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Via Email

December 3, 2024

Planning and Env'tl. Quality Commission
c/o Deryl Henderson, Chair
City of Gardena
1700 W. 162nd Street
Gardena, CA 90247
publiccomment@cityofgardena.org

Amanda Acuna
Community Development Department
City of Gardena
1700 W. 162nd Street, Room 101
Gardena, CA 90247
AAcuna@cityofgardena.org

**Re: Comment on Normandie Crossing Specific Plan FEIR
EA 20-21; GPA 3-21; ZC 4-21; ZTA 6-21; SP 1-21; SPR 11-21;
VTM 4-21; DA 2-21
AGENDA ITEM 6B (Dec. 3, 2024)**

To Chair Henderson,, Honorable Commissioners, and Ms. Acuna,

This comment is submitted on behalf of Supporters Alliance for Environmental Responsibility (“SAFER”) and its members living in/near the City of Gardena regarding the Normandie Crossing Specific Plan Project (EA 20-21; GPA 3-21; ZC 4-21; ZTA 6-21; SP 1-21; SPR 11-21; VTM 4-21; DA 2-21) (“Project”) to be heard as Agenda Item 6B at the Commission’s December 3, 2024 meeting.

The Project initially proposed the demolition of 115,424 square feet of industrial uses and construction of 403 multi-family dwelling units, including 328 apartment units in one building and 75 townhome units in nine buildings, located at 16829, 16835, and 16907 South Normandie Avenue. The City prepared a Final Environmental Impact Report (“FEIR”) for that Project and SAFER submitted a comment in opposition (attached hereto as Attachment 1).

The applicant has now re-designed the Project, removing 70 residential units in the apartment building (328 units to 258 units), reducing the stories from 7 to 5, and adding one level of subterranean parking (“Revised Project”). The City has prepared a Revised FEIR, adding the Revised Project as an alternative.

SAFER is concerned that the Revised FEIR, like the original FEIR, fails to comply with the requirements of the California Environmental Quality Act (“CEQA”) because it fails to adequately disclose and evaluate the Revised Project’s impacts and fails to impose all

SAFER Comment
Normandie Crossing Specific Plan Project
December 3, 2024
Page 2 of 2

feasible mitigation measures to reduce the Project's impacts. SAFER also joins in all other comments submitted in opposition to the Project and EIR, including comments submitted by the County of Los Angeles Fire Department, the California Department of Transportation, and the Western States Regional Council of Carpenters. SAFER reserves the right to further supplement this comment during the administrative process. (*Galante Vineyards v. Monterey Peninsula Water Management Dist.*, 60 Cal. App. 4th 1109, 1121 (1997).)

SAFER respectfully requests that the Commission refrain from recommending approval of the Project to the City Council until the EIR's deficiencies are remedied and a revised EIR is circulated for public review and comment.

Sincerely,



Brian B. Flynn
Lozeau Drury LLP

ATTACHMENT 1



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March 27, 2024

Deryl Henderson, Chair
Stephen P. Langley, Vice-Chair
Jules Kanhan
Steve Sherman
Ronald Wright-Scherr
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**Re: Comment on Normandie Crossing Specific Plan Project EIR
EA 20-21; GPA 3-21; ZC 4-21; ZTA 6-21; SP 1-21; SPR 11-21;
VTM 4-21; DA 2-21
Hearing Date: April 2, 2024**

To Chair Henderson, Vice-Chair Langley, Honorable Commissioners, and Ms. Acuna,

This comment is submitted on behalf of Supporters Alliance for Environmental Responsibility ("SAFER") and its members living in/near the City of Gardena regarding the Normandie Crossing Specific Plan Project (EA 20-21; GPA 3-21; ZC 4-21; ZTA 6-21; SP 1-21; SPR 11-21; VTM 4-21; DA 2-21) ("Project") to be heard at the Commission's April 2, 2024 meeting.

The Project proposes the demolition of 115,424 square feet of industrial uses and construction of 403 multi-family dwelling units, including 328 apartment units in one building and 75 townhome units in nine buildings, located at 16829, 16835, and 16907 South Normandie Avenue.

SAFER is concerned that the Draft Environmental Impact Report ("DEIR") and Final Environmental Impact Report ("FEIR") (collectively, "EIR") fail to comply with the requirements of the California Environmental Quality Act ("CEQA"). SAFER respectfully requests that the Commission refrain from recommending approval of the Project until the EIR's deficiencies are remedied and a revised EIR is circulated for public review and comment.

DISCUSSION

I. The EIR Relies on Improperly Deferred Mitigation.

An agency's adoption of a mitigation measure for a significant environmental effect that merely states a "generalized goal" to mitigate a significant effect without committing to any specific criteria or standard of performance violates CEQA by improperly deferring the formulation and adoption of enforceable mitigation measures. (*San Joaquin Raptor Rescue Center v. County of Merced* (2007) 149 Cal.App.4th 645, 670.) Here, the City is improperly relying on deferred mitigation for the Project's impacts from asbestos and soil contamination and, as a result, the EIR does not comply with CEQA.

According to the DEIR, the potential impacts from asbestos exposure during demolition will be mitigated by COA HAZ-1:

Asbestos Survey. Prior to demolition activities, an Asbestos Hazard Emergency Response Act (AHERA) and California Division of Occupational Safety and Health (Cal/OSHA) certified inspector shall conduct an Asbestos Survey to determine the presence or absence of asbestos containing-materials (ACMs) pursuant to South Coast Air Quality Management District (SCAQMD) regulations.

(DEIR, p. 4.6-22.) COA HAZ-1 only requires a future survey to determine the presence or absence of asbestos. There are no specific criteria or standards of performance in COA HAZ-1 to address how the impacts of asbestos will be mitigated in the event that asbestos is detected prior to demolition. Without any such criteria or standards of performance, the City cannot rely on COA HAZ-1 to mitigate the Project's asbestos impacts.

MM HAZ-1 similarly requires a future "Construction Management Plan" with *no* specific criteria or performance standards:

MM HAZ-1. Prior to issuance of any demolition permit for the onsite structures, a construction management plan addressing procedures and requirements for responding to disturbance of undocumented contaminated soil shall be prepared and submitted to the City for review and approval.

(DEIR, p. 4.6-23.) MM HAZ-1 is improperly vague and only requires that a plan be submitted prior to demolition. MM HAZ-1 does not provide any criteria or performance standards for the plan. Instead, MM HAZ-1 only requires a future plan that will discuss the "procedures and requirements for responding to a disturbance of undocumented contaminated soil."

CEQA is clear that the City may only defer the formulation of mitigation measures when it “recognizes the significance of the potential environmental effect, commits itself to mitigating its impact, and articulates specific performance criteria for the future mitigation.” (*Gentry v. City of Murietta* (1995) 36 Cal.App.4th 1359, 1411.) Because COA HAZ-1 and MM HAZ-1 do not contain any specific performance criteria, those measures amount to improperly deferred mitigation. As a result, the EIR must be revised to include specific performance criteria for hazards.

II. The EIR Fails to Sufficiently Justify a Statement of Overriding Considerations.

As the City concedes, the Project would result in *significant and unavoidable impacts* due to construction noise. Under CEQA, when an agency approves a project with significant environmental impacts that will not be fully mitigated, it must adopt a “statement of overriding considerations” finding that, because of the project’s overriding benefits, it is approving the project despite its environmental harm. (14 CCR § 15043; PRC § 21081(B); *Sierra Club v. Contra Costa Cnty.* (1992) 10 Cal.App.4th 1212, 1222). A statement of overriding considerations expresses the “larger, more general reasons for approving the project, such as the need to create new jobs, provide housing, generate taxes and the like.” (*Concerned Citizens of South Central LA v. Los Angeles Unif. Sch. Dist.* (1994) 24 Cal.App.4th 826, 847).

A statement of overriding considerations must be supported by substantial evidence in the record. (14 CCR § 15093(b); *Sierra Club v. Contra Costa Co.* (1992) 10 Cal.App.4th 1212, 1223.) The agency must make “a fully informed and publicly disclosed” decision that “specifically identified expected benefits from the project outweigh the policy of reducing or avoiding significant environmental impacts of the project.” (14 CCR § 15043(b)). As with all findings, the agency must present an explanation to supply the logical steps between the ultimate finding and the facts in the record. (*Topanga Assn. for a Scenic Community v. County of Los Angeles* (1974) 11 Cal.3d 506, 515). Key among the findings that the lead agency must make is that:

“Specific economic, legal, social, technological, or other considerations, including the provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or alternatives identified in the environmental impact report...[and that those] benefits of the project outweigh the significant effects on the environment.”

(PRC § 21081(a)(3), (b).) The City must make specific findings, supported by substantial evidence, concerning both the environmental impacts of the Project, and the economic benefits including “the provision of employment opportunities for highly trained workers” created. However, the City fails to include any mention of the Project’s use of highly trained workers in the EIR or Staff Report.

In short, the City cannot support its conclusion that the economic benefits of the Project outweigh the environmental costs if it does not know what the economic benefits will be. A revised EIR, Fiscal Analysis and Statement of Overriding Considerations is required to provide this information. The analysis must analyze whether the Project will provide employment opportunities for highly trained workers during construction and operation, or whether employment opportunities will be only for low-paid, unskilled workers.

CONCLUSION

Due to improperly deferred mitigation for the impacts of hazards and hazardous materials and the failure to justify a statement of overriding considerations for the significant and unavoidable noise impacts, SAFER respectfully requests that the Commission refrain from recommending certification of the EIR. Instead, a revised EIR should be prepared and circulated for public review and comment prior to further consideration of the Project. SAFER reserves the right to further supplement this comment during the administrative process. (*Galante Vineyards v. Monterey Peninsula Water Management Dist.*, 60 Cal. App. 4th 1109, 1121 (1997).)

Sincerely,



Brian B. Flynn
Lozeau Drury LLP