) Identifying the nearest bus stop as one that is nearly one mile away does not constitute a development that is “close to public transit”, thereby conflicting with the Housing Element.

Furthermore, the lack of nearby public transit options creates a conflict and frustrates the objectives set forth under Circulation Element. Specifically, Policy 1.12 of Goal 1 provides for a system that “encourage[s] new development which facilitates transit services, provides for non-automobile circulation, and minimizes vehicles miles traveled.” (DEIR, p. 5.1-17.) The EIR goes into depth about how the Project will increase public access to the coast through the establishment of a bicycle route. However, as shown above, the nearest bus stop is nearly a mile

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away, which frustrates the Circulation Element's objective of facilitating transit services to decrease reliance on non-automobile travel.

In addition, the Project is also inconsistent with the following policies of Goal 4 of the Circulation Element, none of which are included in the EIR's analysis of the Project's consistency with the General Plan:

- Policy 4.2: Require new development to fund transit facilities, such as bus shelters and turn-outs, where deemed necessary.
- Policy 4.3: Ensure accessibility of public transportation for elderly and disabled persons.
- Policy 4.6: Encourage developers to work with agencies providing transit service with the objective of maximizing the potential for transit use by residents and/or visitors.

The Project conflicts with the City's General Plan and will exacerbate the unintended proliferation of environmental impacts. The City should not allow this Project to proceed because doing so would be in direct conflict with the General Plan's policies and objectives. As such, additional environmental review is required before the Project can proceed.

CONCLUSION

For the reasons explained above, SAFER respectfully requests that the Planning Commission deny the Project and decline to certify the EIR and instead direct City staff to prepare a revised EIR. Thank you for considering these comments.

Sincerely,



Marjan Abubo

Lozeau | Drury LLP

Exhibit A



November 3, 2023
23223-00

Marjan Abubo
Lozeau Drury LLP
1939 Harrison St., Suite 150
Oakland, CA 94612

Subject: Review of the Air Quality, Greenhouse Gas, and Noise Analyses for the Victoria Boulevard Apartments

Dear Mr. Abubo:

Baseline Environmental Consulting (Baseline) has reviewed both the Draft Environmental Impact Report (EIR) and Final EIR prepared for the proposed Victoria Boulevard Apartments Project (project) in the City of Dana Point (City) to determine whether potential environmental impacts related to air quality, greenhouse gases (GHG), and noise were appropriately evaluated. The project includes the construction of a three- to five-story, 306-unit apartment complex with an attached six-story (seven level) parking structure and associated amenities. Based on our review, we have identified flaws in the analysis used to support the significance determinations for the EIR, as described in detail below.

Inadequate Analysis of Health Risks from Construction-Related Air Pollutant Emissions

The Draft EIR and Final EIR for the proposed project did not explicitly discuss potential health risks to nearby sensitive receptors exposed to toxic air contaminants (TACs) during construction. In 1998, the California Air Resources Board (CARB) identified diesel particulate matter (DPM) from diesel-powered engines as a TAC based on its potential to cause cancer and other adverse health effects.¹ Adverse health effects associated with particulate matter can vary based on factors such as particle size, source, and chemical composition. DPM is typically composed of carbon particles and a variety of organic compounds including more than 40 known cancer-causing organic substances. Additionally, over 90 percent of DPM is less than 1 micron in diameter and can deposit in the deepest regions of the lungs where the lungs are most susceptible to injury.

¹ California Air Resources Board (CARB), 1998. Initial Statement of Reasons for Rulemaking; Proposed Identification of Diesel Exhaust as a Toxic Air Contaminant, June.



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Project construction would generate DPM emissions from the exhaust of off-road diesel construction equipment. Nearby sensitive receptors who could be exposed to DPM emissions generated during project construction include residences along Victoria Boulevard and Domingo Avenue to the northeast and northwest of the project site, respectively (**Figure 1**). However, the Draft EIR and Final EIR did not provide a quantitative evaluation of the health risks to nearby sensitive receptors exposed to DPM emissions generated during project construction.

Figure 1. Sensitive Receptors near the Project Site



According to the Office of Environmental Health Hazard Assessment (OEHHA), cancer risk should not be estimated for projects lasting less than two months due to the uncertainty in assessing very short-term exposures.² As stated on page 5.8-15 of the Draft EIR, project construction would last approximately 31 months, which is substantially greater than the two-month limitation for short-term exposures recommended by OEHHA. OEHHA also states that

² Office of Environmental Health Hazard Assessment (OEHHA). 2015. Air Toxics Hot Spots Program Guidance Manual for Preparation of Health Risk Assessments. February.



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there is valid scientific concern that the rate of short-term exposure may influence the risk – in other words, a higher exposure to a carcinogen over a short period of time may be a greater risk than the same total exposure spread over a much longer period.

The Draft EIR and Final EIR did not provide a reason for excluding a construction health risk assessment. We are aware that the Draft EIR compared the project's construction emissions of criteria air pollutants and precursors to the South Coast Air Quality Management District's (SCAQMD's) Localized Significance Thresholds (LSTs) to evaluate localized health risks associated with construction emissions. It is important to note that the SCAQMD's LSTs were designed to evaluate localized health risks from exposure to general criteria air pollutant emissions such as fine particulate matter (PM_{2.5}),³ and they were not designed to evaluate localized health risks from exposure to TACs such as DPM. While DPM is a subgroup of PM_{2.5}, the toxicities are not equal and DPM only comprises a relatively small portion of the average PM_{2.5} concentration in outdoor air. For example, in California only about 8 percent of the average ambient PM_{2.5} concentration in outdoor air is comprised of DPM.⁴ Other sources of PM_{2.5} in outdoor air include dust, agriculture, wildfires, and pollen, which are generally less toxic than DPM from the exhaust of construction equipment. As a result, using the SCAQMD's LSTs for PM_{2.5} as a surrogate for DPM emissions during project construction would substantially underestimate the potential health risks to nearby sensitive receptors.

Therefore, a project-specific health risk assessment should be performed to estimate the incremental increase in cancer risk for nearby sensitive receptors exposed to short-term DPM emissions during project construction in accordance with the OEHHA guidance.

Inadequate Analysis of Carbon Neutrality by 2045

Based on the California Supreme Court findings for *Center for Biological Diversity v. Department of Fish & Wildlife* (2015) (62 Cal.4th 204), a project's GHG emissions should be evaluated based on its effect on California's efforts to meet the State's long-term climate goals. As the Supreme Court held in that case, a project that would be consistent with meeting those goals can be found to have a less-than-significant impact on climate change under CEQA. If a project would contribute its "fair share" of what will be required to achieve those long-term climate goals, then a reviewing agency can find that the impact will not be significant because the project will help to solve the problem of global climate change (62 Cal.4th 220–223).

In December 2022, CARB adopted the *2022 Scoping Plan for Achieving Carbon Neutrality* (2022 Scoping Plan), which identifies strategies for achieving California's long-term climate goal of

³ South Coast Air Quality Management District (SCAQMD), 2003 (revised 2008). Final Localized Significance Threshold Methodology. July.

⁴ California Air Resources Board (CARB), 2023. Overview: Diesel Exhaust & Health. <https://ww2.arb.ca.gov/resources/overview-diesel-exhaust-and-health>. Accessed April 1, 2023.



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carbon neutrality by 2045 or earlier. Appendix D of the 2022 Scoping Plan includes recommendations for local government to take actions that align with the State's climate goals, with a focus on three priority areas: transportation electrification, vehicle miles travelled (VMT) reduction, and building decarbonization. According to Appendix D of the 2022 Scoping Plan, residential and mixed-use projects that have all the key project attributes in **Table 1** would accommodate growth in a manner consistent with the State's long-term climate goals: it should be noted that these key attributes only apply to projects in cities that have not adopted a local Climate Action Plan (CAP), such as the City of Dana Point.

Table 1. Key Residential and Mixed-Use Project Attributes that Reduce GHGs

Priority Areas	Key Project Attribute
Transportation Electrification	Provides electric vehicle (EV) charging infrastructure that, at minimum, meets the most ambitious voluntary standard in the California Green Building Standards Code at the time of project approval.
VMT Reduction	Is located on infill sites that are surrounded by existing urban uses and reuses or redevelops previously undeveloped or underutilized land that is presently served by existing utilities and essential public services (e.g., transit, streets, water, sewer).
	Does not result in the loss or conversion of natural and working lands.
	Consists of transit-supportive densities (minimum of 20 residential dwelling units per acre), or is in proximity to existing transit stops (within a half mile), or satisfies more detailed and stringent criteria specified in the region's Sustainable Communities Strategy.
	Reduces parking requirements by: Eliminating parking requirements or including maximum allowable parking ratios (i.e., the ratio of parking spaces to residential units or square feet); or providing residential parking supply at a ratio of less than one parking space per dwelling unit; or for multifamily residential development, requiring parking costs to be unbundled from costs to rent or own a residential unit.
	At least 20 percent of units included are affordable to lower-income residents.
Building Decarbonization	Results in no net loss of existing affordable units
	Uses all-electric appliances without any natural gas connections and does not use propane or other fossil fuels for space heating, water heating, or indoor cooking.

Source: Appendix D of the 2022 Scoping Plan.

According to the Final EIR (page 2-10), the project would install EV charging infrastructure to comply with the mandatory requirements of the current Title 24 California Green Building Standards, also referred to as CALGreen. CALGreen also includes voluntary measures that are organized into two tiers with their own respective prerequisites and elective measures:



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- Tier 1 prerequisites set a higher baseline than CALGreen mandatory measures.
- Tier 2 prerequisites include all of Tier 1 prerequisites plus some enhanced or additional measures.

The Tier 2 EV infrastructure requirements are currently the most ambitious voluntary standard that a residential or mixed-use project would need to implement to be considered consistent with the goals of the 2022 Scoping Plan. Because the proposed project has not committed to implementing the Tier 2 EV infrastructure requirements (or any voluntary requirements), the project would not be consistent with the transportation electrification goals of the 2022 Scoping Plan described in **Table 1**.

According to the Final EIR (page 2-10), the project would use natural gas for heating and cooking. This directly conflicts with the building decarbonization goals of the 2022 Scoping Plan described in **Table 1**.

By not incorporating two of the three key project attributes from **Table 1** into the project design, the project would not be consistent with the priority GHG reduction strategies in the 2022 Scoping Plan to achieve the State's carbon neutrality goal by 2045 or earlier.

We are aware that the Final EIR (page 2-9 through 2-11) attempted to evaluate the project's consistency with the 2022 Scoping Plan, but the Final EIR erroneously compared the project design to examples of GHG reductions strategies in Appendix D of the 2022 Scoping Plan that are recommended for a local CAP and not an individual project. For example, Appendix D of the 2022 Scoping Plan provides the following example strategy for building decarbonization to be considered in a local CAP:

All electric appliances in new construction beginning 2026 (residential) and 2029 (commercial).

On page 2-9, the Final EIR explains that the use of natural gas for heating and cooking will be consistent with the 2022 Scoping Plan because construction for the revised project is anticipated to be completed by 2026. This justification is unsubstantiated, because the Final EIR failed to evaluate the correct priority GHG reduction strategies in the 2022 Scoping Plan (as shown in **Table 1**).

In summary, the Final EIR did not properly evaluate the project's consistency with the 2022 Scoping Plan or demonstrate how the project would do its fair share to achieve the State's long-term climate action goal for carbon neutrality by 2045 or earlier. Furthermore, based on review of the Final EIR, the project is clearly not designed to be consistent with the priority GHG reduction strategies of the 2022 Scoping Plan for transportation electrification and building decarbonization, and would not do its fair share to achieve the State's long-term climate action



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goal for carbon neutrality by 2045 or earlier. Therefore, the project would have a potentially significant impact related to GHG emissions and a revised EIR analysis should be prepared to identify effective mitigation measures to reduce the impact to a less-than-significant level.

Inadequate Analysis of Construction Noise Impacts

The Draft EIR evaluated the maximum noise levels from project construction equipment at sensitive receptors located 70 feet away from the project site in Table 5.11-9 *Maximum Noise Levels Generated by Construction Equipment*. According to Table 5.11-9, graders would generate the loudest noise level of 82 dBA at nearby sensitive receptors. However, the noise analysis did not include impact pile drivers. According to pages 5.4-16 and 5.4-17 of the Draft EIR, the project would install pile foundations for the parking structure in accordance with recommendations from the Victoria Geotechnical Investigation. An impact pile driver would generate a maximum noise level of 101 dBA at 50 feet,⁵ which would result in a noise level of 97 dBA at a sensitive receptor located 70 feet away from the project site. This is significantly louder than the noise levels disclosed in the Draft EIR.

Page 5.11-19 of the Draft EIR states that implementation of standard conditions of approval would require "... the use of temporary walls or noise barriers at the discretion of the Director of Public Works to block and deflect noise (which would result in a sound reduction of up to 20 dBA)." However, the Draft EIR does not provide references to support this statement. According to Appendix A of the Federal Highway Administration's *Roadway Construction Noise Model User's Guide*,⁶ a temporary noise barrier that just barely breaks the line-of-sight between the construction equipment and the receptor (e.g., a plywood barrier) can reduce noise levels by about 3 dBA, which is significantly less than the 20 dBA noise reduction reported in the Draft EIR. As a result, pile driving during project construction could generate noise levels as high as 94 dBA at the nearest sensitive receptor if temporary noise barriers are used. According to the Federal Transit Administration,⁷ construction noise levels that exceed 90 dBA at a residential land use (or other noise sensitive receptors) may result in a substantial adverse reaction. Therefore, pile driving on the project site would have a potentially significant impact and a revised EIR analysis should be prepared to identify effective mitigation measures.

⁵ Federal Transit Administration, 2018. Transit Noise and Vibration Impact Assessment Manual. FTA Report No. 0123, September.

⁶ Federal Highway Administration, 2006. FHWA Roadway Construction Noise Model User's Guide. January.

⁷ Federal Transit Administration, Office of Planning and Environment. 2006. Transit Noise and Vibration Impact Assessment. FTA-VA-90-1003-06.



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CONCLUSIONS

Based on our review of the Draft EIR and Final EIR for the proposed project, a revised EIR should be prepared to properly evaluate the project's construction-related health risks, consistency with the 2022 Scoping Plan and long-term climate action goals, and construction noise impacts at nearby sensitive receptors. In addition, mitigation measures should be evaluated and implemented to reduce potentially significant impacts related to air quality, GHG emissions, and noise to a less-than-significant level.

Sincerely,

A handwritten signature in black ink that reads 'Patrick Sutton'. The signature is fluid and cursive, with the first name 'Patrick' and last name 'Sutton' clearly distinguishable.

Patrick Sutton
Principal Environmental Engineer

ATTACHMENT A

Staff Resume



Patrick Sutton, P.E.

Principal Environmental Engineer



Areas of Expertise

Air Quality, GHGs, Noise, Hazardous Materials, Geology, and Hydrology

Education

M.S., Civil and Environmental Engineering, University of California – Davis

B.S., Environmental Science, Dickinson College

Registration

Professional Engineer No. 13609 (RI)

Years of Experience

19 Years

Patrick Sutton is an environmental engineer who specializes in the assessment of hazardous materials released into the environment. Mr. Sutton prepares technical reports in support of environmental review, such as Phase I/II Environmental Site Investigations, Air Quality Reports, Greenhouse Gas (GHG) Reduction Plans, and Health Risk Assessments. He has prepared numerous CEQA/NEPA evaluations for air quality, GHGs, geology, hazardous materials, and water quality related to residential, commercial, and industrial projects, as well as large infrastructure developments. His proficiency in a wide range of modeling software (AERMOD, CalEEMod, RCEM, CT-EMFAC) as well as relational databases, GIS, and graphics design allows him to thoroughly and efficiently assess and mitigate environmental concerns.

For mixed-use development projects, Mr. Sutton has prepared health risk assessments for sensitive receptors exposed to toxic air contaminants based on air dispersion modeling. He has also prepared GHG Reduction Plans to demonstrate how projects can comply with State and/or local GHG reduction goals. For large highway infrastructure improvement projects, Mr. Sutton has prepared air quality and hazardous materials technical reports in accordance with Caltrans requirements. Air quality assessments include the evaluation of criteria air pollutants, mobile source air toxics, and GHG emissions to support environmental review of the project under CEQA/NEPA and to determine conformity with the State Implementation Plan. Hazardous materials investigations include sampling and statistically analysis of aerally-deposited lead adjacent to highway corridors.

Project Experience

Oakland Downtown Specific Plan EIR. Prepared a program- and project-level Air Quality and GHG Emissions analysis. Developed a mitigation measure with performance standards to ensure GHG emissions from future projects comply with the Citywide 2030 GHG reduction target.

I-680 Express Lanes from SR 84 to Alcosta Boulevard Project. Prepared Initial Site Assessment and Preliminary Site Investigation to evaluate contaminants of potential concern in soil and groundwater. Prepared Air Quality Report to determine the project's conformity to federal air quality regulations and to support environmental review of the project under CEQA and NEPA.

Altamont Corridor Expressway (ACE/Forward) Project EIR/EIS. Prepared a program- and project-level Hazardous Materials analysis for over 120 miles of railroad corridor from San Jose to Merced. Hazardous materials concerns, such as release sites, petroleum pipelines, agricultural pesticides, and nearby school sites were evaluated in GIS.

Stonegate Residential Subdivision EIR. Prepared a project-level Hydrology and Water Quality analysis for a residential development located within the 100-year floodplain. The proposed project included modifications to existing levees and flood channels.

BART Silicon Valley Extension Project. Prepared Initial Site Assessment and Hazardous Materials EIS/EIR section for extending 6 miles of proposed BART service through the Cities of San Jose and Santa Clara.

Exhibit B

IEE

INDOOR ENVIRONMENTAL ENGINEERING

IEE

1448 Pine Street, Suite 103 San Francisco, California 94109

Telephone: (415) 567-7700

E-mail: offermann@IEE-SF.com<http://www.iee-sf.com>

Date: October 15, 2023

To: Marjan Kris Abubo
Lozeau | Drury LLP
1939 Harrison Street, Suite 150
Oakland, California 94612

From: Francis J. Offermann PE CIH

Subject: Indoor Air Quality: Victoria Boulevard Apartments Project, Dana Point, CA
(IEE File Reference: P-4755)

Pages: 20

Indoor Air Quality Impacts

Indoor air quality (IAQ) directly impacts the comfort and health of building occupants, and the achievement of acceptable IAQ in newly constructed and renovated buildings is a well-recognized design objective. For example, IAQ is addressed by major high-performance building rating systems and building codes (California Building Standards Commission, 2014; USGBC, 2014). Indoor air quality in homes is particularly important because occupants, on average, spend approximately ninety percent of their time indoors with the majority of this time spent at home (EPA, 2011). Some segments of the population that are most susceptible to the effects of poor IAQ, such as the very young and the elderly, occupy their homes almost continuously. Additionally, an increasing number of adults are working from home at least some of the time during the workweek. Indoor air quality also is a serious concern for workers in hotels, offices and other business establishments.

The concentrations of many air pollutants often are elevated in homes and other buildings relative to outdoor air because many of the materials and products used indoors contain and release a variety of pollutants to air (Hodgson et al., 2002; Offermann and Hodgson, 2011). With respect to indoor air contaminants for which inhalation is the primary route of exposure, the critical design and construction parameters are the provision of adequate ventilation and the reduction of indoor sources of the contaminants.

Indoor Formaldehyde Concentrations Impact. In the California New Home Study (CNHS) of 108 new homes in California (Offermann, 2009), 25 air contaminants were measured, and formaldehyde was identified as the indoor air contaminant with the highest cancer risk as determined by the California Proposition 65 Safe Harbor Levels (OEHHA, 2017a), No Significant Risk Levels (NSRL) for carcinogens. The NSRL is the daily intake level calculated to result in one excess case of cancer in an exposed population of 100,000 (i.e., ten in one million cancer risk) and for formaldehyde is 40 µg/day. The NSRL concentration of formaldehyde that represents a daily dose of 40 µg is 2 µg/m³, assuming a continuous 24-hour exposure, a total daily inhaled air volume of 20 m³, and 100% absorption by the respiratory system. All of the CNHS homes exceeded this NSRL concentration of 2 µg/m³. The median indoor formaldehyde concentration was 36 µg/m³, and ranged from 4.8 to 136 µg/m³, which corresponds to a median exceedance of the 2 µg/m³ NSRL concentration of 18 and a range of 2.3 to 68.

Therefore, the cancer risk of a resident living in a California home with the median indoor formaldehyde concentration of 36 µg/m³, is 180 per million as a result of formaldehyde alone. The CEQA significance threshold for airborne cancer risk is 10 per million, as established by the South Coast Air Quality Management District (SCAQMD, 2015).

Besides being a human carcinogen, formaldehyde is also a potent eye and respiratory irritant. In the CNHS, many homes exceeded the non-cancer reference exposure levels (RELs) prescribed by California Office of Environmental Health Hazard Assessment (OEHHA, 2017b). The percentage of homes exceeding the RELs ranged from 98% for the Chronic REL of 9 µg/m³ to 28% for the Acute REL of 55 µg/m³.

The primary source of formaldehyde indoors is composite wood products manufactured with urea-formaldehyde resins, such as plywood, medium density fiberboard, and particleboard. These materials are commonly used in building construction for flooring, cabinetry, baseboards, window shades, interior doors, and window and door trims.

In January 2009, the California Air Resources Board (CARB) adopted an airborne toxics control measure (ATCM) to reduce formaldehyde emissions from composite wood products, including hardwood plywood, particleboard, medium density fiberboard, and also furniture and other finished products made with these wood products (California Air Resources Board 2009). While this formaldehyde ATCM has resulted in reduced emissions from composite wood products sold in California, they do not preclude that homes built with composite wood products meeting the CARB ATCM will have indoor formaldehyde concentrations below cancer and non-cancer exposure guidelines.

A follow up study to the California New Home Study (CNHS) was conducted in 2016-2018 (Singer et. al., 2019), and found that the median indoor formaldehyde in new homes built after 2009 with CARB Phase 2 Formaldehyde ATCM materials had lower indoor formaldehyde concentrations, with a median indoor concentrations of $22.4 \mu\text{g}/\text{m}^3$ (18.2 ppb) as compared to a median of $36 \mu\text{g}/\text{m}^3$ found in the 2007 CNHS. Unlike in the CNHS study where formaldehyde concentrations were measured with pumped DNPH samplers, the formaldehyde concentrations in the HENGH study were measured with passive samplers, which were estimated to under-measure the true indoor formaldehyde concentrations by approximately 7.5%. Applying this correction to the HENGH indoor formaldehyde concentrations results in a median indoor concentration of $24.1 \mu\text{g}/\text{m}^3$, which is 33% lower than the $36 \mu\text{g}/\text{m}^3$ found in the 2007 CNHS.

Thus, while new homes built after the 2009 CARB formaldehyde ATCM have a 33% lower median indoor formaldehyde concentration and cancer risk, the median lifetime cancer risk is still 120 per million for homes built with CARB compliant composite wood products. This median lifetime cancer risk is more than 12 times the OEHHA 10 in a million cancer risk threshold (OEHHA, 2017a).

With respect to the Victoria Boulevard Apartments, Dana Point, CA, the buildings consist of residential spaces.

The residential occupants will potentially have continuous exposure (e.g., 24 hours per day, 52 weeks per year). These exposures are anticipated to result in significant cancer risks resulting from exposures to formaldehyde released by the building materials and furnishing commonly found in residential construction.

Because these residences will be constructed with CARB Phase 2 Formaldehyde ATCM materials and be ventilated with the minimum code required amount of outdoor air, the indoor residential formaldehyde concentrations are likely similar to those concentrations observed in residences built with CARB Phase 2 Formaldehyde ATCM materials, which is a median of 24.1 $\mu\text{g}/\text{m}^3$ (Singer et. al., 2020).

Assuming that the residential occupants inhale 20 m^3 of air per day, the average 70-year lifetime formaldehyde daily dose is 482 $\mu\text{g}/\text{day}$ for continuous exposure in the residences. This exposure represents a cancer risk of 120 per million, which is more than 12 times the CEQA cancer risk of 10 per million. For occupants that do not have continuous exposure, the cancer risk will be proportionally less but still substantially over the CEQA cancer risk of 10 per million (e.g., for 12/hour/day occupancy, more than 6 times the CEQA cancer risk of 10 per million).

The employees of the commercial spaces are expected to experience significant indoor exposures (e.g., 40 hours per week, 50 weeks per year). These exposures for employees are anticipated to result in significant cancer risks resulting from exposures to formaldehyde released by the building materials and furnishing commonly found in offices, warehouses, residences and hotels.

In addition, we note that the average outdoor air concentration of formaldehyde in California is 3 ppb, or 3.7 $\mu\text{g}/\text{m}^3$, (California Air Resources Board, 2004), and thus represents an average pre-existing background airborne cancer risk of 1.85 per million.

Thus, the indoor air formaldehyde exposures described above exacerbate this pre-existing risk resulting from outdoor air formaldehyde exposures.

Additionally, the SCAQMD's Multiple Air Toxics Exposure Study ("MATES V") identifies an existing cancer risk at the Project site of 294 per million due to the site's elevated ambient air contaminant concentrations, which are due to the area's high levels of vehicle traffic. These impacts would further exacerbate the pre-existing cancer risk to the building occupants, which result from exposure to formaldehyde in both indoor and outdoor air.

Appendix A, Indoor Formaldehyde Concentrations and the CARB Formaldehyde ATCM, provides analyses that show utilization of CARB Phase 2 Formaldehyde ATCM materials will not ensure acceptable cancer risks with respect to formaldehyde emissions from composite wood products.

Even composite wood products manufactured with CARB certified ultra-low emitting formaldehyde (ULEF) resins do not insure that the indoor air will have concentrations of formaldehyde that meet the OEHHHA cancer risks that substantially exceed 10 per million. The permissible emission rates for ULEF composite wood products are only 11-15% lower than the CARB Phase 2 emission rates. Only use of composite wood products made with no-added formaldehyde resins (NAF), such as resins made from soy, polyvinyl acetate, or methylene diisocyanate can insure that the OEHHHA cancer risk of 10 per million is met.

The following describes a method that should be used, prior to construction in the environmental review under CEQA, for determining whether the indoor concentrations resulting from the formaldehyde emissions of specific building materials/furnishings selected exceed cancer and non-cancer guidelines. Such a design analyses can be used to identify those materials/furnishings prior to the completion of the City's CEQA review and project approval, that have formaldehyde emission rates that contribute to indoor concentrations that exceed cancer and non-cancer guidelines, so that alternative lower emitting materials/furnishings may be selected and/or higher minimum outdoor air

ventilation rates can be increased to achieve acceptable indoor concentrations and incorporated as mitigation measures for this project.

Pre-Construction Building Material/Furnishing Formaldehyde Emissions Assessment

This formaldehyde emissions assessment should be used in the environmental review under CEQA to assess the indoor formaldehyde concentrations from the proposed loading of building materials/furnishings, the area-specific formaldehyde emission rate data for building materials/furnishings, and the design minimum outdoor air ventilation rates. This assessment allows the applicant (and the City) to determine, before the conclusion of the environmental review process and the building materials/furnishings are specified, purchased, and installed, if the total chemical emissions will exceed cancer and non-cancer guidelines, and if so, allow for changes in the selection of specific material/furnishings and/or the design minimum outdoor air ventilations rates such that cancer and non-cancer guidelines are not exceeded.

1.) Define Indoor Air Quality Zones. Divide the building into separate indoor air quality zones, (IAQ Zones). IAQ Zones are defined as areas of well-mixed air. Thus, each ventilation system with recirculating air is considered a single zone, and each room or group of rooms where air is not recirculated (e.g. 100% outdoor air) is considered a separate zone. For IAQ Zones with the same construction material/furnishings and design minimum outdoor air ventilation rates, (e.g. hotel rooms, apartments, condominiums, etc.) the formaldehyde emission rates need only be assessed for a single IAQ Zone of that type.

2.) Calculate Material/Furnishing Loading. For each IAQ Zone, determine the building material and furnishing loadings (e.g., m² of material/m² floor area, units of furnishings/m² floor area) from an inventory of all potential indoor formaldehyde sources, including flooring, ceiling tiles, furnishings, finishes, insulation, sealants, adhesives, and any products constructed with composite wood products containing urea-formaldehyde resins (e.g., plywood, medium density fiberboard, particleboard).

3.) Calculate the Formaldehyde Emission Rate. For each building material, calculate the

formaldehyde emission rate ($\mu\text{g}/\text{h}$) from the product of the area-specific formaldehyde emission rate ($\mu\text{g}/\text{m}^2\text{-h}$) and the area (m^2) of material in the IAQ Zone, and from each furnishing (e.g. chairs, desks, etc.) from the unit-specific formaldehyde emission rate ($\mu\text{g}/\text{unit-h}$) and the number of units in the IAQ Zone.

NOTE: As a result of the high-performance building rating systems and building codes (California Building Standards Commission, 2014; USGBC, 2014), most manufacturers of building materials furnishings sold in the United States conduct chemical emission rate tests using the California Department of Health “Standard Method for the Testing and Evaluation of Volatile Organic Chemical Emissions for Indoor Sources Using Environmental Chambers,” (CDPH, 2017), or other equivalent chemical emission rate testing methods. Most manufacturers of building furnishings sold in the United States conduct chemical emission rate tests using ANSI/BIFMA M7.1 Standard Test Method for Determining VOC Emissions (BIFMA, 2018), or other equivalent chemical emission rate testing methods.

CDPH, BIFMA, and other chemical emission rate testing programs, typically certify that a material or furnishing does not create indoor chemical concentrations in excess of the maximum concentrations permitted by their certification. For instance, the CDPH emission rate testing requires that the measured emission rates when input into an office, school, or residential model do not exceed one-half of the OEHHA Chronic Exposure Guidelines (OEHHA, 2017b) for the 35 specific VOCs, including formaldehyde, listed in Table 4-1 of the CDPH test method (CDPH, 2017). These certifications themselves do not provide the actual area-specific formaldehyde emission rate (i.e., $\mu\text{g}/\text{m}^2\text{-h}$) of the product, but rather provide data that the formaldehyde emission rates do not exceed the maximum rate allowed for the certification. Thus, for example, the data for a certification of a specific type of flooring may be used to calculate that the area-specific emission rate of formaldehyde is less than $31 \mu\text{g}/\text{m}^2\text{-h}$, but not the actual measured specific emission rate, which may be 3, 18, or $30 \mu\text{g}/\text{m}^2\text{-h}$. These area-specific emission rates determined from the product certifications of CDPH, BIFA, and other certification programs can be used as an initial estimate of the formaldehyde emission rate.

If the actual area-specific emission rates of a building material or furnishing is needed (i.e. the initial emission rates estimates from the product certifications are higher than desired), then that data can be acquired by requesting from the manufacturer the complete chemical emission rate test report. For instance if the complete CDPH emission test report is requested for a CDHP certified product, that report will provide the actual area-specific emission rates for not only the 35 specific VOCs, including formaldehyde, listed in Table 4-1 of the CDPH test method (CDPH, 2017), but also all of the cancer and reproductive/developmental chemicals listed in the California Proposition 65 Safe Harbor Levels (OEHHA, 2017a), all of the toxic air contaminants (TACs) in the California Air Resources Board Toxic Air Contamination List (CARB, 2011), and the 10 chemicals with the greatest emission rates.

Alternatively, a sample of the building material or furnishing can be submitted to a chemical emission rate testing laboratory, such as Berkeley Analytical Laboratory (<https://berkeleyanalytical.com>), to measure the formaldehyde emission rate.

4.) Calculate the Total Formaldehyde Emission Rate. For each IAQ Zone, calculate the total formaldehyde emission rate (i.e. $\mu\text{g/h}$) from the individual formaldehyde emission rates from each of the building material/furnishings as determined in Step 3.

5.) Calculate the Indoor Formaldehyde Concentration. For each IAQ Zone, calculate the indoor formaldehyde concentration ($\mu\text{g/m}^3$) from Equation 1 by dividing the total formaldehyde emission rates (i.e. $\mu\text{g/h}$) as determined in Step 4, by the design minimum outdoor air ventilation rate (m^3/h) for the IAQ Zone.

(Equation 1)

where:

C_{in} = indoor formaldehyde concentration ($\mu\text{g/m}^3$)

E_{total} = total formaldehyde emission rate ($\mu\text{g/h}$) into the IAQ Zone.

Q_a = design minimum outdoor air ventilation rate to the IAQ Zone (m^3/h)

The above Equation 1 is based upon mass balance theory, and is referenced in Section 3.10.2 "Calculation of Estimated Building Concentrations" of the California Department

of Health "Standard Method for the Testing and Evaluation of Volatile Organic Chemical Emissions for Indoor Sources Using Environmental Chambers", (CDPH, 2017).

6.) Calculate the Indoor Exposure Cancer and Non-Cancer Health Risks. For each IAQ Zone, calculate the cancer and non-cancer health risks from the indoor formaldehyde concentrations determined in Step 5 and as described in the OEHHA Air Toxics Hot Spots Program Risk Assessment Guidelines; Guidance Manual for Preparation of Health Risk Assessments (OEHHA, 2015).

7.) Mitigate Indoor Formaldehyde Exposures of exceeding the CEQA Cancer and/or Non-Cancer Health Risks. In each IAQ Zone, provide mitigation for any formaldehyde exposure risk as determined in Step 6, that exceeds the CEQA cancer risk of 10 per million or the CEQA non-cancer Hazard Quotient of 1.0.

Provide the source and/or ventilation mitigation required in all IAQ Zones to reduce the health risks of the chemical exposures below the CEQA cancer and non-cancer health risks.

Source mitigation for formaldehyde may include:

- 1.) reducing the amount materials and/or furnishings that emit formaldehyde
- 2.) substituting a different material with a lower area-specific emission rate of formaldehyde

Ventilation mitigation for formaldehyde emitted from building materials and/or furnishings may include:

- 1.) increasing the design minimum outdoor air ventilation rate to the IAQ Zone.

NOTE: Mitigating the formaldehyde emissions through use of less material/furnishings, or use of lower emitting materials/furnishings, is the preferred mitigation option, as mitigation with increased outdoor air ventilation increases initial and operating costs associated with the heating/cooling systems.

Further, we are not asking that the builder “speculate” on what and how much composite materials be used, but rather at the design stage to select composite wood materials based on the formaldehyde emission rates that manufacturers routinely conduct using the California Department of Health “Standard Method for the Testing and Evaluation of Volatile Organic Chemical Emissions for Indoor Sources Using Environmental Chambers,” (CDPH, 2017), and use the procedure described earlier above (i.e. Pre-Construction Building Material/Furnishing Formaldehyde Emissions Assessment) to insure that the materials selected achieve acceptable cancer risks from material off gassing of formaldehyde.

Outdoor Air Ventilation Impact. Another important finding of the CNHS, was that the outdoor air ventilation rates in the homes were very low. Outdoor air ventilation is a very important factor influencing the indoor concentrations of air contaminants, as it is the primary removal mechanism of all indoor air generated contaminants. Lower outdoor air exchange rates cause indoor generated air contaminants to accumulate to higher indoor air concentrations. Many homeowners rarely open their windows or doors for ventilation as a result of their concerns for security/safety, noise, dust, and odor concerns (Price, 2007). In the CNHS field study, 32% of the homes did not use their windows during the 24-hour Test Day, and 15% of the homes did not use their windows during the entire preceding week. Most of the homes with no window usage were homes in the winter field session. Thus, a substantial percentage of homeowners never open their windows, especially in the winter season. The median 24-hour measurement was 0.26 air changes per hour (ach), with a range of 0.09 ach to 5.3 ach. A total of 67% of the homes had outdoor air exchange rates below the minimum California Building Code (2001) requirement of 0.35 ach. Thus, the relatively tight envelope construction, combined with the fact that many people never open their windows for ventilation, results in homes with low outdoor air exchange rates and higher indoor air contaminant concentrations.

According to the Draft Environmental Impact Report – Victoria Boulevard Apartments, Dana Point, CA (Michael Baker International, 2023), the Project is close to roads with moderate to high traffic (e.g., Pacific Coast Highway, Victoria Boulevard, Sepulveda Avenue, etc.).

In Table 5.11-13 of the Draft Environmental Impact Report the future cumulative noise levels with the Project ranges from 37.9 to 69.5 dBA within 100 feet of the roadways.

As a result of the anticipated high outdoor noise levels, the current project will require a mechanical supply of outdoor air ventilation to allow for a habitable interior environment with closed windows and doors. Such a ventilation system would allow windows and doors to be kept closed at the occupant's discretion to control exterior noise within building interiors.

In addition, in order to design the building for this Project such that interior noise levels are acceptable, an acoustic study with actual on-site measurements of the existing ambient noise levels and modeled future ambient noise levels needs to be conducted. The acoustic study of the existing ambient noise levels should be conducted over a one-week period, and report the dBA CNEL or Ldn. This study will allow for the selection of a building envelope and windows with a sufficient STC such that the indoor noise levels are acceptable. A mechanical supply of outdoor air ventilation to allow for a habitable interior environment with closed windows and doors will also be requires. Such a ventilation system would allow windows and doors to be kept closed at the occupant's discretion to control exterior noise within building interiors.

PM_{2.5} Outdoor Concentrations Impact. An additional impact of the nearby motor vehicle traffic associated with this project, are the outdoor concentrations of PM_{2.5}. According to the Draft Environmental Impact Report – Victoria Boulevard Apartments, Dana Point, CA (Michael Baker International, 2023), the Project is located in the South Coast Air Basin, which is a State and Federal non-attainment area for PM_{2.5}.

Additionally, the SCAQMD's MATES V study cites an existing cancer risk of 297 per million at the Project site due to the site's high concentration of ambient air contaminants resulting from the area's high levels of motor vehicle traffic.

An air quality analyses should be conducted to determine the concentrations of PM_{2.5} in the outdoor and indoor air that people inhale each day. This air quality analyses needs to

consider the cumulative impacts of the project related emissions, existing and projected future emissions from local $PM_{2.5}$ sources (e.g. stationary sources, motor vehicles, and airport traffic) upon the outdoor air concentrations at the Project site. If the outdoor concentrations are determined to exceed the California and National annual average $PM_{2.5}$ exceedence concentration of $12 \mu\text{g}/\text{m}^3$, or the National 24-hour average exceedence concentration of $35 \mu\text{g}/\text{m}^3$, then the buildings need to have a mechanical supply of outdoor air that has air filtration with sufficient removal efficiency, such that the indoor concentrations of outdoor $PM_{2.5}$ particles is less than the California and National $PM_{2.5}$ annual and 24-hour standards.

It is my experience that based on the projected high traffic noise levels, the annual average concentration of $PM_{2.5}$ will exceed the California and National $PM_{2.5}$ annual and 24-hour standards and warrant installation of high efficiency air filters (i.e. MERV 13 or higher) in all mechanically supplied outdoor air ventilation systems.

Indoor Air Quality Impact Mitigation Measures

The following are recommended mitigation measures to minimize the impacts upon indoor quality:

Indoor Formaldehyde Concentrations Mitigation. Use only composite wood materials (e.g. hardwood plywood, medium density fiberboard, particleboard) for all interior finish systems that are made with CARB approved no-added formaldehyde (NAF) resins (CARB, 2009). CARB Phase 2 certified composite wood products, or ultra-low emitting formaldehyde (ULEF) resins, do not insure indoor formaldehyde concentrations that are below the CEQA cancer risk of 10 per million. Only composite wood products manufactured with CARB approved no-added formaldehyde (NAF) resins, such as resins made from soy, polyvinyl acetate, or methylene diisocyanate can insure that the OEHHHA cancer risk of 10 per million is met.

Alternatively, conduct the previously described Pre-Construction Building Material/Furnishing Chemical Emissions Assessment, to determine that the combination

of formaldehyde emissions from building materials and furnishings do not create indoor formaldehyde concentrations that exceed the CEQA cancer and non-cancer health risks.

It is important to note that we are not asking that the builder “speculate” on what and how much composite materials be used, but rather at the design stage to select composite wood materials based on the formaldehyde emission rates that manufacturers routinely conduct using the California Department of Health “Standard Method for the Testing and Evaluation of Volatile Organic Chemical Emissions for Indoor Sources Using Environmental Chambers”, (CDPH, 2017), and use the procedure described above (i.e. Pre-Construction Building Material/Furnishing Formaldehyde Emissions Assessment) to insure that the materials selected achieve acceptable cancer risks from material off gassing of formaldehyde.

Outdoor Air Ventilation Mitigation. Provide each habitable room with a continuous mechanical supply of outdoor air that meets or exceeds the California 2016 Building Energy Efficiency Standards (California Energy Commission, 2015) requirements of the greater of 15 cfm/occupant or 0.15 cfm/ft² of floor area. Following installation of the system conduct testing and balancing to insure that required amount of outdoor air is entering each habitable room and provide a written report documenting the outdoor airflow rates. Do not use exhaust only mechanical outdoor air systems, use only balanced outdoor air supply and exhaust systems or outdoor air supply only systems. Provide a manual for the occupants or maintenance personnel, that describes the purpose of the mechanical outdoor air system and the operation and maintenance requirements of the system.

PM_{2.5} Outdoor Air Concentration Mitigation. Install air filtration with sufficient PM_{2.5} removal efficiency (e.g. MERV 13 or higher) to filter the outdoor air entering the mechanical outdoor air supply systems, such that the indoor concentrations of outdoor PM_{2.5} particles are less than the California and National PM_{2.5} annual and 24-hour standards. Install the air filters in the system such that they are accessible for replacement by the occupants or maintenance personnel. Include in the mechanical outdoor air

ventilation system manual instructions on how to replace the air filters and the estimated frequency of replacement.

References

BIFA. 2018. BIFMA Product Safety and Performance Standards and Guidelines. www.bifma.org/page/standardsoverview

California Air Resources Board. 2009. Airborne Toxic Control Measure to Reduce Formaldehyde Emissions from Composite Wood Products. California Environmental Protection Agency, Sacramento, CA. <https://www.arb.ca.gov/regact/2007/compwood07/fro-final.pdf>

California Air Resources Board. 2011. Toxic Air Contaminant Identification List. California Environmental Protection Agency, Sacramento, CA. <https://www.arb.ca.gov/toxics/id/taclist.htm>

California Building Code. 2001. California Code of Regulations, Title 24, Part 2 Volume 1, Appendix Chapter 12, Interior Environment, Division 1, Ventilation, Section 1207: 2001 California Building Code, California Building Standards Commission. Sacramento, CA.

California Building Standards Commission (2014). 2013 California Green Building Standards Code. California Code of Regulations, Title 24, Part 11. California Building Standards Commission, Sacramento, CA <http://www.bsc.ca.gov/Home/CALGreen.aspx>.

California Energy Commission, PIER Program, CEC-500-2007-033, Final Report, ARB Contract 03-326. Available at: www.arb.ca.gov/research/apr/past/03-326.pdf.

California Energy Commission, 2015. 2016 Building Energy Efficiency Standards for Residential and Nonresidential Buildings, California Code of Regulations, Title 24, Part 6. <http://www.energy.ca.gov/2015publications/CEC-400-2015-037/CEC-400-2015-037-CMF.pdf>

CDPH. 2017. Standard Method for the Testing and Evaluation of Volatile Organic Chemical Emissions for Indoor Sources Using Environmental Chambers, Version 1.1. California Department of Public Health, Richmond, CA. <https://www.cdph.ca.gov/Programs/CCDCPHP/DEODC/EHLB/IAQ/Pages/VOC.aspx>.

EPA. 2011. Exposure Factors Handbook: 2011 Edition, Chapter 16 – Activity Factors. Report EPA/600/R-09/052F, September 2011. U.S. Environmental Protection Agency, Washington, D.C.

Hodgson, A. T., D. Beal, J.E.R. McIlvaine. 2002. Sources of formaldehyde, other aldehydes and terpenes in a new manufactured house. Indoor Air 12: 235–242.

Michael Baker International. 2023 Draft Environmental Impact Report – Victoria Boulevard Apartments, Dana Point, CA.

OEHHA (Office of Environmental Health Hazard Assessment). 2015. Air Toxics Hot Spots Program Risk Assessment Guidelines; Guidance Manual for Preparation of Health Risk Assessments.

OEHHA (Office of Environmental Health Hazard Assessment). 2017a. Proposition 65 Safe Harbor Levels. No Significant Risk Levels for Carcinogens and Maximum Allowable Dose Levels for Chemicals Causing Reproductive Toxicity. Available at: <http://www.oehha.ca.gov/prop65/pdf/safeharbor081513.pdf>

OEHHA - Office of Environmental Health Hazard Assessment. 2017b. All OEHHA Acute, 8-hour and Chronic Reference Exposure Levels. Available at: <http://oehha.ca.gov/air/allrels.html>

Offermann, F. J. 2009. Ventilation and Indoor Air Quality in New Homes. California Air Resources Board and California Energy Commission, PIER Energy-Related Environmental Research Program. Collaborative Report. CEC-500-2009-085. <https://www.arb.ca.gov/research/apr/past/04-310.pdf>

Offermann, F. J. and A. T. Hodgson. 2011. Emission Rates of Volatile Organic Compounds in New Homes. Proceedings Indoor Air 2011 (12th International Conference on Indoor Air Quality and Climate 2011), June 5-10, 2011, Austin, TX.

Singer, B.C, Chan, W.R, Kim, Y., Offermann, F.J., and Walker L.S. 2020. Indoor Air Quality in California Homes with Code-Required Mechanical Ventilation. Indoor Air, Vol 30, Issue 5, 885-899.

South Coast Air Quality Management District (SCAQMD). 2015. California Environmental Quality Act Air Quality Handbook. South Coast Air Quality Management District, Diamond Bar, CA, <http://www.aqmd.gov/home/rules-compliance/ceqa/air-quality-analysis-handbook>

USGBC. 2014. LEED BD+C Homes v4. U.S. Green Building Council, Washington, D.C. <http://www.usgbc.org/credits/homes/v4>

APPENDIX A

INDOOR FORMALDEHYDE CONCENTRATIONS
AND THE
CARB FORMALDEHYDE ATCM

With respect to formaldehyde emissions from composite wood products, the CARB ATCM regulations of formaldehyde emissions from composite wood products, do not assure healthful indoor air quality. The following is the stated purpose of the CARB ATCM regulation - *The purpose of this airborne toxic control measure is to “reduce formaldehyde emissions from composite wood products, and finished goods that contain composite wood products, that are sold, offered for sale, supplied, used, or manufactured for sale in California”*. In other words, the CARB ATCM regulations do not “assure healthful indoor air quality”, but rather “reduce formaldehyde emissions from composite wood products”.

Just how much protection do the CARB ATCM regulations provide building occupants from the formaldehyde emissions generated by composite wood products? Definitely some, but certainly the regulations do not “*assure healthful indoor air quality*” when CARB Phase 2 products are utilized. As shown in the Chan 2019 study of new California homes, the median indoor formaldehyde concentration was of 22.4 $\mu\text{g}/\text{m}^3$ (18.2 ppb), which corresponds to a cancer risk of 112 per million for occupants with continuous exposure, which is more than 11 times the CEQA cancer risk of 10 per million.

Another way of looking at how much protection the CARB ATCM regulations provide building occupants from the formaldehyde emissions generated by composite wood products is to calculate the maximum number of square feet of composite wood product that can be in a residence without exceeding the CEQA cancer risk of 10 per million for occupants with continuous occupancy.

For this calculation I utilized the floor area (2,272 ft^2), the ceiling height (8.5 ft), and the number of bedrooms (4) as defined in Appendix B (New Single-Family Residence Scenario) of the Standard Method for the Testing and Evaluation of Volatile Organic Chemical Emissions for Indoor Sources Using Environmental Chambers, Version 1.1,

2017, California Department of Public Health, Richmond, CA.

<https://www.cdph.ca.gov/Programs/CCDPHP/DEODC/EHLB/IAQ/Pages/VOC.aspx>.

For the outdoor air ventilation rate I used the 2019 Title 24 code required mechanical ventilation rate (ASHRAE 62.2) of 106 cfm (180 m³/h) calculated for this model residence. For the composite wood formaldehyde emission rate I used the CARB ATCM Phase 2 rates.

The calculated maximum number of square feet of composite wood product that can be in a residence, without exceeding the CEQA cancer risk of 10 per million for occupants with continuous occupancy are as follows for the different types of regulated composite wood products.

Medium Density Fiberboard (MDF) – 15 ft² (0.7% of the floor area), or

Particle Board – 30 ft² (1.3% of the floor area), or

Hardwood Plywood – 54 ft² (2.4% of the floor area), or

Thin MDF – 46 ft² (2.0 % of the floor area).

For offices and hotels the calculated maximum amount of composite wood product (% of floor area) that can be used without exceeding the CEQA cancer risk of 10 per million for occupants, assuming 8 hours/day occupancy, and the California Mechanical Code minimum outdoor air ventilation rates are as follows for the different types of regulated composite wood products.

Medium Density Fiberboard (MDF) – 3.6 % (offices) and 4.6% (hotel rooms), or

Particle Board – 7.2 % (offices) and 9.4% (hotel rooms), or

Hardwood Plywood – 13 % (offices) and 17% (hotel rooms), or

Thin MDF – 11 % (offices) and 14 % (hotel rooms)

Clearly the CARB ATCM does not regulate the formaldehyde emissions from composite wood products such that the potentially large areas of these products, such as for flooring, baseboards, interior doors, window and door trims, and kitchen and bathroom cabinetry, could be used without causing indoor formaldehyde concentrations that result in CEQA

cancer risks that substantially exceed 10 per million for occupants with continuous occupancy.

Even composite wood products manufactured with CARB certified ultra low emitting formaldehyde (ULEF) resins do not insure that the indoor air will have concentrations of formaldehyde that meet the OEHHHA cancer risks that substantially exceed 10 per million. The permissible emission rates for ULEF composite wood products are only 11-15% lower than the CARB Phase 2 emission rates. Only use of composite wood products made with no-added formaldehyde resins (NAF), such as resins made from soy, polyvinyl acetate, or methylene diisocyanate can insure that the OEHHHA cancer risk of 10 per million is met.

If CARB Phase 2 compliant or ULEF composite wood products are utilized in construction, then the resulting indoor formaldehyde concentrations should be determined in the design phase using the specific amounts of each type of composite wood product, the specific formaldehyde emission rates, and the volume and outdoor air ventilation rates of the indoor spaces, and all feasible mitigation measures employed to reduce this impact (e.g. use less formaldehyde containing composite wood products and/or incorporate mechanical systems capable of higher outdoor air ventilation rates). See the procedure described earlier (i.e. Pre-Construction Building Material/Furnishing Formaldehyde Emissions Assessment) to insure that the materials selected achieve acceptable cancer risks from material off gassing of formaldehyde.

Alternatively, and perhaps a simpler approach, is to use only composite wood products (e.g. hardwood plywood, medium density fiberboard, particleboard) for all interior finish systems that are made with CARB approved no-added formaldehyde (NAF) resins.

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Indoor Environmental Engineering
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Education

M.S. Mechanical Engineering (1985)
Stanford University, Stanford, CA.

Graduate Studies in Air Pollution Monitoring and Control (1980)
University of California, Berkeley, CA.

B.S. in Mechanical Engineering (1976)
Rensselaer Polytechnic Institute, Troy, N.Y.

Professional Experience

President: Indoor Environmental Engineering, San Francisco, CA. December, 1981 - present.

Direct team of environmental scientists, chemists, and mechanical engineers in conducting State and Federal research regarding indoor air quality instrumentation development, building air quality field studies, ventilation and air cleaning performance measurements, and chemical emission rate testing.

Provide design side input to architects regarding selection of building materials and ventilation system components to ensure a high quality indoor environment.

Direct Indoor Air Quality Consulting Team for the winning design proposal for the new State of Washington Ecology Department building.

Develop a full-scale ventilation test facility for measuring the performance of air diffusers; ASHRAE 129, Air Change Effectiveness, and ASHRAE 113, Air Diffusion Performance Index.

Develop a chemical emission rate testing laboratory for measuring the chemical emissions from building materials, furnishings, and equipment.

Principle Investigator of the California New Homes Study (2005-2007). Measured ventilation and indoor air quality in 108 new single family detached homes in northern and southern California.

Develop and teach IAQ professional development workshops to building owners, managers, hygienists, and engineers.

Air Pollution Engineer: Earth Metrics Inc., Burlingame, CA, October, 1985 to March, 1987.

Responsible for development of an air pollution laboratory including installation a forced choice olfactometer, tracer gas electron capture chromatograph, and associated calibration facilities. Field team leader for studies of fugitive odor emissions from sewage treatment plants, entrainment of fume hood exhausts into computer chip fabrication rooms, and indoor air quality investigations.

Staff Scientist: Building Ventilation and Indoor Air Quality Program, Energy and Environment Division, Lawrence Berkeley Laboratory, Berkeley, CA. January, 1980 to August, 1984.

Deputy project leader for the Control Techniques group; responsible for laboratory and field studies aimed at evaluating the performance of indoor air pollutant control strategies (i.e. ventilation, filtration, precipitation, absorption, adsorption, and source control).

Coordinated field and laboratory studies of air-to-air heat exchangers including evaluation of thermal performance, ventilation efficiency, cross-stream contaminant transfer, and the effects of freezing/defrosting.

Developed an *in situ* test protocol for evaluating the performance of air cleaning systems and introduced the concept of effective cleaning rate (ECR) also known as the Clean Air Delivery Rate (CADR).

Coordinated laboratory studies of portable and ducted air cleaning systems and their effect on indoor concentrations of respirable particles and radon progeny.

Co-designed an automated instrument system for measuring residential ventilation rates and radon concentrations.

Designed hardware and software for a multi-channel automated data acquisition system used to evaluate the performance of air-to-air heat transfer equipment.

Assistant Chief Engineer: Alta Bates Hospital, Berkeley, CA, October, 1979 to January, 1980.

Responsible for energy management projects involving installation of power factor correction capacitors on large inductive electrical devices and installation of steam meters on physical plant steam lines. Member of Local 39, International Union of Operating Engineers.

Manufacturing Engineer: American Precision Industries, Buffalo, NY, October, 1977 to October, 1979.

Responsible for reorganizing the manufacturing procedures regarding production of shell and tube heat exchangers. Designed customized automatic assembly, welding, and testing equipment. Designed a large paint spray booth. Prepared economic studies justifying new equipment purchases. Safety Director.

Project Engineer: Arcata Graphics, Buffalo, N.Y. June, 1976 to October, 1977.

Responsible for the design and installation of a bulk ink storage and distribution system and high speed automatic counting and marking equipment. Also coordinated material handling studies which led to the purchase and installation of new equipment.

PROFESSIONAL ORGANIZATION MEMBERSHIP

American Society of Heating, Refrigeration and Air Conditioning Engineers (ASHRAE)

- Chairman of SPC-145P, Standards Project Committee - Test Method for Assessing the Performance of Gas Phase Air Cleaning Equipment (1991-1992)
- Member SPC-129P, Standards Project Committee - Test Method for Ventilation Effectiveness (1986-97)
 - Member of Drafting Committee
- Member Environmental Health Committee (1992-1994, 1997-2001, 2007-2010)
 - Chairman of EHC Research Subcommittee
 - Member of Man Made Mineral Fiber Position Paper Subcommittee
 - Member of the IAQ Position Paper Committee
 - Member of the Legionella Position Paper Committee
 - Member of the Limiting Indoor Mold and Dampness in Buildings Position Paper Committee
- Member SSPC-62, Standing Standards Project Committee - Ventilation for Acceptable Indoor Air Quality (1992 to 2000)
 - Chairman of Source Control and Air Cleaning Subcommittee
- Chairman of TC-4.10, Indoor Environmental Modeling (1988-92)
 - Member of Research Subcommittee
- Chairman of TC-2.3, Gaseous Air Contaminants and Control Equipment (1989-92)
 - Member of Research Subcommittee

American Society for Testing and Materials (ASTM)

- D-22 Sampling and Analysis of Atmospheres
 - Member of Indoor Air Quality Subcommittee
- E-06 Performance of Building Constructions

American Board of Industrial Hygiene (ABIH)

American Conference of Governmental Industrial Hygienists (ACGIH)

- Bioaerosols Committee (2007-2013)

American Industrial Hygiene Association (AIHA)

Cal-OSHA Indoor Air Quality Advisory Committee

International Society of Indoor Air Quality and Climate (ISIAQ)

- Co-Chairman of Task Force on HVAC Hygiene

U. S. Green Building Council (USGBC)

- Member of the IEQ Technical Advisory Group (2007-2009)
- Member of the IAQ Performance Testing Work Group (2010-2012)

Western Construction Consultants (WESTCON)

PROFESSIONAL CREDENTIALS

Licensed Professional Engineer - Mechanical Engineering

Certified Industrial Hygienist - American Board of Industrial Hygienists

SCIENTIFIC MEETINGS AND SYMPOSIA

Biological Contamination, Diagnosis, and Mitigation, Indoor Air '90, Toronto, Canada, August, 1990.

Models for Predicting Air Quality, Indoor Air '90, Toronto, Canada, August, 1990.

Microbes in Building Materials and Systems, Indoor Air '93, Helsinki, Finland, July, 1993.

Microorganisms in Indoor Air Assessment and Evaluation of Health Effects and Probable Causes, Walnut Creek, CA, February 27, 1997.

Controlling Microbial Moisture Problems in Buildings, Walnut Creek, CA, February 27, 1997.

Scientific Advisory Committee, Roomvent 98, 6th International Conference on Air Distribution in Rooms, KTH, Stockholm, Sweden, June 14-17, 1998.

Moisture and Mould, Indoor Air '99, Edinburgh, Scotland, August, 1999.

Ventilation Modeling and Simulation, Indoor Air '99, Edinburgh, Scotland, August, 1999.

Microbial Growth in Materials, Healthy Buildings 2000, Espoo, Finland, August, 2000.

Co-Chair, Bioaerosols X- Exposures in Residences, Indoor Air 2002, Monterey, CA, July 2002.

Healthy Indoor Environments, Anaheim, CA, April 2003.

Chair, Environmental Tobacco Smoke in Multi-Family Homes, Indoor Air 2008, Copenhagen, Denmark, July 2008.

Co-Chair, ISIAQ Task Force Workshop; HVAC Hygiene, Indoor Air 2002, Monterey, CA, July 2002.

Chair, ETS in Multi-Family Housing: Exposures, Controls, and Legalities Forum, Healthy Buildings 2009, Syracuse, CA, September 14, 2009.

Chair, Energy Conservation and IAQ in Residences Workshop, Indoor Air 2011, Austin, TX, June 6, 2011.

Chair, Electronic Cigarettes: Chemical Emissions and Exposures Colloquium, Indoor Air 2016, Ghent, Belgium, July 4, 2016.

SPECIAL CONSULTATION

Provide consultation to the American Home Appliance Manufacturers on the development of a standard for testing portable air cleaners, AHAM Standard AC-1.

Served as an expert witness and special consultant for the U.S. Federal Trade Commission regarding the performance claims found in advertisements of portable air cleaners and residential furnace filters.

Conducted a forensic investigation for a San Mateo, CA pro se defendant, regarding an alleged homicide where the victim was kidnapped in a steamer trunk. Determined the air exchange rate in the steamer trunk and how long the person could survive.

Conducted *in situ* measurement of human exposure to toluene fumes released during nailpolish application for a plaintiffs attorney pursuing a California Proposition 65 product labeling case. June, 1993.

Conducted a forensic *in situ* investigation for the Butte County, CA Sheriff's Department of the emissions of a portable heater used in the bedroom of two twin one year old girls who suffered simultaneous crib death.

Consult with OSHA on the 1995 proposed new regulation regarding indoor air quality and environmental tobacco smoke.

Consult with EPA on the proposed Building Alliance program and with OSHA on the proposed new OSHA IAQ regulation.

Johnson Controls Audit/Certification Expert Review; Milwaukee, WI. May 28-29, 1997.

Winner of the nationally published 1999 Request for Proposals by the State of Washington to conduct a comprehensive indoor air quality investigation of the Washington State Department of Ecology building in Lacey, WA.

Selected by the State of California Attorney General's Office in August, 2000 to conduct a comprehensive indoor air quality investigation of the Tulare County Court House.

Lawrence Berkeley Laboratory IAQ Experts Workshop: "Cause and Prevention of Sick Building Problems in Offices: The Experience of Indoor Environmental Quality Investigators", Berkeley, California, May 26-27, 2004.

Provide consultation and chemical emission rate testing to the State of California Attorney General's Office in 2013-2015 regarding the chemical emissions from e-cigarettes.

PEER-REVIEWED PUBLICATIONS :

F.J.Offermann, C.D.Hollowell, and G.D.Roseme, "Low-Infiltration Housing in Rochester, New York: A Study of Air Exchange Rates and Indoor Air Quality," *Environment International*, 8, pp. 435-445, 1982.

W.W.Nazaroff, F.J.Offermann, and A.W.Robb, "Automated System for Measuring Air Exchange Rate and Radon Concentration in Houses," *Health Physics*, 45, pp. 525-537, 1983.

F.J.Offermann, W.J.Fisk, D.T.Grimrud, B.Pedersen, and K.L.Revzan, "Ventilation Efficiencies of Wall- or Window-Mounted Residential Air-to-Air Heat Exchangers," *ASHRAE Annual Transactions*, 89-2B, pp 507-527, 1983.

W.J.Fisk, K.M.Archer, R.E.Chant, D. Hekmat, F.J.Offermann, and B.Pedersen, "Onset of Freezing in Residential Air-to-Air Heat Exchangers," *ASHRAE Annual Transactions*, 91-1B, 1984.

W.J.Fisk, K.M.Archer, R.E.Chant, D. Hekmat, F.J.Offermann, and B.Pedersen, "Performance of Residential Air-to-Air Heat Exchangers During Operation with Freezing and Periodic Defrosts," *ASHRAE Annual Transactions*, 91-1B, 1984.

F.J.Offermann, R.G.Sextro, W.J.Fisk, D.T.Grimrud, W.W.Nazaroff, A.V.Nero, and K.L.Revzan, "Control of Respirable Particles with Portable Air Cleaners," *Atmospheric Environment*, Vol. 19, pp.1761-1771, 1985.

R.G.Sextro, F.J.Offermann, W.W.Nazaroff, A.V.Nero, K.L.Revzan, and J.Yater, "Evaluation of Indoor Control Devices and Their Effects on Radon Progeny Concentrations," *Atmospheric Environment*, 12, pp. 429-438, 1986.

W.J. Fisk, R.K.Spencer, F.J.Offermann, R.K.Spencer, B.Pedersen, R.Sextro, "Indoor Air Quality Control Techniques," *Noyes Data Corporation*, Park Ridge, New Jersey, (1987).

F.J.Offermann, "Ventilation Effectiveness and ADPI Measurements of a Forced Air Heating System," *ASHRAE Transactions*, Volume 94, Part 1, pp 694-704, 1988.

F.J.Offermann and D. Int-Hout "Ventilation Effectiveness Measurements of Three Supply/Return Air Configurations," *Environment International*, Volume 15, pp 585-592 1989.

F.J. Offermann, S.A. Loiselle, M.C. Quinlan, and M.S. Rogers, "A Study of Diesel Fume Entrainment in an Office Building," *IAQ '89*, The Human Equation: Health and Comfort, pp 179-183, ASHRAE, Atlanta, GA, 1989.

R.G.Sextro and F.J.Offermann, "Reduction of Residential Indoor Particle and Radon Progeny Concentrations with Ducted Air Cleaning Systems," submitted to *Indoor Air*, 1990.

S.A.Loiselle, A.T.Hodgson, and F.J.Offermann, "Development of An Indoor Air Sampler for Polycyclic Aromatic Compounds", *Indoor Air*, Vol 2, pp 191-210, 1991.

F.J.Offermann, S.A.Loiselle, A.T.Hodgson, L.A. Gundel, and J.M. Daisey, "A Pilot Study to Measure Indoor Concentrations and Emission Rates of Polycyclic Aromatic Compounds", *Indoor Air*, Vol 4, pp 497-512, 1991.

F.J. Offermann, S. A. Loiselle, R.G. Sextro, "Performance Comparisons of Six Different Air Cleaners Installed in a Residential Forced Air Ventilation System," *IAQ'91*, Healthy Buildings, pp 342-350, ASHRAE, Atlanta, GA (1991).

F.J. Offermann, J. Daisey, A. Hodgson, L. Gundell, and S. Loiselle, "Indoor Concentrations and Emission Rates of Polycyclic Aromatic Compounds", *Indoor Air*, Vol 4, pp 497-512 (1992).

F.J. Offermann, S. A. Loiselle, R.G. Sextro, "Performance of Air Cleaners Installed in a Residential Forced Air System," *ASHRAE Journal*, pp 51-57, July, 1992.

F.J. Offermann and S. A. Loiselle, "Performance of an Air-Cleaning System in an Archival Book Storage Facility," *IAQ'92*, ASHRAE, Atlanta, GA, 1992.

S.B. Hayward, K.S. Liu, L.E. Alevantis, K. Shah, S. Loiselle, F.J. Offermann, Y.L. Chang, L. Webber, "Effectiveness of Ventilation and Other Controls in Reducing Exposure to ETS in Office Buildings," *Indoor Air '93*, Helsinki, Finland, July 4-8, 1993.

F.J. Offermann, S. A. Loiselle, G. Ander, H. Lau, "Indoor Contaminant Emission Rates Before and After a Building Bake-out," *IAQ'93*, Operating and Maintaining Buildings for Health, Comfort, and Productivity, pp 157-163, ASHRAE, Atlanta, GA, 1993.

L.E. Alevantis, Hayward, S.B., Shah, S.B., Loiselle, S., and Offermann, F.J. "Tracer Gas Techniques for Determination of the Effectiveness of Pollutant Removal From Local Sources," *IAQ '93*, Operating and Maintaining Buildings for Health, Comfort, and Productivity, pp 119-129, ASHRAE, Atlanta, GA, 1993.

L.E. Alevantis, Liu, L.E., Hayward, S.B., Offermann, F.J., Shah, S.B., Leiserson, K. Tsao, E., and Huang, Y., "Effectiveness of Ventilation in 23 Designated Smoking Areas in California Buildings," *IAQ '94*, Engineering Indoor Environments, pp 167-181, ASHRAE, Atlanta, GA, 1994.

L.E. Alevantis, Offermann, F.J., Loiselle, S., and Macher, J.M., "Pressure and Ventilation Requirements of Hospital Isolation Rooms for Tuberculosis (TB) Patients: Existing Guidelines in the United States and a Method for Measuring Room Leakage", Ventilation and Indoor air quality in Hospitals, M. Maroni, editor, Kluwer Academic publishers, Netherlands, 1996.

F.J. Offermann, M. A. Waz, A.T. Hodgson, and H.M. Ammann, "Chemical Emissions from a Hospital Operating Room Air Filter," *IAQ'96*, Paths to Better Building Environments, pp 95-99, ASHRAE, Atlanta, GA, 1996.

F.J. Offermann, "Professional Malpractice and the Sick Building Investigator," *IAQ'96*, Paths to Better Building Environments, pp 132-136, ASHRAE, Atlanta, GA, 1996.

F.J. Offermann, "Standard Method of Measuring Air Change Effectiveness," *Indoor Air*, Vol 1, pp.206-211, 1999.

F. J. Offermann, A. T. Hodgson, and J. P. Robertson, "Contaminant Emission Rates from PVC Backed Carpet Tiles on Damp Concrete", Healthy Buildings 2000, Espoo, Finland, August 2000.

K.S. Liu, L.E. Alevantis, and F.J. Offermann, "A Survey of Environmental Tobacco Smoke Controls in California Office Buildings", *Indoor Air*, Vol 11, pp. 26-34, 2001.

F.J. Offermann, R. Colfer, P. Radzinski, and J. Robertson, "Exposure to Environmental Tobacco Smoke in an Automobile", Indoor Air 2002, Monterey, California, July 2002.

F. J. Offermann, J.P. Robertson, and T. Webster, "The Impact of Tracer Gas Mixing on Airflow Rate Measurements in Large Commercial Fan Systems", Indoor Air 2002, Monterey, California, July 2002.

M. J. Mendell, T. Brennan, L. Hathon, J.D. Odom, F.J. Offermann, B.H. Turk, K.M. Wallingford, R.C. Diamond, W.J. Fisk, "Causes and prevention of Symptom Complaints

in Office Buildings: Distilling the Experience of Indoor Environmental Investigators", submitted to Indoor Air 2005, Beijing, China, September 4-9, 2005.

F.J. Offermann, "Ventilation and IAQ in New Homes With and Without Mechanical Outdoor Air Systems", Healthy Buildings 2009, Syracuse, CA, September 14, 2009.

F.J. Offermann, "ASHRAE 62.2 Intermittent Residential Ventilation: What's It Good For, Intermittently Poor IAQ", IAQVEC 2010, Syracuse, CA, April 21, 2010.

F.J. Offermann and A.T. Hodgson, "Emission Rates of Volatile Organic Compounds in New Homes", Indoor Air 2011, Austin, TX, June, 2011.

P. Jenkins, R. Johnson, T. Phillips, and F. Offermann, "Chemical Concentrations in New California Homes and Garages", Indoor Air 2011, Austin, TX, June, 2011.

W. J. Mills, B. J. Grigg, F. J. Offermann, B. E. Gustin, and N. E. Spingarn, "Toluene and Methyl Ethyl Ketone Exposure from a Commercially Available Contact Adhesive", Journal of Occupational and Environmental Hygiene, 9:D95-D102 May, 2012.

F. J. Offermann, R. Maddalena, J. C. Offermann, B. C. Singer, and H. Wilhelm, "The Impact of Ventilation on the Emission Rates of Volatile Organic Compounds in Residences", HB 2012, Brisbane, AU, July, 2012.

F. J. Offermann, A. T. Hodgson, P. L. Jenkins, R. D. Johnson, and T. J. Phillips, "Attached Garages as a Source of Volatile Organic Compounds in New Homes", HB 2012, Brisbane, CA, July, 2012.

R. Maddalena, N. Li, F. Offermann, and B. Singer, "Maximizing Information from Residential Measurements of Volatile Organic Compounds", HB 2012, Brisbane, AU, July, 2012.

W. Chen, A. Persily, A. Hodgson, F. Offermann, D. Poppendieck, and K. Kumagai, "Area-Specific Airflow Rates for Evaluating the Impacts of VOC emissions in U.S. Single-Family Homes", Building and Environment, Vol. 71, 204-211, February, 2014.

F. J. Offermann, A. Eagan A. C. Offermann, and L. J. Radonovich, "Infectious Disease Aerosol Exposures With and Without Surge Control Ventilation System Modifications", Indoor Air 2014, Hong Kong, July, 2014.

F. J. Offermann, "Chemical Emissions from E-Cigarettes: Direct and Indirect Passive Exposures", Building and Environment, Vol. 93, Part 1, 101-105, November, 2015.

F. J. Offermann, "Formaldehyde Emission Rates From Lumber Liquidators Laminate Flooring Manufactured in China", Indoor Air 2016, Belgium, Ghent, July, 2016.

F. J. Offermann, "Formaldehyde and Acetaldehyde Emission Rates for E-Cigarettes", Indoor Air 2016, Belgium, Ghent, July, 2016.

OTHER REPORTS:

W.J.Fisk, P.G.Cleary, and F.J.Offermann, "Energy Saving Ventilation with Residential Heat Exchangers," a Lawrence Berkeley Laboratory brochure distributed by the Bonneville Power Administration, 1981.

F.J.Offermann, J.R.Girman, and C.D.Hollowell, "Midway House Tightening Project: A Study of Indoor Air Quality," Lawrence Berkeley Laboratory, Berkeley, CA, Report LBL-12777, 1981.

F.J.Offermann, J.B.Dickinson, W.J.Fisk, D.T.Grimsrud, C.D.Hollowell, D.L.Krinkle, and G.D.Roseme, "Residential Air-Leakage and Indoor Air Quality in Rochester, New York," Lawrence Berkeley Laboratory, Berkeley, CA, Report LBL-13100, 1982.

F.J.Offermann, W.J.Fisk, B.Pedersen, and K.L.Revzan, "Residential Air-to-Air Heat Exchangers: A Study of the Ventilation Efficiencies of Wall- or Window- Mounted Units," Lawrence Berkeley Laboratory, Berkeley, CA, Report LBL-14358, 1982.

F.J.Offermann, W.J.Fisk, W.W.Nazaroff, and R.G.Sextro, "A Review of Portable Air Cleaners for Controlling Indoor Concentrations of Particulates and Radon Progeny," An interim report for the Bonneville Power Administration, 1983.

W.J.Fisk, K.M.Archer, R.E.Chant, D.Hekmat, F.J.Offermann, and B.S. Pedersen, "Freezing in Residential Air-to-Air Heat Exchangers: An Experimental Study," Lawrence Berkeley Laboratory, Berkeley, CA, Report LBL-16783, 1983.

R.G.Sextro, W.W.Nazaroff, F.J.Offermann, and K.L.Revzan, "Measurements of Indoor Aerosol Properties and Their Effect on Radon Progeny," Proceedings of the American Association of Aerosol Research Annual Meeting, April, 1983.

F.J.Offermann, R.G.Sextro, W.J.Fisk, W.W. Nazaroff, A.V.Nero, K.L.Revzan, and J.Yater, "Control of Respirable Particles and Radon Progeny with Portable Air Cleaners," Lawrence Berkeley Laboratory, Berkeley, CA, Report LBL-16659, 1984.

W.J.Fisk, R.K.Spencer, D.T.Grimsrud, F.J.Offermann, B.Pedersen, and R.G.Sextro, "Indoor Air Quality Control Techniques: A Critical Review," Lawrence Berkeley Laboratory, Berkeley, CA, Report LBL-16493, 1984.

F.J.Offermann, J.R.Girman, and R.G.Sextro, "Controlling Indoor Air Pollution from Tobacco Smoke: Models and Measurements," Indoor Air, Proceedings of the 3rd International Conference on Indoor Air Quality and Climate, Vol 1, pp 257-264, Swedish Council for Building Research, Stockholm (1984), Lawrence Berkeley Laboratory, Berkeley, CA, Report LBL-17603, 1984.

R.Otto, J.Girman, F.Offermann, and R.Sextro, "A New Method for the Collection and Comparison of Respirable Particles in the Indoor Environment," Lawrence Berkeley Laboratory, Berkeley, CA, Special Director Fund's Study, 1984.

A.T.Hodgson and F.J.Offermann, "Examination of a Sick Office Building," Lawrence Berkeley Laboratory, Berkeley, CA, an informal field study, 1984.

R.G.Sextro, F.J.Offermann, W.W.Nazaroff, and A.V.Nero, "Effects of Aerosol Concentrations on Radon Progeny," Aerosols, Science, & Technology, and Industrial Applications of Airborne Particles, editors B.Y.H.Liu, D.Y.H.Pui, and H.J.Fissan, p525, Elsevier, 1984.

K.Sexton, S.Hayward, F.Offermann, R.Sextro, and L.Weber, "Characterization of Particulate and Organic Emissions from Major Indoor Sources, Proceedings of the Third International Conference on Indoor Air Quality and Climate, Stockholm, Sweden, August 20-24, 1984.

F.J.Offermann, "Tracer Gas Measurements of Laboratory Fume Entrainment at a Semiconductor Manufacturing Plant," an Indoor Environmental Engineering R&D Report, 1986.

F.J.Offermann, "Tracer Gas Measurements of Ventilation Rates in a Large Office Building," an Indoor Environmental Engineering R&D Report, 1986.

F.J.Offermann, "Measurements of Volatile Organic Compounds in a New Large Office Building with Adhesive Fastened Carpeting," an Indoor Environmental Engineering R&D Report, 1986.

F.J.Offermann, "Designing and Operating Healthy Buildings", an Indoor Environmental Engineering R&D Report, 1986.

F.J.Offermann, "Measurements and Mitigation of Indoor Spray-Applied Pesticides", an Indoor Environmental Engineering R&D Report, 1988.

F.J.Offermann and S. Loisel, "Measurements and Mitigation of Indoor Mold Contamination in a Residence", an Indoor Environmental Engineering R&D Report, 1989.

F.J.Offermann and S. Loisel, "Performance Measurements of an Air Cleaning System in a Large Archival Library Storage Facility", an Indoor Environmental Engineering R&D Report, 1989.

F.J. Offermann, J.M. Daisey, L.A. Gundel, and A.T. Hodgson, S. A. Loisel, "Sampling, Analysis, and Data Validation of Indoor Concentrations of Polycyclic Aromatic Hydrocarbons", Final Report, Contract No. A732-106, California Air Resources Board, March, 1990.

L.A. Gundel, J.M. Daisey, and F.J. Offermann, "A Sampling and Analytical Method for Gas Phase Polycyclic Aromatic Hydrocarbons", Proceedings of the 5th International Conference on Indoor Air Quality and Climate, Indoor Air '90, July 29-August 1990.

A.T. Hodgson, J.M. Daisey, and F.J. Offermann "Development of an Indoor Sampling and Analytical Method for Particulate Polycyclic Aromatic Hydrocarbons", Proceedings of the 5th International Conference on Indoor Air Quality and Climate, Indoor Air '90, July 29-August, 1990.

F.J. Offermann, J.O. Sateri, "Tracer Gas Measurements in Large Multi-Room Buildings", Indoor Air '93, Helsinki, Finland, July 4-8, 1993.

F.J. Offermann, M. T. O'Flaherty, and M. A. Waz "Validation of ASHRAE 129 - Standard Method of Measuring Air Change Effectiveness", Final Report of ASHRAE Research Project 891, December 8, 1997.

S.E. Guffey, F.J. Offermann et. al., "Proceedings of the Workshop on Ventilation Engineering Controls for Environmental Tobacco smoke in the Hospitality Industry", U.S. Department of Labor Occupational Safety and Health Administration and ACGIH, 1998.

F.J. Offermann, R.J. Fiskum, D. Kosar, and D. Mudaari, "A Practical Guide to Ventilation Practices & Systems for Existing Buildings", *Heating/Piping/Air Conditioning Engineering* supplement to April/May 1999 issue.

F.J. Offermann, P. Pasanen, "Workshop 18: Criteria for Cleaning of Air Handling Systems", Healthy Buildings 2000, Espoo, Finland, August 2000.

F.J. Offermann, Session Summaries: Building Investigations, and Design & Construction, Healthy Buildings 2000, Espoo, Finland, August 2000.

F.J. Offermann, "The IAQ Top 10", Engineered Systems, November, 2008.

L. Kincaid and F.J. Offermann, "Unintended Consequences: Formaldehyde Exposures in Green Homes, AIHA Synergist, February, 2010.

F.J. Offermann, "IAQ in Air Tight Homes", ASHRAE Journal, November, 2010.

F.J. Offermann, "The Hazards of E-Cigarettes", ASHRAE Journal, June, 2014.

PRESENTATIONS :

"Low-Infiltration Housing in Rochester, New York: A Study of Air Exchange Rates and Indoor Air Quality," Presented at the International Symposium on Indoor Air Pollution, Health and Energy Conservation, Amherst, MA, October 13-16, 1981.

"Ventilation Efficiencies of Wall- or Window-Mounted Residential Air-to-Air Heat Exchangers," Presented at the American Society of Heating, Refrigeration, and Air Conditioning Engineers Summer Meeting, Washington, DC, June, 1983.

"Controlling Indoor Air Pollution from Tobacco Smoke: Models and Measurements," Presented at the Third International Conference on Indoor Air Quality and Climate, Stockholm, Sweden, August 20-24, 1984.

"Indoor Air Pollution: An Emerging Environmental Problem", Presented to the Association of Environmental Professionals, Bar Area/Coastal Region 1, Berkeley, CA, May 29, 1986.

"Ventilation Measurement Techniques," Presented at the Workshop on Sampling and Analytical Techniques, Georgia Institute of Technology, Atlanta, Georgia, September 26, 1986 and September 25, 1987.

"Buildings That Make You Sick: Indoor Air Pollution", Presented to the Sacramento Association of Professional Energy Managers, Sacramento, CA, November 18, 1986.

"Ventilation Effectiveness and Indoor Air Quality", Presented to the American Society of Heating, Refrigeration, and Air Conditioning Engineers Northern Nevada Chapter, Reno, NV, February 18, 1987, Golden Gate Chapter, San Francisco, CA, October 1, 1987, and the San Jose Chapter, San Jose, CA, June 9, 1987.

"Tracer Gas Techniques for Studying Ventilation," Presented at the Indoor Air Quality Symposium, Georgia Tech Research Institute, Atlanta, GA, September 22-24, 1987.

"Indoor Air Quality Control: What Works, What Doesn't," Presented to the Sacramento Association of Professional Energy Managers, Sacramento, CA, November 17, 1987.

"Ventilation Effectiveness and ADPI Measurements of a Forced Air Heating System," Presented at the American Society of Heating, Refrigeration, and Air Conditioning Engineers Winter Meeting, Dallas, Texas, January 31, 1988.

"Indoor Air Quality, Ventilation, and Energy in Commercial Buildings", Presented at the Building Owners & Managers Association of Sacramento, Sacramento, CA, July 21, 1988.

"Controlling Indoor Air Quality: The New ASHRAE Ventilation Standards and How to Evaluate Indoor Air Quality", Presented at a conference "Improving Energy Efficiency and Indoor Air Quality in Commercial Buildings," National Energy Management Institute, Reno, Nevada, November 4, 1988.

"A Study of Diesel Fume Entrainment Into an Office Building," Presented at Indoor Air '89: The Human Equation: Health and Comfort, American Society of Heating, Refrigeration, and Air Conditioning Engineers, San Diego, CA, April 17-20, 1989.

"Indoor Air Quality in Commercial Office Buildings," Presented at the Renewable Energy Technologies Symposium and International Exposition, Santa Clara, CA June 20, 1989.

"Building Ventilation and Indoor Air Quality", Presented to the San Joaquin Chapter of the American Society of Heating, Refrigeration, and Air Conditioning Engineers, September 7, 1989.

"How to Meet New Ventilation Standards: Indoor Air Quality and Energy Efficiency," a workshop presented by the Association of Energy Engineers; Chicago, IL, March 20-21, 1989; Atlanta, GA, May 25-26, 1989; San Francisco, CA, October 19-20, 1989; Orlando, FL, December 11-12, 1989; Houston, TX, January 29-30, 1990; Washington D.C., February 26-27, 1990; Anchorage, Alaska, March 23, 1990; Las Vegas, NV, April 23-24, 1990; Atlantic City, NJ, September 27-28, 1991; Anaheim, CA, November 19-20, 1991; Orlando, FL, February 28 - March 1, 1991; Washington, DC, March 20-21, 1991; Chicago, IL, May 16-17, 1991; Lake Tahoe, NV, August 15-16, 1991; Atlantic City, NJ, November 18-19, 1991; San Jose, CA, March 23-24, 1992.

"Indoor Air Quality," a seminar presented by the Anchorage, Alaska Chapter of the American Society of Heating, Refrigeration, and Air Conditioning Engineers, March 23, 1990.

"Ventilation and Indoor Air Quality", Presented at the 1990 HVAC & Building Systems Congress, Santa Clara, CA, March 29, 1990.

"Ventilation Standards for Office Buildings", Presented to the South Bay Property Managers Association, Santa Clara, May 9, 1990.

"Indoor Air Quality", Presented at the Responsive Energy Technologies Symposium & International Exposition (RETSIE), Santa Clara, CA, June 20, 1990.

"Indoor Air Quality - Management and Control Strategies", Presented at the Association of Energy Engineers, San Francisco Bay Area Chapter Meeting, Berkeley, CA, September 25, 1990.

"Diagnosing Indoor Air Contaminant and Odor Problems", Presented at the ASHRAE Annual Meeting, New York City, NY, January 23, 1991.

"Diagnosing and Treating the Sick Building Syndrome", Presented at the Energy 2001, Oklahoma, OK, March 19, 1991.

"Diagnosing and Mitigating Indoor Air Quality Problems" a workshop presented by the Association of Energy Engineers, Chicago, IL, October 29-30, 1990; New York, NY, January 24-25, 1991; Anaheim, April 25-26, 1991; Boston, MA, June 10-11, 1991; Atlanta, GA, October 24-25, 1991; Chicago, IL, October 3-4, 1991; Las Vegas, NV, December 16-17, 1991; Anaheim, CA, January 30-31, 1992; Atlanta, GA, March 5-6, 1992; Washington, DC, May 7-8, 1992; Chicago, IL, August 19-20, 1992; Las Vegas,

NV, October 1-2, 1992; New York City, NY, October 26-27, 1992, Las Vegas, NV, March 18-19, 1993; Lake Tahoe, CA, July 14-15, 1994; Las Vegas, NV, April 3-4, 1995; Lake Tahoe, CA, July 11-12, 1996; Miami, FL, December 9-10, 1996.

"Sick Building Syndrome and the Ventilation Engineer", Presented to the San Jose Engineers Club, May, 21, 1991.

"Duct Cleaning: Who Needs It ? How Is It Done ? What Are The Costs ?" What Are the Risks ?, Moderator of Forum at the ASHRAE Annual Meeting, Indianapolis ID, June 23, 1991.

"Operating Healthy Buildings", Association of Plant Engineers, Oakland, CA, November 14, 1991.

"Duct Cleaning Perspectives", Moderator of Seminar at the ASHRAE Semi-Annual Meeting, Indianapolis, IN, June 24, 1991.

"Duct Cleaning: The Role of the Environmental Hygienist," ASHRAE Annual Meeting, Anaheim, CA, January 29, 1992.

"Emerging IAQ Issues", Fifth National Conference on Indoor Air Pollution, University of Tulsa, Tulsa, OK, April 13-14, 1992.

"International Symposium on Room Air Convection and Ventilation Effectiveness", Member of Scientific Advisory Board, University of Tokyo, July 22-24, 1992.

"Guidelines for Contaminant Control During Construction and Renovation Projects in Office Buildings," Seminar paper at the ASHRAE Annual Meeting, Chicago, IL, January 26, 1993.

"Outside Air Economizers: IAQ Friend or Foe", Moderator of Forum at the ASHRAE Annual Meeting, Chicago, IL, January 26, 1993.

"Orientation to Indoor Air Quality," an EPA two and one half day comprehensive indoor air quality introductory workshop for public officials and building property managers; Sacramento, September 28-30, 1992; San Francisco, February 23-24, 1993; Los Angeles, March 16-18, 1993; Burbank, June 23, 1993; Hawaii, August 24-25, 1993; Las Vegas, August 30, 1993; San Diego, September 13-14, 1993; Phoenix, October 18-19, 1993; Reno, November 14-16, 1995; Fullerton, December 3-4, 1996; Fresno, May 13-14, 1997.

"Building Air Quality: A Guide for Building Owners and Facility Managers," an EPA one half day indoor air quality introductory workshop for building owners and facility managers. Presented throughout Region IX 1993-1995.

"Techniques for Airborne Disease Control", EPRI Healthcare Initiative Symposium; San Francisco, CA; June 7, 1994.

"Diagnosing and Mitigating Indoor Air Quality Problems", CIHC Conference; San Francisco, September 29, 1994.

"Indoor Air Quality: Tools for Schools," an EPA one day air quality management workshop for school officials, teachers, and maintenance personnel; San Francisco, October 18-20, 1994; Cerritos, December 5, 1996; Fresno, February 26, 1997; San Jose, March 27, 1997; Riverside, March 5, 1997; San Diego, March 6, 1997; Fullerton, November 13, 1997; Santa Rosa, February 1998; Cerritos, February 26, 1998; Santa Rosa, March 2, 1998.

ASHRAE 62 Standard "Ventilation for Acceptable IAQ", ASCR Convention; San Francisco, CA, March 16, 1995.

"New Developments in Indoor Air Quality: Protocol for Diagnosing IAQ Problems", AIHA-NC; March 25, 1995.

"Experimental Validation of ASHRAE SPC 129, Standard Method of Measuring Air Change Effectiveness", 16th AIVC Conference, Palm Springs, USA, September 19-22, 1995.

"Diagnostic Protocols for Building IAQ Assessment", American Society of Safety Engineers Seminar: "Indoor Air Quality – The Next Door"; San Jose Chapter, September 27, 1995; Oakland Chapter, 9, 1997.

"Diagnostic Protocols for Building IAQ Assessment", Local 39; Oakland, CA, October 3, 1995.

"Diagnostic Protocols for Solving IAQ Problems", CSU-PPD Conference; October 24, 1995.

"Demonstrating Compliance with ASHRAE 62-1989 Ventilation Requirements", AIHA; October 25, 1995.

"IAQ Diagnostics: Hands on Assessment of Building Ventilation and Pollutant Transport", EPA Region IX; Phoenix, AZ, March 12, 1996; San Francisco, CA, April 9, 1996; Burbank, CA, April 12, 1996.

"Experimental Validation of ASHRAE 129P: Standard Method of Measuring Air Change Effectiveness", Room Vent '96 / International Symposium on Room Air Convection and Ventilation Effectiveness"; Yokohama, Japan, July 16-19, 1996.

"IAQ Diagnostic Methodologies and RFP Development", CCEHSA 1996 Annual Conference, Humboldt State University, Arcata, CA, August 2, 1996.

"The Practical Side of Indoor Air Quality Assessments", California Industrial Hygiene Conference '96, San Diego, CA, September 2, 1996.

"ASHRAE Standard 62: Improving Indoor Environments", Pacific Gas and Electric Energy Center, San Francisco, CA, October 29, 1996.

"Operating and Maintaining Healthy Buildings", April 3-4, 1996, San Jose, CA; July 30, 1997, Monterey, CA.

"IAQ Primer", Local 39, April 16, 1997; Amdahl Corporation, June 9, 1997; State Compensation Insurance Fund's Safety & Health Services Department, November 21, 1996.

"Tracer Gas Techniques for Measuring Building Air Flow Rates", ASHRAE, Philadelphia, PA, January 26, 1997.

"How to Diagnose and Mitigate Indoor Air Quality Problems"; Women in Waste; March 19, 1997.

"Environmental Engineer: What Is It?", Monte Vista High School Career Day; April 10, 1997.

"Indoor Environment Controls: What's Hot and What's Not", Shaklee Corporation; San Francisco, CA, July 15, 1997.

"Measurement of Ventilation System Performance Parameters in the US EPA BASE Study", Healthy Buildings/IAQ'97, Washington, DC, September 29, 1997.

"Operations and Maintenance for Healthy and Comfortable Indoor Environments", PASMA; October 7, 1997.

"Designing for Healthy and Comfortable Indoor Environments", Construction Specification Institute, Santa Rosa, CA, November 6, 1997.

"Ventilation System Design for Good IAQ", University of Tulsa 10th Annual Conference, San Francisco, CA, February 25, 1998.

"The Building Shell", Tools For Building Green Conference and Trade Show, Alameda County Waste Management Authority and Recycling Board, Oakland, CA, February 28, 1998.

"Identifying Fungal Contamination Problems In Buildings", The City of Oakland Municipal Employees, Oakland, CA, March 26, 1998.

"Managing Indoor Air Quality in Schools: Staying Out of Trouble", CASBO, Sacramento, CA, April 20, 1998.

"Indoor Air Quality", CSOOC Spring Conference, Visalia, CA, April 30, 1998.

"Particulate and Gas Phase Air Filtration", ACGIH/OSHA, Ft. Mitchell, KY, June 1998.

"Building Air Quality Facts and Myths", The City of Oakland / Alameda County Safety Seminar, Oakland, CA, June 12, 1998.

"Building Engineering and Moisture", Building Contamination Workshop, University of California Berkeley, Continuing Education in Engineering and Environmental Management, San Francisco, CA, October 21-22, 1999.

"Identifying and Mitigating Mold Contamination in Buildings", Western Construction Consultants Association, Oakland, CA, March 15, 2000; AIG Construction Defect Seminar, Walnut Creek, CA, May 2, 2001; City of Oakland Public Works Agency, Oakland, CA, July 24, 2001; Executive Council of Homeowners, Alamo, CA, August 3, 2001.

"Using the EPA BASE Study for IAQ Investigation / Communication", Joint Professional Symposium 2000, American Industrial Hygiene Association, Orange County & Southern California Sections, Long Beach, October 19, 2000.

"Ventilation," Indoor Air Quality: Risk Reduction in the 21st Century Symposium, sponsored by the California Environmental Protection Agency/Air Resources Board, Sacramento, CA, May 3-4, 2000.

"Workshop 18: Criteria for Cleaning of Air Handling Systems", Healthy Buildings 2000, Espoo, Finland, August 2000.

"Closing Session Summary: 'Building Investigations' and 'Building Design & Construction', Healthy Buildings 2000, Espoo, Finland, August 2000.

"Managing Building Air Quality and Energy Efficiency, Meeting the Standard of Care", BOMA, MidAtlantic Environmental Hygiene Resource Center, Seattle, WA, May 23rd, 2000; San Antonio, TX, September 26-27, 2000.

"Diagnostics & Mitigation in Sick Buildings: When Good Buildings Go Bad," University of California Berkeley, September 18, 2001.

"Mold Contamination: Recognition and What To Do and Not Do", Redwood Empire Remodelers Association, Santa Rosa, CA, April 16, 2002.

"Investigative Tools of the IAQ Trade", Healthy Indoor Environments 2002; Austin, TX; April 22, 2002.

"Finding Hidden Mold: Case Studies in IAQ Investigations", AIHA Northern California Professionals Symposium; Oakland, CA, May 8, 2002.

"Assessing and Mitigating Fungal Contamination in Buildings", Cal/OSHA Training; Oakland, CA, February 14, 2003 and West Covina, CA, February 20-21, 2003.

"Use of External Containments During Fungal Mitigation", Invited Speaker, ACGIH Mold Remediation Symposium, Orlando, FL, November 3-5, 2003.

Building Operator Certification (BOC), 106-IAQ Training Workshops, Northwest Energy Efficiency Council; Stockton, CA, December 3, 2003; San Francisco, CA, December 9, 2003; Irvine, CA, January 13, 2004; San Diego, January 14, 2004; Irwindale, CA, January 27, 2004; Downey, CA, January 28, 2004; Santa Monica, CA, March 16, 2004; Ontario, CA, March 17, 2004; Ontario, CA, November 9, 2004; San Diego, CA, November 10, 2004; San Francisco, CA, November 17, 2004; San Jose, CA, November 18, 2004; Sacramento, CA, March 15, 2005.

"Mold Remediation: The National QUEST for Uniformity Symposium", Invited Speaker, Orlando, Florida, November 3-5, 2003.

"Mold and Moisture Control", Indoor Air Quality workshop for The Collaborative for High Performance Schools (CHPS), San Francisco, December 11, 2003.

"Advanced Perspectives In Mold Prevention & Control Symposium", Invited Speaker, Las Vegas, Nevada, November 7-9, 2004.

"Building Sciences: Understanding and Controlling Moisture in Buildings", American Industrial Hygiene Association, San Francisco, CA, February 14-16, 2005.

"Indoor Air Quality Diagnostics and Healthy Building Design", University of California Berkeley, Berkeley, CA, March 2, 2005.

"Improving IAQ = Reduced Tenant Complaints", Northern California Facilities Exposition, Santa Clara, CA, September 27, 2007.

"Defining Safe Building Air", Criteria for Safe Air and Water in Buildings, ASHRAE Winter Meeting, Chicago, IL, January 27, 2008.

"Update on USGBC LEED and Air Filtration", Invited Speaker, NAFA 2008 Convention, San Francisco, CA, September 19, 2008.

"Ventilation and Indoor air Quality in New California Homes", National Center of Healthy Housing, October 20, 2008.

"Indoor Air Quality in New Homes", California Energy and Air Quality Conference, October 29, 2008.

"Mechanical Outdoor air Ventilation Systems and IAQ in New Homes", ACI Home Performance Conference, Kansas City, MO, April 29, 2009.

"Ventilation and IAQ in New Homes with and without Mechanical Outdoor Air Systems", Healthy Buildings 2009, Syracuse, CA, September 14, 2009.

"Ten Ways to Improve Your Air Quality", Northern California Facilities Exposition, Santa Clara, CA, September 30, 2009.

"New Developments in Ventilation and Indoor Air Quality in Residential Buildings", Westcon meeting, Alameda, CA, March 17, 2010.

"Intermittent Residential Mechanical Outdoor Air Ventilation Systems and IAQ", ASHRAE SSPC 62.2 Meeting, Austin, TX, April 19, 2010.

"Measured IAQ in Homes", ACI Home Performance Conference, Austin, TX, April 21, 2010.

"Respiration: IEQ and Ventilation", AIHce 2010, How IH Can LEED in Green buildings, Denver, CO, May 23, 2010.

"IAQ Considerations for Net Zero Energy Buildings (NZEB)", Northern California Facilities Exposition, Santa Clara, CA, September 22, 2010.

"Energy Conservation and Health in Buildings", Berkeley High School Green Career Week, Berkeley, CA, April 12, 2011.

"What Pollutants are Really There ?", ACI Home Performance Conference, San Francisco, CA, March 30, 2011.

"Energy Conservation and Health in Residences Workshop", Indoor Air 2011, Austin, TX, June 6, 2011.

"Assessing IAQ and Improving Health in Residences", US EPA Weatherization Plus Health, September 7, 2011.

"Ventilation: What a Long Strange Trip It's Been", Westcon, May 21, 2014.

"Chemical Emissions from E-Cigarettes: Direct and Indirect Passive Exposures", Indoor Air 2014, Hong Kong, July, 2014.

"Infectious Disease Aerosol Exposures With and Without Surge Control Ventilation System Modifications", Indoor Air 2014, Hong Kong, July, 2014.

"Chemical Emissions from E-Cigarettes", IMF Health and Welfare Fair, Washington, DC, February 18, 2015.

"Chemical Emissions and Health Hazards Associated with E-Cigarettes", Roswell Park Cancer Institute, Buffalo, NY, August 15, 2014.

"Formaldehyde Indoor Concentrations, Material Emission Rates, and the CARB ATCM", Harris Martin's Lumber Liquidators Flooring Litigation Conference, WQ Minneapolis Hotel, May 27, 2015.

"Chemical Emissions from E-Cigarettes: Direct and Indirect Passive Exposure", FDA Public Workshop: Electronic Cigarettes and the Public Health, Hyattsville, MD June 2, 2015.

"Creating Healthy Homes, Schools, and Workplaces", Chautauqua Institution, Athenaeum Hotel, August 24, 2015.

"Diagnosing IAQ Problems and Designing Healthy Buildings", University of California Berkeley, Berkeley, CA, October 6, 2015.

"Diagnosing Ventilation and IAQ Problems in Commercial Buildings", BEST Center Annual Institute, Lawrence Berkeley National Laboratory, January 6, 2016.

"A Review of Studies of Ventilation and Indoor Air Quality in New Homes and Impacts of Environmental Factors on Formaldehyde Emission Rates From Composite Wood Products", AIHce2016, May, 21-26, 2016.

"Admissibility of Scientific Testimony", Science in the Court, Proposition 65 Clearinghouse Annual Conference, Oakland, CA, September 15, 2016.

"Indoor Air Quality and Ventilation", ASHRAE Redwood Empire, Napa, CA, December 1, 2016.

SUPPORTING DOCUMENT Q: Appeal Letter Response

*We Make a Difference***MEMORANDUM**

To: John Ciampa, City of Dana Point

From: Kristen Bogue, Michael Baker International

Date: June 10, 2024

Subject: City of Dana Point, Victoria Boulevard Apartments EIR – Responses to Comment Letter Re: Comment on the Environmental Impact Report prepared for the Victoria Boulevard Apartments, State Clearinghouse No. 2021070304

Michael Baker International (Michael Baker), on behalf of the City of Dana Point (City), is writing to provide responses to comment letter *Re: Comment on the Environmental Impact Report prepared for the Victoria Boulevard Apartments, State Clearinghouse No. 2021070304*, prepared by Lozeau Drury, LLP, dated May 13, 2024, regarding the *Victoria Boulevard Apartments Draft Environmental Impact Report* (Draft EIR) prepared for the proposed Victoria Boulevard Apartments Project (project).

INTRODUCTION

The commenter states that Lozeau Drury, LLP is writing on behalf of Supporters Alliance for Environmental Responsibility (SAFER) and its members living and working in and around the City of Dana Point (collectively referred to as "commenter" herein). The commenter notes the review of the Draft EIR was assisted by Baseline Environmental Consulting and Indoor Environmental Engineering (Francis Offermann, PE, CIH), whose written comments were attached as Exhibits A and B, respectively, to the comment letter.

Overall, the commenter claims that the Draft EIR lacks substantial evidence to support the conclusions that the project would not have adverse environmental impacts, particularly regarding climate change, human health, air quality, and noise. The commenter states that the Draft EIR violates CEQA because it fails to evaluate the feasibility of increasing reliance on renewable resources, and to evaluate strategies for reducing reliance on fossil fuels by prohibiting natural gas. The commenter further claims the project violates state and local laws, including the Surplus Land Act and the City's General Plan.

The responses to the individual technical comments below demonstrate that the conclusions in the Draft EIR are supported by substantial evidence, and none of the clarifications to the Draft EIR identified in this memorandum constitutes "significant new information" pursuant to CEQA Guidelines Section 15088.5. As a result, a recirculation of the Draft EIR is not required.

PROJECT DESCRIPTION

This comment letter provides a summary of the project description. It does not raise issues pertinent to the adequacy of the Draft EIR.

LEGAL STANDARD

This comment letter provides a summary of CEQA case law related to the preparation of EIRs and to CEQA's purpose and requirements. This comment is acknowledged. This comment does not address the content of the Draft EIR or raise any issues pertinent to the adequacy of the Draft EIR.

SECTION I: THE EIR FAILS TO ANALYZE THE POTENTIALLY SIGNIFICANT IMPACT OF DIESEL PARTICULATE MATTER EMISSIONS DURING PROJECT CONSTRUCTION ON NEARBY SENSITIVE RECEPTORS.

Pages 3 and 4 of 17. The commenter claims that the Draft EIR fails to analyze the project's potential health risk impacts associated with toxic air contaminants (TACs), and particularly, diesel particulate matter (DPM), emissions to nearby sensitive receptors during project construction. The commenter claims that the Draft EIR compared the project's construction emissions to the South Coast Air Quality District's (SCAQMD's) Localized Significance Thresholds (LST) to reach its conclusion that the project would not have any health risks. But in doing so, the commenter claims, the City failed to evaluate the health impacts of DPM, a contaminant for which there is no LST standard. Additionally, the commenter notes that the project construction will generate DPM emissions exceeding SCAQMD's cancer risk threshold as previously disclosed in the Victoria Boulevard Apartments Final Environmental Impact Report (Final EIR) comment letter O-2 from the Southwest Mountain States Regional Council Of Carpenters (SWAPE), Jason A. Cohen, Esq, dated March 6, 2023. The commenter states that the City failed to analyze such impact and that the Draft EIR therefore lacks substantial evidence to conclude that the impact in this regard will be less than significant. The commenter requests the EIR to be revised to analyze and mitigate such impact.

The City follows SCAQMD guidance for the preparation of CEQA air quality analyses. LST methodologies and mass rate look-up tables by source receptor area (SRA) were developed by the SCAQMD to be used by public agencies to determine whether a project may generate significant adverse localized air quality impacts from the perspective of environmental justice. In another word, LSTs are established to protect human health by restricting localized emissions. LSTs represent the maximum emissions from a project that will not cause or contribute to an exceedance of the most stringent applicable federal or State ambient air quality standard and are developed based on the ambient concentrations of that pollutant for each source receptor area. The LSTs act as a screening tool. As such, if the calculated emissions for the proposed construction or operational activities are below the LST thresholds, then the proposed construction or operation activity is not considered to result in a significant impact for localized air quality. As discussed in Draft EIR Section 5.8, *Air Quality* (pages 5.8-21 and 5.8-22), the project's localized air emissions during construction would be below SCAQMD LSTs.

Additionally, it should be noted that DPM referenced by the commenter is a subset of particulate matter less than 2.5 microns in diameter (PM_{2.5}) and particulate matter 10 micrometers or less in diameter (PM₁₀), and LST analysis conducted as part of the Draft EIR includes quantification and analysis on localized PM₁₀ and PM_{2.5} emissions, which includes DPM. Therefore, a significant construction impact would not occur, and a quantitative construction Health Risk Analysis (HRA) to evaluate project-generated cancer risk to nearby sensitive receptors during project construction is not necessary. Therefore, health impacts on sensitive receptors associated with exposure to DPM from project construction activities would be less than significant, and construction of the proposed project is not anticipated to result in an elevated cancer risk to nearby sensitive receptors during project construction.

As previously explained in the Final EIR Response to Comment O2-7, the construction DPM emissions calculation performed by SWAPE is incorrect. SWAPE incorrectly used the total DPM emissions during construction, which included both on-site and off-site emissions. However, off-site emissions should be excluded because they would not cause localized impacts or health risk impacts on sensitive receptors near the project site. SWAPE's flawed methodology resulted in an overestimation of DPM emissions and associated health risks. Furthermore, the commenter used an infants' age sensitivity factor and breathing rate to calculate health risks for all populations nearby in order to conclude there would be significant impacts, which is inappropriate. Cancer risk is expressed in terms of expected incremental incidence per million population. For example, a risk level of 10 in one million implies a likelihood that up to 10 persons out of one million equally exposed people would contract cancer if exposed continuously to the levels of toxic air contaminants over a specified duration of time. Cancer risk levels are dependent on the age of the population, as infants and children are more sensitive to air contaminants and have higher breathing rate. As such, to evaluate cancer risk of a certain population group, it is important to know the age distribution of the population group to estimate the overall likelihood of contracting cancer. Therefore, the likelihood of cancer risk on infants specifically is not the only factor considered in order to determine health risk impacts. As such, the analysis presented by the commenter does not represent the likelihood of cancer risk on the population in the project area, since the analysis provided by the commenter does not accurately show the level of health risk for all populations.

SWAPE also combined construction and operational health risks. That methodology is flawed. First, SWAPE used total operational DPM emissions to calculate operational health risks. However, most the project's operational emissions would occur off-site because the project is a residential development and would not cause substantial on-site emissions. Off-site emissions would not cause localized impacts or health risk impacts on sensitive receptors near the project site. Secondly, the Office of Environmental Health Hazard Assessment's (OEHHA) Guidance Manual does not require or recommend adding construction and operation cancer risks. Project construction and operation would not occur simultaneously, and sensitive receptors would not be exposed to both construction and operational toxic air contaminants at the same time. Therefore, adding construction and operational cancer risks together causes double-counting and overestimates cancer risks.

SECTION II: THE EIR'S CONCLUSION THAT THE PROJECT WILL NOT HAVE A SIGNIFICANT NOISE IMPACT IS NOT SUPPORTED BY SUBSTANTIAL EVIDENCE.

Pages 4 and 5 of 17. The commenter claims that the noise analysis does not include the equipment needed for the installation of pile foundation for the proposed parking structure, as discussed in Draft EIR pages 5.4-16 and 5.4-17, that would result in the loudest noise levels (i.e., pile drivers). The commenter notes that "(a)n impact pile driver would generate a maximum noise level of 101 dBA at 50 feet, which would result in a noise level of 97 dBA at a sensitive receptor located 70 feet away from the project site."

The Draft EIR provides analysis of the project based on project features provided by project Applicant. Based on the Draft EIR Section 3.0, *Project Description*, Applicant-provided construction questionnaire dated April 23, 2021, and the *Proposed Multi-Family Residential Development 26126 Victoria Boulevard Dana Point, California* (Victoria Geotechnical Investigation), prepared by GeoCon West Inc., dated August 11, 2022, pile driving is not required for the project. As detailed in Draft EIR Section 5.4, *Geology and Soils* (page 5.4-16), "pile foundations" is one out of various construction practices recommended to mitigate potential impacts regarding lateral spreading and collapse due to the presence of alluvial soils sampled on-site that were determined to be compressible/collapsible. However, pile drivers are not the only possible equipment to be used to install pile foundations. The project Applicant does not propose the use of pile drivers. As such, the Draft EIR includes adequate noise analysis based

on construction equipment as anticipated by the project Applicant team and typical construction equipment required for a project of such scale, which does not include pile driving activities. The quantification of pile driver noise impacts is not required.

Page 5 of 17, Second Paragraph. The commenter claims that the Draft EIR's conclusion that construction noise would be less than significant is based on the use of temporary walls or noise barriers. The commenter notes that a temporary noise barrier that just barely breaks the line-of-sight between the construction equipment and the receptor (e.g., a plywood barrier) can reduce noise levels by about 3 dBA according to the Federal Highway Administration's Roadway Construction Noise Model User's Guide; accordingly, with the use of a temporary noise barrier, the project could generate noise at nearby sensitive receptors of up to 94 dBA.

As detailed in the Draft EIR Section 5.11, *Noise* (page 5.11-9), to further reduce construction noise levels during project construction, the project would implement the City's standard condition of approval in regard to construction noise. Implementation of this standard condition of approval would require all construction equipment to be equipped with properly operating and maintained mufflers (which would result in a sound reduction of 5 dBA), the use of temporary walls or noise barriers at the discretion of the Director of Public Works to block and deflect noise (which would result in a sound reduction of up to 20 dBA), locate stationary construction equipment so that emitted noise is directed away from the nearest noise sensitive receptors, locate equipment staging in areas furthest away from sensitive receptors, and limit haul truck deliveries to the same hours specified for construction equipment (between the hours of 7:00 a.m. to 8:00 p.m. Monday through Saturday). The Draft EIR concluded that project compliance with this standard condition of approval would further reduce temporary construction noise at the closest sensitive receptors, and short-term construction noise impacts would be considered less than significant.

As such, the project's less than significant impact conclusion was not drawn upon just the use of temporary noise barrier or the up to 20 dBA noise level reduction from the temporary noise barrier, but the implementation of various noise reduction measures as described above. In addition, as no quantitative noise threshold was applicable to the project, the less-than-significant construction noise impact conclusion did not rely on the quantitative noise level reduction due to the temporary noise barrier. It is estimated that with implementation of various noise reduction measures as a standard condition of approval, project-generated short-term construction noise impacts would be considered less than significant.

SECTION III: THE EIR'S SELECTED NOISE THRESHOLD IMPERMISSIBLY OBSCURES THE PROJECT'S IMPACTS.

Pages 5 and 6 of 17. The commenter claims that the Draft EIR fails to disclose and mitigate significant construction noise impacts to support its findings that construction-related noise impacts would be less than significant. The commenter notes that relying exclusively on the City's General Plan as a threshold of significance is not conclusive of whether project construction has significant noise impacts under CEQA. The commenter adds that according to the Federal Transit Administration, construction noise levels that exceed 90 dBA at residential land uses may result in a substantial adverse reaction.

As discussed in the Draft EIR Section 5.11, *Noise* and detailed in Table 5.11-9, *Maximum Noise Levels Generated by Construction Equipment*, the Draft EIR presents a conservative construction noise analysis as the estimated noise levels shown in Draft EIR Table 5.11-9 were calculated for a scenario in which all heavy construction equipment were assumed to be located at the construction area nearest to the affected receptor. Construction equipment would be used throughout the project site and would not be concentrated at the point closest to any nearest sensitive receptor for extended periods of time. As the entire project site is approximately 5.51 acres,

construction activities (and thus, construction equipment) would be dispersed throughout the site and not concentrated in one single area over an extended period. The analysis also assumes a clear line-of-sight with no other machinery or equipment noise that would mask project construction noise, which is unrealistic; during actual construction, it is highly likely that some barriers would be placed between surrounding sensitive receptors and the noise source (construction equipment) that further reduce noise levels at the sensitive receptors. Further, the General Noise Assessment methodology prescribed in the Federal Transit Administration's *Transit Noise and Vibration Impact Assessment Manual* recommends evaluating construction noise from the center of the site, stating under the variable distance in its construction noise calculation to "assume that all equipment operates at the center of the project." The distance between the geographical center of the project site to the project boundary is approximately 320 feet. As such, the geographic center of the project site is approximately 390 feet (320 feet plus 70 feet) from the closest sensitive receptors (residential and institutional uses located approximately 70 feet to the north and west of the project site). Therefore, project-related construction noise levels would be lower than what was presented in the Draft EIR Table 5.11-9.

The Draft EIR specifically noted, on page 5.11-19, that: "Although project construction noise would be exempt from the City's interior and exterior noise standards if construction would occur only during the City's allowable construction hours, and is considered a typical part of urban life, the project could expose the closest sensitive receptors (i.e., residential and institutional uses) to temporary high noise levels ranging from 71 to 82 dBA during construction activities. To further reduce construction noise levels during project construction, the project would implement the City's standard condition of approval regarding construction noise ... Project compliance with this standard condition of approval would further reduce temporary construction noise at the closest sensitive receptors, and short-term construction noise impacts would be considered less than significant in this regard." As such, the Draft EIR findings that construction-related noise impacts would be less than significant did not rely exclusively on project compliance with the City's General Plan as a threshold of significance. The Draft EIR has characterized construction noise resulting project construction, considered these changes in the environment, in addition to considering project compliance with the City's Municipal Code. The Draft EIR adequately discloses the potential impacts of the project in this regard.

SECTION IV: THE EIR'S CONCLUSION THAT THE PROJECT IS CONSISTENT WITH STATEWIDE GHG REDUCTION PLANS IS NOT SUPPORTED BY SUBSTANTIAL EVIDENCE.

Pages 6 through 8 of 17. The commenter claims that the project is not consistent with California Air Resources Board's (CARB) *2022 Scoping Plan for Achieving Carbon Neutrality* (2022 Scoping Plan) as it does not implement all applicable measures from Table 3 of the 2022 Scoping Plan Appendix D. Additionally, the commenter claims that the Final EIR incorrectly used Table 2 of the 2022 Scoping Plan Appendix D when analyzing project consistency with the 2022 Scoping Plan. Particularly, the commenter claims that the project would be inconsistent with the 2022 Scoping Plan as it does not comply with the most ambitious voluntary requirements (Tier 2) of CALGreen Code.

As previously explained in the Final EIR Response to Comment O2-12, the Notice of Preparation (NOP) of the Draft EIR was issued in July 2021, which established the environmental baseline for the analysis of impacts, before the 2022 Scoping Plan was adopted. The proposed project's consistency with applicable plans was thus analyzed based upon the regulatory documents in effect when the environmental baseline was established. As such, the project's consistency was analyzed against the 2017 Scoping Plan in the Draft EIR.

Nonetheless, as the 2022 Scoping Plan was adopted on December 15, 2022, the project's consistency with the 2022 Scoping Plan is analyzed in Section 2.0, *Revisions To Information Presented In The Draft EIR*, of the Final EIR.

City of Dana Point, Victoria Boulevard Apartments EIR – Responses to Comment Letter

Re: Comment on the Environmental Impact Report prepared for the Victoria Boulevard Apartments, State Clearinghouse No. 2021070304

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As shown in the Final EIR Table 2-3, *Consistency with the 2022 Scoping Plan: AB 32 Inventory Sectors*, which is based on Table 2, *Summary of Priority Key Actions and Recommendations for CAP Target-Setting Processes*, of the 2022 Scoping Plan Appendix D, the proposed project would be consistent with applicable measures in the 2022 Scoping Plan. It should be noted that according to the 2022 Scoping Plan, "project attributes are intended as a guide to help local jurisdictions qualitatively identify those residential and mixed-use projects that are clearly consistent with the State's climate goals, since these attributes address the largest sources of operational emissions for residential projects... Lead agencies may determine, with adequate additional supporting evidence, that projects that incorporate some, but not all, of the key project attributes are consistent with the State's climate goals." Based on CARB's direction, consistency with all project attributes listed in the 2022 Scoping Plan, Appendix D, Table 3, *Key Residential and Mixed-Use Project Attributes that Reduce GHGs*, will identify projects that clearly consistent with the State's climate goals. However, this does not necessarily mean that projects not implementing all the attributes are inconsistent with the State's climate goals, as the lead agencies have the authority to determine which attributes are feasible and applicable to each project. As such, not implementing CALGreen Code Tier 2 electric vehicle (EV) infrastructure requirements does not necessarily mean the project is not consistent with the 2022 Scoping Plan.

The project is an infill development located within a pedestrian-oriented area near a transit station (Route 91 run by Orange County Transportation Authority) and within walking and biking distance to existing commercial and neighborhood-serving retail uses. The revised project proposes fewer dwelling units and parking spaces, which would result in less construction activities, energy consumption, and vehicle trips, and thus would result in lower construction and operational emissions compared to the previously analyzed project in the Draft EIR. Specifically, the project would result in VMT per capita well below the threshold of significance of 18.11 VMT per capita (7.79 percent lower). Further, the revised project would include 306 multi-family dwelling units on approximately 5.51 acres, with a mix of market rate and affordable housing units, thereby increasing housing supply within a compact area with potential jobs, commercial uses, as well as access to a high-quality transit area (HQTa). Additionally, the project would comply with the most recent CALGreen Code and provide five percent EV charging spaces with chargers, 25 percent EV ready spaces, and ten percent EV capable spaces. Based on the above, implementation of the project would not conflict with the State's climate goals.

SECTION V: THE EIR FAILS TO DISCLOSE AND MITIGATE THE PROJECT'S SIGNIFICANT INDOOR AIR QUALITY IMPACTS.

Pages 8 through 11 of 17. The commenter claims that the Draft EIR fails to discuss, disclose, analyze, and mitigate the significant health risks posed by the project from formaldehyde, a toxic air contaminant (TAC), thus exposing future residents of the project to a cancer risk of 120 per million.

It should be acknowledged that "agencies subject to CEQA generally are not required to analyze the impact of existing environmental conditions on a project's future users or residents." (*California Building Industry Association v. Bay Area Air Quality Management District* [2015] 62 Cal.4th 369, Case No. S213478.) Similarly, CEQA also does not require analysis of the project's impact on itself. In addition, the project would be required to comply with all applicable regulations governing building materials, including the toxic air contaminants contained in the building materials. These regulations include but are not limited to, Title 24 Standards, CALGreen Code, California Division of Occupational Safety and Health rules, etc. Complying with these regulations would ensure the project would not cause significant health impacts due to the toxic air contaminants emissions from building materials. As such, a recirculation of the Draft EIR is not required.

SECTION VI: THE PROJECT'S ENERGY ANALYSIS IS CONCLUSORY AND FAILS TO COMPLY WITH CEQA.***Section VI (a): The EIR Does Not Comply with Appendix F of the CEQA Guidelines Because it Fails to Analyze How to Reduce Per Capita Energy Consumption.***

Pages 11 and 12 of 17. The commenter claims that the Draft EIR does not include a comprehensive analysis of how the project can reduce per capita energy consumption; thus, it fails to fulfill the requirements of Appendix F of the CEQA Guidelines. The commenter goes on to claim that the Draft EIR attempts to minimize the significant energy impact resulting from the project's operation, explaining that such increase in energy use would only lead to a marginal increase in the consumption of energy across the County.

Appendix F of the CEQA Guidelines does not require a project to specifically reduce overall per capita energy consumption; rather, CEQA "requires that EIRs include a discussion of the potential energy impacts of proposed projects, with particular emphasis on avoiding or reducing inefficient, wasteful and unnecessary consumption of energy." As such, the project is not required to result in an overall reduction of per capita energy consumption in the City.

Further, as stated in the Draft EIR Section 5.8, *Energy* (page 5.10-8), in accordance with the California Green Building Standards Code (CALGreen Code) and the Specific Plan, the project would comply with applicable requirements of the latest Title 24 Building Energy Efficiency Standards and the CALGreen Code, including sustainable construction materials and energy efficient appliances. It should be noted that at the time of preparation of the Draft EIR, detailed designs of the project were not available yet. However, before issuance of the grading and building occupancy permits, the project shall demonstrate in the final design plans that it would comply with all applicable standards and requirements to necessarily reduce the construction and operational energy demand. As such, the Draft EIR accurately concluded that construction and operation of the project would have a less than significant effect on the local and regional energy supplies.

As stated in the Draft EIR Section 5.10, *Energy* (page 5.10-11), the project's electricity provider, San Diego Gas & Electric (SDG&E), is required to comply with Senate Bill (SB) 100 (Chapter 312, Statutes of 2018) requiring that retail sellers and local publicly owned electric utilities procure a minimum quantity of electricity products from eligible renewable energy resources so that the total kilowatt-hours (kWh) of those products sold to their retail end-use customers achieve 44 percent of retail sales by 2024; 52 percent by 2027; 60 percent by 2030; and 100 percent by 2045. As such, by utilizing electricity from SDG&E, the project would promote the use renewable energy and comply with all applicable state-mandated production requirements.

As detailed in the Draft EIR Section 5.10, *Energy* (page 5.10-9), the project's operational-related fuel is estimated using the vehicle miles traveled (VMT) generated by the project. In addition to the VMT, factors considered in the fuel consumption calculation included fleet mix and average fuel efficiency (miles per gallon) for each vehicle type, which were not specific to the project and were obtained from CARB's Emission FACTor (EMFAC) model for Orange County. As such, project-generated VMT is directly related to the fuel consumption, and the Draft EIR correctly calculated the fuel consumption in concluding that the proposed project would have a less than significant impact.

Overall, the Draft EIR includes a discussion of the potential energy impacts of proposed projects, with particular emphasis on avoiding or reducing inefficient, wasteful and unnecessary consumption of energy.

Section VI (b): The EIR Erroneously Equates Compliance with Title 24 with an Adequate Energy Impact Analysis.

Pages 12 and 13 of 17. The commenter claims that the Draft EIR's conclusion that the project will not have a significant energy impact is not supported by substantial evidence because mere compliance with the California Building Energy Efficiency Standards (commonly refers to as Title 24) does not constitute an adequate analysis of energy.

The Draft EIR's finding that the project would not result in significant energy impacts were determined based on project compliance with Appendix G of the CEQA Guidelines, which contains the Environmental Checklist Form that was used during the preparation of the EIR. Accordingly, a project may create a significant adverse environmental impact if it would:

- a) Result in potentially significant environmental impact due to wasteful, inefficient, or unnecessary consumption of energy resources, during project construction or operation? (refer to Impact Statement EN-1, pages 5.10-7 through 5.10-11, of the Draft EIR); and/or
- b) Conflict with or obstruct a State or local plan for renewable energy or energy efficiency (refer to Impact Statement EN-2, pages 5.10-11 and 5.10-12, of the Draft EIR).

Various factors, including the compliance with stringent State building energy efficiency standards (that are established partially based on State goals regarding greenhouse gas reduction), energy consumed by the project during construction and operation, project generated VMT, among others, were considered when analyzing the project's potential energy impacts based on the two CEQA thresholds; refer to the Draft EIR Section 5.10, *Energy*. As such, the Draft EIR does not make conclusion on project's significance finding solely based on project compliance with Title 24.

Section VI (c): The EIR Incorrectly Relies on Conclusory Statements Without Adequately Evaluating the Feasibility of Integrating Renewable Energy Features.

Pages 13 and 14 of 17. The commenter claims the Draft EIR fails to address the extent to which the project design could integrate feasible renewable energy features to decrease reliance on fossil fuels; thus, violates Appendix F of the CEQA Guidelines.

As detailed in the Draft EIR Section 5.10, *Energy* (page 5.10-10), the electricity provider, SDG&E, is subject to California's Renewables Portfolio Standard (RPS). The RPS requires investor-owned utilities, electric service providers, and community choice aggregators to increase procurement from eligible renewable energy resources to 60 percent of total procurement by 2030, and 100 percent of total procurement by 2045. Renewable energy is generally defined as energy that comes from resources which are naturally replenished within a human timescale such as sunlight, wind, tides, waves, and geothermal heat. The increase in reliance of such energy resources further ensures that new development projects would not result in the waste of the finite energy resources. As such, the Draft EIR includes analysis required by Appendix F of the CEQA Guidelines. This analysis includes the review of the project's energy consumption and comparison with the regional energy demand, to demonstrate that the project would not cause significant impact on local and regional energy supplies. The project would also not require additional energy demands, would comply with energy standards, and would not waste energy resources. The project would be required to comply with the most current Title 24 and CALGreen Code (i.e., 2022 Title 24 and the 2022 CALGreen) effective at the time the proposed building is to be constructed. The 2022 Title 24 slightly updates the 2019 Title 24 prescriptive solar photovoltaic (PV) requirements for multifamily buildings with three habitable stories or fewer and adds new prescriptive solar PV requirements to multifamily buildings

with four habitable stories or more. This update requires the proposed project to incorporate on-site renewable energy systems, thus promoting sustainable practices and reducing reliance on non-renewable sources.

Section VI (d): The EIR Fails to Consider How the Project can Decrease Fossil Fuel Reliance.

Page 15 of 17. The commenter claims the Draft EIR fails to fulfill CEQA's requirement of analyzing ways it can decrease its reliance on fossil fuels. The commenter notes that EIRs shall analyze ways to decrease reliance on fossil fuels such as natural gas and oil to achieve the "wise and efficient use of energy." Specifically, the commenter claims that an analysis of the feasibility of using all-electric heating and cooking equipment thus negating the need for any natural gas, is required to support a less-than-significant impact conclusion.

Draft EIR Section 5.10, Energy, referenced the six criteria as established by Appendix F of the CEQA Guidelines that a lead agency may consider determining whether the project would result in inefficient, wasteful, and unnecessary consumption of energy and whether the project would conflict with adopted energy conservation plans:

- Criterion 1: The project's energy requirements and its energy use efficiencies by amount and fuel type for each stage of the project including construction, operation, maintenance and/or removal. If appropriate, the energy intensiveness of materials may be discussed.
- Criterion 2: The effects of the project on local and regional energy supplies and on requirements for additional capacity.
- Criterion 3: The effects of the project on peak and base period demands for electricity and other forms of energy.
- Criterion 4: The degree to which the project complies with existing energy standards.
- Criterion 5: The effects of the project on energy resources.
- Criterion 6: The project's projected transportation energy use requirements and its overall use of efficient transportation alternatives.

All-electric heating and cooking equipment is only one of the many options to reduce fossil fuel consumption. The Appendix F methodology does not require a discussion of the feasibility of every potential option that could reduce fossil fuel consumption. The Draft EIR analyzed design features that could reduce fossil fuel consumption, including compliance with the latest Title 24 standards to increase energy efficiency, providing shade from the sun and taking advantage of coastal breezes to reduce cooling and heating demands, and utilizing electricity provided by SDG&E that is required to comply with the latest renewable energy standards. As such, the Draft EIR is not required to include a specific analysis on the feasibility of using all-electric heating and cooking equipment to draw a significance finding, since other options are relied upon and sufficient to support the conclusions in the Draft EIR.

SECTION VII: THE CITY MUST ADOPT THE ENVIRONMENTALLY SUPERIOR REDUCED-INTENSITY ALTERNATIVE.

Pages 14 and 15 of 17. As discussed on Draft EIR page 7-1, the identification and analysis of alternatives to a project, is a fundamental part of the environmental review process. Public Resources Code (PRC) Section 21002.1(a) establishes the need to address alternatives in an EIR by stating that in addition to determining a project's significant environmental impacts and indicating potential means of mitigating or avoiding those impacts, the purpose of an environmental impact report is to identify alternatives to the project that could avoid or substantially lessen the project's significant effects. CEQA Guidelines Section 15126.6(b) emphasizes that the selection of project alternatives should be based primarily on the ability to reduce significant effects relative to the proposed project, "even if these alternatives would impede to some degree the attainment of the project

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objectives, or would be more costly." CEQA Guidelines Section 15126.6(f) further direct that the range of alternatives be guided by a "rule of reason," such that only those alternatives necessary to permit a reasoned choice are addressed.

Potential environmental impacts associated with the following alternatives were compared to the project's impacts in Draft EIR, Section 7.0:

- Alternative 1 – "No Project" Alternative; and
- Alternative 2 – "Village Commercial/Residential Zoning District Development" Alternative.

As discussed in Draft EIR, Section 7.6, "*Environmentally Superior*" Alternative, page 7-18, the "No Project" Alternative is the environmentally superior alternative, as it would avoid or lessen most of the project's environmental impacts. According to CEQA Guidelines Section 15126.6(e), "if the environmentally superior alternative is the 'no project' alternative, the EIR shall also identify an environmentally superior alternative among the other alternatives." Accordingly, the "Village Commercial/Residential Zoning District Development" Alternative is considered environmentally superior to the proposed project.

Per Draft EIR, page 7-18, the "No Project" Alternative would not meet any of the project's basic objectives. It would not provide new housing in the City and would not redevelop an underutilized parcel. No pedestrian-oriented development would be provided under this alternative. Beautification methods, such as landscaping and streetscaping enhancements, would not be provided. Although the existing landscaped area (along the project site's western boundary) would remain designated and zoned open space, the "No Project" Alternative would not provide any new active open space areas at the northwest corner or southern portion of the project site.

Accordingly, because the fewer number of units would result in correspondingly reduced impacts for specific environmental issues, the "Village Commercial/Residential Zoning District Development" Alternative is considered environmentally superior to the proposed project. The "Village Commercial/Residential Zoning District Development" Alternative would result in reduced environmental impacts regarding tribal and cultural resources; air quality; greenhouse gas emissions; energy; noise; and public services and recreation; refer to Draft EIR Table 7-4, *Comparison of Alternatives*, Draft EIR page 7-18.

However, it is acknowledged that the Draft EIR identified that project's impacts would be less than significant, or reduced to a less than significant level by implementation of identified mitigation measures. No impacts would be significant and unavoidable. As such, the City is not required to adopt the "Village Commercial/Residential Zoning District Development" Alternative, even though this alternative has been identified as the environmentally superior alternative.

SECTION VIII: The Project Violates the Surplus Land Act Requirement that 15 Percent of Housing Units are Rented as "Affordable Housing."

Pages 15 and 16 of 17. The Capistrano Unified School District (CUSD) property is public land subject to the provisions of the Surplus Land Act, which requires at least 15 percent lower income units. Based on the Victoria Boulevard Specific Plan development density standards for the site (maximum of 55.5 dwelling units per acre on a 5.51-acre project site, yielding a maximum of 306 dwelling units) and the 15 percent affordable housing requirement, the project would yield no less than 46 affordable units. As discussed in Draft EIR Section 5.1, *Land Use and Relevant Planning*, page 5.1-6, according to SCAG's *6th Cycle Final RHNA Allocation Plan*, the City's fair share of the region's housing need for the 2021-2029 planning period is 530 units: 147 very low, 84 low, 101

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moderate, and 198 above moderate income units. Draft EIR Table 5.1-1, *General Plan Consistency Analysis*, pages 5.1-9 through 5.1-24, provides an analysis of the project's consistency with relevant General Plan policies including the Housing Element policies. The project would be consistent with the Housing Element affordable housing policy, Policy 1.1, as the project proposes a minimum of five percent very low-, five percent low-, and five percent moderate-income units of the overall unit count, providing equal spread of affordable housing options for each income level. Thus, implementation of the project would result in increased access of lower income households to the coast.

SECTION IX: THE PROJECT IS INCONSISTENT WITH THE GENERAL PLAN.

Pages 16 and 17 of 17. A project does not need to be in perfect conformity with each and every policy contained in an applicable plan, such as the City's General Plan. Rather, to be "consistent," the project must be compatible with the objectives, policies, general land uses, and programs specified in the applicable plan, meaning that a project must be in "agreement or harmony" with the applicable plan to be consistent with that plan.

The commenter argues that the project conflicts with the General Plan's Housing Element, since Policy 1.4 of Goal 1 seeks to "[l]ocate higher density residential development close to public transportation." (DEIR, p. 5.1-16.). The Draft EIR states that the project is consistent with this policy because the project is a high-density residential development. The Draft EIR goes on to state that the closest bus stop is approximately 4,500 feet southwest of the Specific Plan area at the intersection of Del Obispo and Pacific Coast Highway and is serviced by OCTA routes 1 and 91. Policy 1.4 is intended to aid General Plan Housing Element Goal 1, which states, "Provide a variety of residential developments and adequate supply of housing to meet the existing and future needs of City residents." The proposed project would provide multi-family market-rate and affordable housing at the Doheny Village area, which is supported by existing OCTA routes. Further, the project would encourage bicycling and walking in the Doheny Village area by providing a public access walking/biking trail, constructing a Class III bicycle route along the project frontage of Victoria Boulevard in accordance with the *City of Dana Point Bicycle and Pedestrian Trails Master Plan*, and providing bicycle storage areas throughout the site, which would encourage residents and the general public to use alternative methods of transportation in the area, including the OCTA routes. Overall, the project would be compatible with Goal 1 of the General Plan Housing Element.

As discussed on Draft EIR page 5.1-17, Policy 1.12 of Goal 1 states, "Encourage new development which facilitates transit services, provides for non-automobile circulation, and minimizes vehicles miles traveled." The commenter argues that the nearest bus stop is nearly a mile away from Victoria Boulevard Apartments, which frustrates the Circulation Element's objective of facilitating transit services to decrease reliance on non-automobile travel. However, the Goal 1, to which this Policy 1.12 applies, is to "[p]rovide a system of streets that meets the needs of current and future residents and facilitates the safe and efficient movement of people and goods throughout the City." As described in the Draft EIR page 5.1-10 and 5.1-11, the project would provide bicycle storage in the private courtyards and the Arrival Promenade, and construct a Class III bicycle route along the project frontage of Victoria Boulevard in accordance with the *City of Dana Point Bicycle and Pedestrian Trails Master Plan*. The proposed Class III bicycle route would provide direct bicycle access to the residential community's private courtyards, the proposed Victoria Shore Park, and secondary vehicular driveway off of Victoria Boulevard. The paseo features would include a public access walking/biking trail, which would also encourage public non-automobile circulation through the project area.

The proposed residential community would be located within Doheny Village that includes various land use types, including commercial, retail, industrial, and other residential uses. Additionally, the site is served by existing OCTA transit service, pedestrian sidewalks, and existing and planned bicycle lanes along adjacent roadways. Thus, future

project residents would be able to utilize multiple modes of transportation to travel to and from the site and also shop, dine, and work within Doheny Village. As such, the proposed land use type would encourage reduced vehicle miles traveled (VMT) and minimized associated air pollution. Utilizing the established threshold of 15 percent below the City's average VMT per capita/employee, the project would result in 7.23 percent less VMT per capita, compared to the City's averages; refer to Draft EIR Table 5.7-2, *Proposed Project Average VMT*, Draft EIR page 5.7-12. As such, the proposed project would minimize VMT experienced in the City. Overall, the project would be compatible with Goal 1 of the General Plan Circulation Element.

Page 17, Second Paragraph and three bullet points. The City of Dana Point General Plan Circulation Element supports an efficient public transportation system to serve the residents of the City. It is the intent of the General Plan that developments should be planned in a manner that facilitates provision of transit services. While increasing the mobility of all the residents is important, it is essential to increase accessibility to transit services for the elderly and disabled persons. General Plan Circulation Element Goal 4 states: "Support development of a public transportation system that provides mobility to all City residents and encourages use of public transportation as an alternative to automobile travel." While the proposed project would not construct public transportation, all proposed public parks and trails would be compliant with the Americans with Disabilities Act (ADA) accessibility requirements (Policy 4.3).

It is further acknowledged that it is the intent of the City of Dana Point to encourage developers to work with agencies providing transit service with the objective of maximizing the potential for transit use by residents and/or visitors (Policy 4.6). This policy is a City-wide policy and does not specifically apply to the proposed project for the purpose of considering the project's compatibility with the objectives, policies, general land uses, and programs specified in the General Plan.

As demonstrated by Draft EIR Impact Statement LU-1 (pages 5.1-9 through 5.1-24), the proposed project would be consistent with relevant General Plan policies and impacts would be less than significant. As such the proposed project would not cause a significant environmental impact due to a conflict with the City's General Plan.

EXHIBIT A – BASELINE ENVIRONMENTAL CONSULTING, REVIEW OF THE AIR QUALITY, GREENHOUSE GAS, AND NOISE ANALYSES FOR THE VICTORIA BOULEVARD APARTMENTS, NOVEMBER 3, 2023

This is a letter prepared by Baseline Environmental Consulting on the topics of air quality, greenhouse gas, and noise that has been referenced throughout the comment letter prepared by Lozeau Drury, LLP, discussed throughout this memorandum. Specifically, this comment raises issues regarding construction-related health risks, project consistency with the 2022 Scoping Plan and long-term climate action goals, and construction noise impacts at nearby sensitive receptors; refer to responses to comments above for discussions on specific technical comments that cite information from this memorandum.

EXHIBIT B – INDOOR ENVIRONMENTAL ENGINEERING, INDOOR AIR QUALITY: VICTORIA BOULEVARD APARTMENTS PROJECT, DANA POINT, CA (IEE FILE REFERENCE: P-4755), OCTOBER 15, 2023

This is a letter prepared by Indoor Environmental Engineering (Francis Offermann, PE, CIH) on the topics of indoor air quality that has been referenced in the comment letter prepared by Lozeau Drury, LLP, discussed throughout this memorandum; refer to response to "Section V: The EIR Fails To Disclose And Mitigate The Project's Significant Indoor Air Quality Impacts" above regarding indoor air quality related to formaldehyde emissions and cancer risks.

SUPPORTING DOCUMENT R: Planning Commission Public Comments

LINK TO DOCUMENT ON CITY WEBSITE

<https://www.danapoint.org/home/showdocument?id=38061&t=638538115980948776>

SUPPORTING DOCUMENT S: Planning Commission Comments Provided via Toll Brothers web page

LINK TO DOCUMENT ON CITY WEBSITE

<https://www.danapoint.org/home/showdocument?id=38059&t=638538113653155091>

SUPPORTING DOCUMENT T: City Council Public Comments

LINK TO DOCUMENT ON CITY WEBSITE

<https://www.danapoint.org/home/showdocument?id=38057&t=638538113629367526>

SUPPORTING DOCUMENT U: City Council Comments Provided via Toll Brothers web page

LINK TO DOCUMENT ON CITY WEBSITE

<https://www.danapoint.org/home/showdocument?id=38055&t=638538115732838081>

SUPPORTING DOCUMENT V: Victoria Boulevard Apartments Project Plans

LINK TO DOCUMENT ON CITY WEBSITE

<https://www.danapoint.org/home/showpublisheddocument/37746/638487933902570000>