



PC12-9-21

Krystina Baudrey <krystina.baudrey@edcgov.us>

3

11 pages

Fwd: Grocery Outlet at Green Valley - AQ/GHG RTCs

Bianca Dinkler <bianca.dinkler@edcgov.us>

Mon, Nov 29, 2021 at 9:14 AM

To: Krystina Baudrey <krystina.baudrey@edcgov.us>, Debra Ercolini <debra.ercolini@edcgov.us>

Cc: Rommel Pabalinas <rommel.pabalinas@edcgov.us>

----- Forwarded message -----

From: **Marcus LoDuca** <mloduca@loduca.com>

Date: Wed, Nov 24, 2021 at 3:55 PM

Subject: Grocery Outlet at Green Valley - AQ/GHG RTCs

To: Bianca Dinkler <bianca.dinkler@edcgov.us>

Cc: Rommel Pabalinas <rommel.pabalinas@edcgov.us>, Dave O'Donnell <dodonnell@boosdevelopment.com>, Eric Sotto <esotto@boosdevelopment.com>, Rod Stinson <rods@raneymanagement.com>

Good afternoon, Bianca: Attached please find the responses from Rod Stinson at Raney Planning and Management to the comments on air quality and greenhouse gas emissions from Robert Bone. Please let me know if you have any questions.

Hope you have a wonderful Thanksgiving.

Marcus

Marcus J. Lo Duca

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Bianca Dinkler
Associate Planner

County of El Dorado

21-1660 Public Comment
PC Rcvd 11-29-21

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Grocery Outlet at Green Valley RTCs.pdf

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21-1660 Public Comment

PC Rcvd 11-29-21

November 24, 2021

To: Dave O'Donnell
Boos Development West, LLC.
2020 L Street, Suite 245
Sacramento, CA 95811

**Subject: Grocery Outlet at Green Valley Station – Response to
Comment Letter**

Mr. O'Donnell:

Raney has prepared the following memorandum in response to the comment letter received October 26, 2021 from the Law Office of Robert M. Bone regarding the Air Quality and Greenhouse Gas Analysis presented in the Initial Study/Mitigation Negative Declaration (IS/MND) for the Grocery Outlet at Green Valley Station Project (proposed project).

The comment letter and associated responses are included as an attachment to this memorandum.

If you have any questions regarding the contents of this document, please do not hesitate to contact me at (916) 372-6100, or via email at rods@raneymanagement.com.

Best Regards,



Rod Stinson
Vice President



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Attachment: Comment Letter and Associated Responses

Letter 1

Law Office of
ROBERT M. BONE

October 26, 2021

VIA EMAIL ONLY

planning@edcgov.us

El Dorado County Planning Commission
Building C Hearing Room
2850 Fairlane Court
Placerville, CA 95667

RE: Public Comments on PD-R20-0009

Dear Honorable Commissioner:

1-1 Our office represents Residents for a Safe Cameron Park, an unincorporated association of concerned residents of the County of El Dorado ("Association") that oppose the PD-R20-0009/Grocery Outlet at Green Valley Station ("Project"), proposed to be located on Assessor's Parcel Number 116-301-012, consisting of 5.37 acres, located on the south side of Green Valley Road, approximately 600 feet west of the intersection with Winterhaven Drive, in the Cameron Park area, Supervisorial District 2 ("Property"). Members of the Association live and work in the local area. As such they would be directly affected by the various negative environmental impacts created by the Project.

1-2 By creating unmitigated negative impacts on the community, the Project fails to comply with the California Environmental Quality Act ("CEQA"), codified in Public Resources Code § 21000, *et seq.*

1-3 The IS/MND notes, at p. 15, that "[t]he Environmental Protection Agency and State of California designate regions as "attainment" (within standards) or "nonattainment" (exceeds standards) based on the ambient air quality. It is then noted that El Dorado County is in nonattainment status for both federal and state ozone standards and for the state PM10 standard and is in attainment or unclassified status for other pollutants (California Air Resources Board 2013)." Thus, the Project must adversely impact ambient air quality in the Project region.

1-4 The Finding that the Project being added to the region would have less-than-significant impacts on air quality cannot be correct. Effective mitigation measures must be imposed on the Project for the protection of the community.

1-5 People who are sensitive receptors live in the Project area. They will be exposed to substantial pollutant concentrations. The IS/MND deceptively defines "sensitive receptors" (at p. 16) as "facilities that house or attract children, the elderly, people with

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- 1-5
Cont'd illnesses, or others that are especially sensitive to the effects of air pollutants. Hospitals, schools, and convalescent hospitals are examples of sensitive receptors." It then states that the "proposed grocery market would not be considered a source of substantial pollutant concentrations."
- 1-6 The California Air Resources Board ("CARB") defines "sensitive receptors" in terms of people, not facilities. "Sensitive receptors are children, elderly, asthmatics and others whose are at a heightened risk of negative health outcomes due to exposure to air pollution."¹ The residential neighborhoods surrounding the Project site contain people who meet this definition of sensitive receptors. CARB actually distinguishes between people who are sensitive receptors and locations where concentrations of sensitive receptors occur. Sensitive Receptor locations may include hospitals, schools, and day care centers, and such other locations as the air district board or California Air Resources Board may determine (California Health and Safety Code § 42705.5(a)(5)). The failure of the IS/MND to recognize people, rather than buildings, as sensitive receptors allowed the erroneous Finding that "sensitive receptors would not be exposed to substantial pollutant concentrations." This Finding is utterly nonsensical given the fact that the IS/MND states that El Dorado County is in nonattainment status for both federal and state ozone standards and for the state PM10 standard and is in unclassified status for other pollutants.
- 1-7
- 1-8 The IS/MND also found no cumulative impact to air quality. The Project will undoubtedly result in a cumulatively considerable net increase of criteria pollutants for which the Project region is non-attainment under an applicable federal or state ambient air quality standard (including releasing emissions which exceed quantitative thresholds for ozone precursors). This must be the case because the IS/MND states, at p. 15, that the region is already in nonattainment status for both federal and state ozone standards and for the State PM10 standard and is in unclassified status for other pollutants. The Association will engage consultants to analyze the environmental impacts caused by the Project and will submit the analyses to the Planning Commission for its consideration.
- 1-9 The IS/MND is vague in its analysis of greenhouse gas ("GHG") emissions. The required analysis is neatly sidestepped by stating, on Page 31, that "CEQA does not provide clear direction on addressing climate change. It requires lead agencies identify project GHG emissions impacts and their "significance," but is not clear what constitutes a "significant" impact. As stated above, GHG impacts are inherently cumulative, and since no single project could cause global climate change, the CEQA test is if impacts are "cumulatively considerable." Not all projects emitting GHG contribute significantly to climate change. CEQA authorizes reliance on previously approved plans (i.e., a Climate Action Plan (CAP), etc.) and mitigation programs adequately analyzing and mitigating GHG emissions to a less than significant level. "Tiering" from such a programmatic-level document is the preferred method to address GHG emissions. El Dorado County does not have an adopted CAP or similar program-level document; therefore, the project's GHG emissions must be addressed at the project-level."

¹ <https://ww2.arb.ca.gov/capp-resource-center/community-assessment/sensitive-receptor-assessment>

1-9
Cont'd

In analyzing GHGs at the Project level, the IS/MND admits, at p. 32, that “the cumulative global emissions of GHGs contributing to global climate change can be attributed to every nation, region, and city, and virtually every individual on Earth. An individual project’s GHG emissions are at a micro-scale level relative to global emissions and effects to global climate change; however, an individual project could result in a cumulatively considerable incremental contribution to a significant cumulative macro-scale impact. As such, impacts related to emissions of GHG are inherently considered cumulative impacts.” Despite this language, the IS/MND then goes on to find “the proposed project would not generate GHG emissions during construction and operations that would have a significant impact on the environment, or conflict with any applicable plan, policy, or regulation adopted for the purpose of reducing the emissions of GHGs. Therefore, the project would not result in a cumulatively considerable incremental contribution to impacts related to GHG emissions or climate change and the project’s impact would be less than significant.” This language is internally inconsistent, in that it finds GHG emissions are inherently cumulative, and yet finds the proposed Project would not generate GHG emissions during construction and operations that would have a significant impact on the environment. If the GHG emissions are inherently cumulative, they simply must impact the environment. Sufficient mitigation measures must be considered to address these issues.

1-10

1-11

In the few areas of the IS/MND where negative impacts to the environment were actually acknowledged, the mitigation measures imposed on the Project are wholly inadequate. For instance, the IS/MND states, at p. 15, that ROG and NO_x emissions “may be considered to be less than significant if the project proponent commits to pay mitigation fees in accordance with the provisions of an established mitigation fee program in the district (or such program in another air pollution control district that is acceptable to District).” It is not at all clear how an administrative fee will be applied to, or effective in protecting against, these ROG and NO_x emissions. Sensitive receptors in the area will be adversely impacted despite the imposition of a mitigation fee because their very existence is denied by the IS/MND. They are not facilities. They are people that live in residential areas surrounding the Project. As such they are not likely to be protected by a mitigation fee that is intended to be applied to commercial buildings.

1-12

The transportation/traffic assessment of the Project does not adequately describe the impacts of the Project. The project will likely be inconsistent with CEQA Guidelines § 15064.3(b), which governs vehicle miles traveled. Traffic will likely increase during peak hours during construction and operation of the Project. Daily trips and vehicle miles traveled for area residents (and people attracted to the area because of the Project) will also increase post-construction such that cumulative impacts will occur. The Association has engaged a transportation consultant and will submit its traffic impact findings to the Planning Commission under separate cover.

1-13

The environmental impact issues set forth herein are very serious and remain unresolved. They must each be adequately analyzed to ensure that the decision-makers and the Public have current information about environmental impacts at the Project site. Growth and expansion in El Dorado County must be carefully controlled to ensure the

October 26, 2021

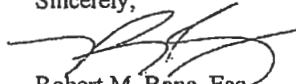
1-13
Cont'd

balance of benefits to the community. Members of the Association live here because they love the open spaces in this community. They discourage unplanned urban growth for this reason.

As these public comments demonstrate, the Project cannot be approved until the Public has been provided with "detailed information about the effect which a proposed project is likely to have on the environment," and "to list ways in which the significant effects of such a project might be minimized." *Laurel Heights Improvement Association v. Board of Regents of University of California* (1988) 47 Cal.3d 376, at 391.

Thank you for considering the Association's concerns. For the reasons stated herein, the Association requests that PD-R20-0009 be denied.

Sincerely,



Robert M. Bone, Esq.

LETTER 1: LAW OFFICE OF ROBERT M. BONE, OCTOBER 26, 2021

Response to Comment 1-1

The comment is an introductory statement and does not address the adequacy of the IS/MND or the air quality (AQ) and greenhouse gas (GHG) analysis included therein.

Response to Comment 1-2

The comment presents an overall claim regarding the environmental document, and does not address specific issues related to the adequacy of the IS/MND or the AQ and GHG analysis included therein.

Response to Comment 1-3

The commenter is correct that El Dorado County is designated nonattainment for State and federal ozone as well as State PM₁₀. However, the existing conditions of the air basin do not have a bearing on whether the proposed project would be considered, under CEQA, to significantly impact air quality in the project region. Rather, for the purposes of environmental review, the significance determination is based on whether the emissions associated with the proposed project would exceed the El Dorado County AQMD's adopted thresholds of significance. It is noted that the commenter's excerpt does not accurately replicate the text presented in the IS/MND.

As noted in the AQ and GHG Analysis prepared for the project (see Attachment 15 of the IS/MND), due to the nonattainment designations of El Dorado County, the El Dorado County AQMD, along with the other air districts in nonattainment areas, is required to develop plans to attain the federal and State standards for ozone and particulate matter. According to the El Dorado County AQMD, the applicable attainment plan is the *Sacramento Regional 8-Hour Ozone Attainment and Reasonable Further Progress Plan (2013 Ozone Attainment Plan)*, adopted September 26, 2013. The 2013 Ozone Attainment Plan demonstrates how existing and new control strategies would provide the necessary future emission reductions to meet the Clean Air Act requirements, including the National Ambient Air Quality Standards (NAAQS). According to the El Dorado County AQMD, if a project can demonstrate consistency with the 2013 Ozone Attainment Plan, the project would not be considered to have a significant cumulative air quality impact with respect to ozone.

In order to evaluate ozone and other criteria air pollutant emissions and support attainment goals for those pollutants designated as nonattainment in the area, the El Dorado County AQMD has established significance thresholds associated with development projects for emissions of reactive organic gases (ROG) and nitrogen oxide (NO_x) emissions. If a project would result in air pollutant emissions in excess of the thresholds of significance, the project could affect the El Dorado County AQMD's commitment to attainment of the NAAQS for ozone and, thus, could result in a significant adverse impact on air quality in the region.

Response to Comment 1-4

As noted in the IS/MND, the El Dorado County AQMD has established quantitative thresholds of significance for the ozone precursors ROG and NO_x.¹ When implementation of a project would exceed the established thresholds of significance, the project would be considered to result in a significant adverse impact on air quality. However, when a project's emissions do not exceed the established thresholds of significance, such as the proposed Grocery Outlet Project, the associated impact is considered to be less than significant. Under CEQA Guidelines Section 15126.4(a)(4), when imposing mitigation, lead agencies must ensure there is a "nexus" and "rough proportionality" between the measure and the significant impacts of the project. In other words, mitigation measures are not required when the environmental impact is considered to be less than significant. It should also be noted that construction of the proposed project is still subject to the rules of the El Dorado County AQMD, as set forth in conditions of approval 29-35 proposed by the County to be applied to the proposed project.

Response to Comment 1-5

This comment provides a summary of the discussion in the CEQA document and does not address the adequacy of the IS/MND or the AQ and GHG analysis included therein.

Response to Comment 1-6

The commenter is correct in that the term "sensitive receptors" is intended to refer to persons that could experience health effects from harmful air quality, rather than facilities where sensitive receptors tend to congregate.

Consistent with the AQ and GHG Analysis prepared for the proposed project (see Attachment 15 of the IS/MND), Raney recommends clarifying that the nearest sensitive receptors would be located in the multi-family residences along Cimmarron Road, approximately 75 feet south of the project site.

Nonetheless, because the proposed project would not be anticipated to result in the production of substantial concentrations of TACs, including DPM, localized CO, or criteria pollutants, the conclusion remains unchanged. The foregoing clarification would not change the analysis or conclusions presented in the IS/MND.

Response to Comment 1-7

Please refer to Response to Comment 1-4.

Response to Comment 1-8

Refer to Responses to Comments 1-3 and 1-4.

In addition, as noted in the AQ and GHG Analysis prepared for the proposed project (see Attachment 15 of the IS/MND), a cumulative impact analysis considers a project over time in

¹ El Dorado County Air Quality Management District. *Guide to Air Quality Assessment: Determining Significance of Air Quality Impacts Under the California Environmental Quality Act* [chapter 3 pg 5]. February 2002.

conjunction with other past, present, and reasonably foreseeable future projects whose impacts might compound those of the project being assessed. Adopted El Dorado County AQMD rules and regulations, as well as the thresholds of significance, have been developed consistent with the applicable air quality plan with the intent to ensure continued attainment of AAQS, or to work towards attainment of AAQS for which the MCAB is currently designated nonattainment for ozone. Considering the El Dorado County AQMD's thresholds of significance were established based on cumulative, basin-wide air quality, the evaluation of emissions in comparison to such thresholds of significance is inherently cumulative. If a project's operational emissions exceed the El Dorado County AQMD's emission thresholds, a project would be considered to conflict with or obstruct implementation of the El Dorado County AQMD's air quality planning efforts, including emission reduction measures contained in and/or derived from the applicable air quality plan. However, because the proposed project would result in operational emissions below the applicable thresholds of significance, the project would not result in a cumulatively considerable net increase of any criteria pollutant for which the MCAB is designated as nonattainment.

Response to Comment 1-9

This comment provides a summary of the discussion in the CEQA document and does not address the adequacy of the IS/MND or the AQ and GHG analysis included therein.

Response to Comment 1-10

The commenter is correct in that GHG emissions are inherently considered cumulative. However, the cumulative nature of an environmental impact area does not necessitate that an impact will be considered significant. Similar to the evaluation of criteria air pollutant emissions, thresholds of significance are adopted by air districts in order to establish a definitive level of significance for environmental review under CEQA. If a project would emit GHGs less than the applicable air district's adopted thresholds of significance, then the impact would be considered not cumulatively considerable, and therefore less than significant under the purview of CEQA.

As noted in the AQ and GHG Analysis prepared for the proposed project (see Attachment 15 of the IS/MND), the El Dorado County AQMD has not formally adopted thresholds for evaluating GHG emissions, but has recommended the use of thresholds adopted by the Sacramento Metropolitan Air Quality Management District (SMAQMD).² The thresholds of significance established by SMAQMD, and used by El Dorado County AQMD, were developed to identify emissions levels for which a project would not be expected to substantially conflict with existing California legislation adopted to reduce statewide GHG emissions needed to move towards climate stabilization. Per the SMAQMD Thresholds of Significance Table, updated April 2020, if a proposed project results in emissions less than 1,100 metric tons of carbon dioxide equivalence units per year (MTCO₂e/yr) during either construction or operation, the proposed project would be anticipated to result in a less-than-significant impact related to GHG emissions.³ When a project's emissions do not exceed the established thresholds of significance, as is the case for the proposed Grocery Outlet Project, the associated impact is considered to be less than significant, and mitigation is not required.

² Rania Serieh, Air Quality Engineer at El Dorado County Air Pollution Control District. Personal Communication [phone] with Briette Shea, Associate/Air Quality Technician at Raney Planning & Management, Inc. October 22, 2020.

³ Sacramento Metropolitan Air Quality Management District. *SMAQMD Thresholds of Significance Table*. Available at: <http://www.airquality.org/LandUseTransportation/Documents/CH2ThresholdsTable4-2020.pdf>. Accessed July 2021.

Response to Comment 1-11

The excerpt to which the commenter is referring provides background information regarding the policies adopted by the El Dorado County AQMD. The bulleted list presented on page 15 of the IS/MND provides mitigation options for projects that would result in emissions of criteria pollutants that exceed the applicable thresholds of significance. Based on the modeling prepared for the proposed project, the project would not generate emissions in excess of the adopted thresholds of significance and, thus, the implementation of mitigation is not warranted. The proposed project is not required to pay the “administrative fee”, as suggested by the commenter.

Refer to Response to Comment 1-6 for the discussion of sensitive receptors.

Response to Comment 1-12

[N/A - This comment relates to the traffic analysis.]

Response to Comment 1-13

The comment is a concluding statement and does not address the adequacy of the IS/MND or the AQ and GHG analysis included therein.