


COMMENTS

RESPONSES



Comment Letter RO2

April 9, 2018

VIA E-MAIL

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Re: Harmony Grove Village South Project and DEIR: PDS2015-GPA-15-002, PDS2015-SP-15-002, PDS2015-REZ-15-003, PDS2015-TM-5600, PDS2015-MUP-15-008, PDS2015-ER-15-08-006

Dear County of San Diego:

This letter is submitted on behalf of The Escondido Creek Conservancy ("TECC") regarding the proposed Harmony Grove Village South project ("Project") and the Revised Draft Environmental Impact Report ("RDEIR").

TECC and other parties submitted comments months ago, critiquing numerous aspects of the Project and environmental analysis. To date, the County has not responded to those comments and concerns, and the issues identified in those comments remain.

The "Recirculation Readers Guide" warns readers to "limit their comments to the revised chapters or portions of the recirculated EIR only." It states that the only items "recirculated for review and comment" relate to greenhouse gas emissions – specifically, "Updated Table S-2," "Revised Subchapter 2.7," and a "Global Climate Change Supplemental Letter."

The previously-circulated DEIR failed to adequately analyze greenhouse gas emission impacts, and the RDEIR continues to fail to comply with CEQA's mandates.

The RDEIR identifies several "Project Design Features." But several of these measures are unclear or uncertain, and the analysis continues to rely upon faulty assumptions.

- The RDEIR says "Tier III or higher construction equipment will be used, with the exception of [several types of equipment] or ... where Tier III or higher is not available." RDEIR at 2.7-22 (emphases added).
- The RDEIR limits several measures to instances where their implementation is "practicable and feasible." *Id.* There is no discussion of what standards establish practicability and feasibility.

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Response to Comment RO2-1
 The County acknowledges these introductory comments; however, they do not raise an issue concerning the analysis or adequacy of the RDEIR pursuant to CEQA Guidelines Section 15088.5(c). Specific to comments submitted during public review of the DEIR, in compliance with CEQA, the responses to comments are part of the FEIR that will be made available prior to consideration of the Project by the Planning Commission. Please see the responses to DEIR Letter O4a, included in this FEIR in Chapter 8 for responses to your prior letter.

Response to Comment RO2-2
 This comment states that the County "warned" readers to request to restrict comments on the RDEIR to the topics covered in the RDEIR. The request by the County is in full compliance with Section 15088.5(f)(2) of the CEQA Guidelines, which states that: "When the EIR is revised only in part and the lead agency is recirculating only the revised chapters or portions of the EIR, the lead agency may request that reviewers limit their comments to the revised chapters or portions of the recirculated EIR." No additional response is necessary.

Response to Comment RO2-3
 The comment provides a general statement without specifics as to why the Project is not in compliance. As a result, this response is also general. As described in the Reader's Guide to Recirculation, the Superior Court ruled that the 2016 Guidance Document and its "County Efficiency Metric" may not be used to provide the basis for CEQA review of greenhouse gas (GHG) impacts for development proposals within the unincorporated County lands. The RDEIR Subchapter 2.7, *Greenhouse Gas Emissions*, provides an updated threshold, regulatory updates, and a revised impact analysis with mitigation measures. Through the purchase of carbon credits as identified in Project mitigation measures, construction- and operation-related GHG emissions would be reduced to net zero and would therefore result in a less than significant contribution to cumulative GHG impacts. No changes to the FEIR are warranted as a result of this comment.

Response to Comment RO2-4
 This comment generally states that the project design features (PDFs) are "faulty" as an introductory comment. The County disagrees that the measures

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	<p>fail to comply with CEQA. Each of the items identified for discussion are addressed in Responses to Comments RO2-5 through RO2-7 below.</p> <p>Response to Comment RO2-5</p> <p>These dot points question exclusion of equipment types that are unavailable or to instances where measures are “practicable and feasible.” It is acknowledged that there is a redundancy in the standard; therefore, the words “practicable and” have been deleted and have been updated in the FEIR. Please note that Tier III-standard construction equipment is required unless the equipment manufacturers do not make Tier III versions (e.g., air compressors, as stated), or Tier III equipment is unavailable at the time of construction. In order to be conservative, no reduction was taken for use of Tier III equipment in the GHG modeling conducted as part of the Project analysis. Regardless, as a condition of approval, the County will ensure the construction contractor uses this equipment unless it is determined to be infeasible.</p> <p>Specific to use of construction equipment/fleets that exceed existing emissions standards as feasible, the measures in question are potentially more restrictive (if there is something better than Tier III), but it is not possible to be specific at this time. These are very conservative County requirements as they look forward to future fleet function/equipment that is currently unknown, but would be pursued based on availability in the future. Other County projects have been so conditioned to ensure that best standards will be met as feasible should there be an improvement in available equipment. Nonetheless, it is again noted that measures that cannot be guaranteed are not used to reduce emissions in Project analyses. Although they cannot factor as a mitigation measure, statements requiring use of better equipment if available have been implemented on other County projects as a PDF, and there will be a condition of approval requiring such action by the Applicant. The County ensures that items assumed as part of design are clearly spelled out and included as conditions. They are included within Chapter 7, <i>List of Mitigation Measures and Project Design Features</i>, and become conditions of approval prior to recordation of Final Map.</p>

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<p data-bbox="228 266 392 331">County of San Diego April 9, 2018 Page 2 of 2</p> <p data-bbox="732 256 924 277" style="text-align: center;">Comment Letter RO2</p> <ul data-bbox="287 355 903 634" style="list-style-type: none"> <li data-bbox="287 355 903 548">• The RDEIR relies upon measures adopted by the State in order to meet its goals. But as the California Supreme Court has noted, such reliance is insufficient to ensure compliance – “That a project is designed to meet high building efficiency and conservation standards, for example, does not establish that its greenhouse gas emissions from transportation activities lack significant impacts.” <i>Center for Biological Diversity v. Dept. of Fish and Wildlife</i> (2015) 62 Cal.4th 204, 229. This issue is particularly stark here, since the Project, by its very nature, places suburban uses, with their attendant greenhouse gas emissions, in an area designated for rural uses. RO2-6 <li data-bbox="287 550 903 634">• The EIR claims average vehicle trip lengths from the Project would be 7.88 miles. DEIR at 3.1.3-19. But there is inadequate justification for this short length, particularly in light of the site’s distance from employment opportunities for the many residents who will reside there. RO2-7 <p data-bbox="228 656 898 803">Despite these issues, the RDEIR notes impacts would remain significant. RDEIR at 2.7-25. To mitigate impacts, the RDEIR relies upon “the purchase of additional off-site carbon credits.” RDEIR at 2.7-31. But as a recent lawsuit filed by the Sierra Club, Center for Biological Diversity, Cleveland National Forest Foundation, Climate Action Campaign, Endangered Habitats League, Environmental Center of San Diego, and Preserve Wild Santee notes, such reliance is misplaced and inappropriate. A copy of the writ petition is enclosed and hereby incorporated by reference.</p> <ul data-bbox="287 824 903 1081" style="list-style-type: none"> <li data-bbox="287 824 903 867">• The RDEIR fails to ensure that “off-site carbon credits” will be real, enforceable mitigation. CEQA Guidelines § 15126.4. RO2-8 <li data-bbox="287 868 903 976">• The RDEIR fails to ensure that “off-site carbon credits” will reduce emissions in the Project vicinity, or even in the State or country. Indeed, Mitigation Measure CC-1.2 from the County’s 2011 General Plan Update requires “a 17% reduction in emissions from County operations from 2006 by 2020 and a 9% reduction in community emissions between 2006 and 2020.” <li data-bbox="287 977 903 1081">• The RDEIR fails to consider alternatives and/or mitigation that would ensure impacts are less than significant. <i>Mountain Lion Foundation v. Fish and Game Comm.</i> (1997) 16 Cal.4th 105, 134. It also fails to consider alternatives and/or mitigation that avoid greenhouse gas emission impacts within the vicinity of the Project. RO2-9 <p data-bbox="228 1104 875 1166">For the foregoing reasons, and for the reasons discussed in its prior comments, TECC urges you to reject the Project and EIR as drafted. Thank you for your consideration of these concerns. RO2-10</p> <p data-bbox="548 1188 758 1273" style="text-align: center;">Sincerely,  Everett DeLano</p> <p data-bbox="228 1295 306 1317">Enclosure RO2-11</p>	<p data-bbox="1062 164 1440 191">Response to Comment RO2-6</p> <p data-bbox="1062 201 1990 496">This comment generally states that a project that is designed to meet high building efficiency and conservation standards does not establish that its GHG emissions from transportation activities lack significant impacts. Please see Chapter 2.7 of the FEIR. It is acknowledged that a substantial portion of the GHG emissions associated with the Project are due to emissions from transportation. Vehicular emissions were incorporated into Project modeling, and vehicular emissions were noted as comprising a large part of Project GHG emissions.</p> <p data-bbox="1062 537 1990 951">Consistent with County requirements, all feasible measures have been incorporated into the Project. Reductions in on-site GHG generation are incorporated into the Project through building design (e.g., solar panels to generate electricity, provision of electrical car and equipment outlets for residences, lack of wood-burning fire places, electrical car recharge station at the Center House, planned use of recycled water, reductions in turf use, etc.). Relative to the RDEIR, the significance conclusion was not that impacts would be less than significant, but that they would be significant and mitigable. Mitigation is proposed on top of these reductions that would reach carbon neutrality for the Project through offset credit purchase (please see the Global Responses to Carbon Offsets).</p> <p data-bbox="1062 989 1990 1442">The CAP Checklist and the California Air Resources Board’s Scoping Plan document the incorporation of all feasible measures for the Project. The CAP Checklist has been incorporated into the Final GHG Emissions Report and the Scoping Plan List of Mitigation Measures is Attachment D to the GHG Emissions Report. (The CAP Checklist is hereby incorporated by this reference and is available for review as a part of the Information for the Reader in the technical report.) All of the PDFs and mitigation measures are included in Chapter 7 of the FEIR. These have resulted in a robust on-site reduction program that is built into the Project—100 percent of the projected Project energy use would be offset through on-site solar panels, and the energy use in general was initially reduced through the measures (as well as others specified in FEIR Subchapter 2.7).</p>

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	<p>Please see the Global Responses to Carbon Offsets. Relative to the Project placing suburban uses in an area designated for rural uses, please see the Global Responses to Regional Plan Conformity. Both of these are located earlier in this chapter of this FEIR.</p> <p>Response to Comment RO2-7 The comment generally states that the EIR does not provide substantial evidence for the trip length utilized, but does not provide any evidence or reasoning as to why. Nevertheless, substantial evidence for the average trip length associated with the Project is provided in Appendix C to Appendix J of the EIR. In that appendix, the methodology used to identify Project average trip length (working with the San Diego Association of Governments to utilize their forecast model) is detailed, along with the modeling results. The results of model run are based on Project access locations, characteristics of the roadway system, and the location of residential, commercial and employment opportunities in the surrounding area.</p> <p>Response to Comment RO2-8 Please see the Global Responses to Carbon Offsets and Climate Action Plan in this FEIR relative to the enforceability and efficacy of off-site carbon credits and the Project’s relationship to the CAP. The litigation filed against the CAP has no bearing on this Project, as described further in the Global Responses cited.</p> <p>Response to Comment RO2-9 This comment claims that the RDEIR fails to consider alternatives and/or mitigation that would ensure impacts are less than significant. The recirculated RDEIR focused on substantive changes to the GHG emissions analysis, including description of on-site measures relative to energy use, and identification of GHG mitigation measures. One of the items that was recirculated as part of the RDEIR was Table S-2, <i>HGV South Full-Build Alternatives Comparison of Impacts</i>, which summarizes the alternatives impacts, including mitigation of GHGs.</p> <p>Specific to the larger point of the EIR addressing alternatives and mitigation, the comment provides a confusing legal citation for review. That case included</p>

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	<p>a change to a program (delisting of the Mojave ground squirrel) and was largely concerned over whether the delisting process was consistent with the California Endangered Species Act process for such actions, the type of CEQA document that would accompany it, and whether it required an EIR to address alternatives and mitigation discussions. Here, the Project has already committed to the most detailed CEQA document, an EIR.</p> <p>The Project complies with CEQA Guidelines Section 15126.4 and Public Resources Code Section 21002 on these points. Substantial reductions in on-site GHG generation are incorporated into the Project through building design (e.g., solar panels to generate electricity, provision of electrical car and equipment outlets for residences, lack of wood-burning fire places, electrical car recharge station at the Center House, planned use of recycled water, reductions in turf use). Relative to the RDEIR, the significance conclusion was not that impacts would be less than significant, but that they would be significant and mitigable to less than significant. Mitigation is proposed on top of design reductions that would reach carbon neutrality for the Project through offset credit purchase (please see the Global Responses to Carbon Offsets). Finally, the Project also identifies lesser intensity development alternatives that would emit fewer operational GHG emissions. The Project appropriately identifies and commits to design and mitigation measures and identifies alternatives that “substantially lessen the significant effects,” and in fact do so to less than significant levels under CEQA.</p> <p>Relative to location of alternatives and/or mitigation, please note that the alternatives would be on-site. Relative to the location for mitigation of GHGs, please see the Global Responses to Carbon Offsets.</p> <p>Response to Comment RO2-10</p> <p>These are conclusory comments. They do not raise specific issues regarding the content of the RDEIR, but your opposition is noted and will be included as part of the administrative record and made available to the decision makers prior to a final decision on the Proposed Project.</p>

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	<p>Response to Comment RO2-11</p> <p>The letter enclosure consists of the March 20, 2018, Petition for Writ of Mandate filed by Sierra Club et al. against the County of San Diego CAP. Please see the Global Responses to Climate Action Plan in Chapter 8 of this FEIR.</p>