

**CITY OF DANA POINT
M E M O R A N D U M**

DATE: JUNE 17, 2024

TO: CITY COUNCIL

FROM: BRENDA WISNESKI, DIRECTOR OF COMMUNITY DEVELOPMENT

SUBJECT: ITEM #12 VICTORIA BOULEVARD APARTMENT PROJECT

Additional information is required to be circulated for the Victoria Boulevard Apartment Project related to CEQA comments received by the Planning Commission and a correction to the Agenda Report which are discussed below.

CEQA Analysis Response

On May 13, 2024, Western States Regional Council of Carpenters' (WSRCC) provided a comment letter prepared by Mitchell M. Tsai Law Firm, dated May 10, 2024, regarding CEQA issues in the analysis of the Victoria Boulevard Apartments Draft Environmental Impact Report (Draft EIR). Attachment 1 includes the City's CEQA consultant, Michael Baker International (MBI), response to the issues raised and concludes the Draft EIR is supported by substantial evidence and recirculation is not required.

Agenda Report

The links within the posted Agenda Report to the Action Documents for the LCPA and EIR Resolutions were incorrectly placed, and the Development Agreement Ordinance was not included. The links for the Action Documents are now corrected, the DA Ordinance has been included and are accessible on the City's website.

Attachment

1. MBI Response Letter to WSRCC

MEMORANDUM

To: John Ciampa, City of Dana Point

From: Kristen Bogue, Michael Baker International

Date: June 17, 2024

Subject: City of Dana Point, Victoria Boulevard Apartments EIR – Responses to Comment Letter Re: Western States Regional Council of Carpenters’ Comments Regarding the City of Dana Point’s May 13, 2024, Planning Commission Hearing for Item 5: Victoria Boulevard Apartments Project (SCH# 2021070304)

Michael Baker International (Michael Baker), on behalf of the City of Dana Point (City), is writing to provide responses to comment letter *Re: Western States Regional Council of Carpenters’ Comments Regarding the City of Dana Point’s May 13, 2024, Planning Commission Hearing for Item 5: Victoria Boulevard Apartments Project (SCH# 2021070304)*, prepared by Mitchell M. Tsai Law Firm, dated May 10, 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 Mitchell M. Tsai Law Firm is writing on behalf of the Western States Regional Council of Carpenters (formally known as Southwest Mountain States Regional Council of Carpenters) (“Carpenters” or “WSRCC”) (collectively referred to as “commenter” herein).

Overall, the commenter claims that the City should require the use of a local workforce to benefit the community’s economic development and environment; the City should impose training requirements for the project’s construction activities to prevent community spread of Covid-19 and other infectious diseases; that the information provided in Chapter 2.0, x, of the Final EIR is considered significant new information including supplemented CalEEMOD model information; and that greenhouse gas emissions findings cannot be supported by consistency alone.

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.

COMMENT I. THE CITY SHOULD REQUIRE THE USE OF A LOCAL WORKFORCE TO BENEFIT THE COMMUNITY'S ECONOMIC DEVELOPMENT AND ENVIRONMENT

Pages 2 through 4: As previously explained in the Final EIR Response to Comment O1-2, the commenter requests the City require the project to utilize local hire and use of a skilled and trained workforce to build the proposed development. The commenter states that local hire and skilled and trained workforce can provide community benefits such as helping reduce environmental impacts associated with worker/vendor trips and vehicular emissions, and provide local economic benefits (i.e., short-term construction jobs for local workers). The commenter also provides examples of other jurisdictions that have tied local hire and other workforce policies to local development permits to address transportation issues (e.g., City of Berkeley). Lastly, the commenter states that requiring a skilled and trained workforce would generally help the City mitigate greenhouse gas, air quality, and transportation impacts. This comment is acknowledged. The decision whether to approve the project is ultimately a policy and legislative decision of the City Council (based on a recommendation received from the Planning Commission). The Draft EIR is created to identify and inform the Planning Commission and the City Council of the environmental impacts of that decision before it is made, so that it is fully informed. To that end, while this comment regarding the labor force does not pertain to an environmental impact addressed in the Draft EIR; the City of Dana Point decision makers will consider all comments on the proposed project.

COMMENT II. THE CITY SHOULD IMPOSE TRAINING REQUIREMENTS FOR THE PROJECT'S CONSTRUCTION ACTIVITIES TO PREVENT COMMUNITY SPREAD OF COVID-19 AND OTHER INFECTIOUS DISEASES

Pages 4 through 7: As previously explained in the Final EIR Response to Comment O1-3, The commenter raises concerns regarding the COVID-19 pandemic and the potential for project-related construction activities to create a public health risk for construction workers. The commenter recommends the City incorporate additional requirements to mitigate public health risks from the project's construction activities. The commenter provides potential mitigation, including safe construction site design, testing procedures, response plans, and worker safety training to reduce COVID-19 risk.

The City recognizes the unprecedented nature of COVID-19 and the potential public health impacts associated with it. Any projects being constructed during a period of time in which emergency measures or orders are in place would be required to adhere to the Center for Disease Control and Prevention's (CDC) workplace guidelines for construction workers, including the Construction COVID-19 Checklist for Employers and Employees. Adherence to these measures would ensure that potential health impacts during the period of time in which emergency measures or orders are in place would be minimized during construction. Furthermore, any projects being developed are required to adhere to the City of Dana Point and County of Orange workplace guidelines at the time of groundbreaking. This comment is noted and will be presented to the decision makers for their review and consideration.

COMMENT III. THE CITY MUST REVISE AND RECIRCULATE THE FINAL ENVIRONMENTAL IMPACT REPORT FOR THE PROJECT

Comment A on Pages 9 through 12: As previously explained in the Final EIR *Chapter 2.0, Revisions to Information Presented in the Draft EIR*, on January 20, 2023, the City of Dana Point circulated the Draft Environmental Impact Report (EIR) for a 45-day public review period from January 20, 2023 and ending on March 6, 2023 to responsible and trustee agencies, interested parties, and the general public. Since this circulation, the Applicant has proposed minor modifications to the project. As such, potential impacts resulting from the modifications to the previously analyzed project are discussed herein. As presented within this section, these revisions represent modifications

to the previously analyzed project description. Based on the analysis presented below, 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. As a result, pursuant to CEQA Guidelines Section 15088.5, a recirculation of the Draft EIR is not required.

Comment B on Pages 12 and 13: The commenter referred to the wrong pages of Appendix 11.8 for the off-road equipment counts. The equipment list is shown on Pages 11, 47, 48, 77, 78 of Appendix 11.8. There were 20 pieces of equipment in total modeled, consistent with AQ questionnaire, which included 19 pieces of equipment, as the commenter listed. The only equipment modeled in the California Emission Estimator Model (CalEEMod), but not included in AQ questionnaire is the air compressor during architectural coating phase, which is the standard equipment for coating and therefore was not asked for in the questionnaire.

Comment C on Page 13: The total GHG emissions would be 2,874.5 MTCO₂e. The 3,070.1 MTCO₂e shown in Table 5.9-3 is a typo. The total emissions do not affect significance conclusion. Existing emissions were not accounted for or deducted from project emissions, except for mobile source emissions, where a net increase of trips (rather than project trips) were modeled. This is a conservative analysis and has been clearly stated in the EIR. GHG impact is determined by project consistency with GHG plans because there are no numerical GHG thresholds adopted by State, regional, or local agencies. Even those agencies who used to have numerical GHG thresholds are moving to qualitative thresholds (i.e., consistency with GHG plans), because climate change is a global effect and total emissions are highly dependent on the development size and type. For the reasons above, consistency with GHG plans is the most appropriate threshold. Lastly, CEQA does not require quantification of GHG emissions “without the consistency to GHG plans”, as all the features making the project consistent with GHG plans are project design features that the project has incorporated in the design.