



28571 and 28591 Harvey Avenue Residential Project

Responses to Comments on the Draft IS-MND

prepared by

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Responses to Comments on the Draft IS-MND

1.0 Introduction

1.1 PURPOSE OF THE RESPONSE TO COMMENTS

This document includes comments received during the circulation of the Draft Initial Study-Mitigated Negative Declaration (IS-MND) prepared for the 28571 and 28591 Harvey Avenue Residential Project (proposed project) and responses to those comments. The Draft IS-MND identifies the likely environmental consequences associated with development of the proposed project, and recommends mitigation measures to reduce potentially significant impacts. This Response to Comments (RTC) Document provides a response to comments on the Draft IS-MND and makes revisions to the Draft IS-MND, as necessary, in response to those comments or to make clarifications to material in the Draft IS-MND. This document, together with the Draft IS-MND, constitutes the Final IS-MND for the proposed project.

1.2 ENVIRONMENTAL REVIEW PROCESS

Pursuant to the California Environmental Quality Act (CEQA), lead agencies are required to circulate a Notice of Intent to Adopt a Mitigated Negative Declaration (NOI) and provide the general public with an opportunity to comment on the Draft IS-MND. The Draft IS-MND was circulated for a public review period that began on July 19, 2019 and ended on August 9, 2019. Copies of the NOI were mailed to local and state agencies and posted with the County Clerk's Office. The Draft IS-MND was posted electronically on the City's website, and a paper copy was available for public review at the Hayward City Hall Permitting Center and at the Hayward Public Library Weeks Branch Library. The City of Hayward received one comment letter on the Draft IS-MND.

1.3 DOCUMENT ORGANIZATION

This Response to Comments (RTC) Document consists of the following chapters:

- **Chapter 1.0: Introduction.** This chapter discusses the purpose and organization of this RTC Document and summarizes the environmental review process for the project.
- **Chapter 2.0: Comments and Responses.** This chapter contains reproductions of all comment letters received on the Draft IS-MND as well as transcripts of verbal comments provided at the public hearings. A written response for each CEQA-related comment received during the public review period is provided. Each response is keyed to the corresponding comment.
- **Chapter 3.0: Draft IS-MND Revisions.** Corrections to the Draft IS-MND that are necessary in light of the comments received and responses provided, or necessary to amplify or clarify material in the Draft IS-MND, are contained in this chapter. Underlined text represents language that has been added to the Draft IS-MND.

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2.0 COMMENTS AND RESPONSES

This chapter includes written comments received during the circulation of the Draft IS-MND prepared for the 28571 and 28591 Harvey Avenue Residential Project (proposed project) and responses to those comments.

The City of Hayward received one comment letter on the Draft IS-MND from Elizabeth Chung-Huynh from the Department of Toxic Substances Control.

The comment letter and responses follow. Each separate issue raised by the commenter has been assigned a number. The responses to each comment identify first the number of the comment letter, and then the number assigned to each issue (Response 1.1, for example, indicates that the response is for the first issue raised in comment Letter 1).

Letter 1

COMMENTER: Elizabeth Chung-Huynh, Department of Toxic Substances Control (DTSC)

DATE: August 6, 2019

Response 1.1

The commenter states that DTSC is a responsible agency for the project. The commenter asks if a Phase 2 Environmental Site Assessment (ESA) or other sampling has been conducted for the site. The commenter also states that because the existing structures were built in 1940, demolition could result in soil contamination with asbestos, lead, and other materials. The commenter states that DTSC recommends the collection and analysis of soil samples for CAM 17 metals and asbestos.

A Phase 2 ESA has not been prepared for the project. However, the proposed project would be subject to the following standard conditions of approval required by the City of Hayward that would ensure the project site would meet residential development investigation and cleanup standards prior to issuance of grading permit. As stated in the first condition of approval, the project would be subject to Regional Board or DTSC approval.

Hazardous Materials - Conditions Prior to Grading Activities and During Construction

1. Prior to issuance of Building or Grading Permits a final clearance shall be obtained from either the California Regional Water Quality Control Board or Department of Toxic Substance Control and submitted to the Hayward Fire Department to ensure that the property meets residential development investigation and cleanup standards. Allowance may be granted for some grading activities if necessary to ensure environmental clearances.
2. Prior to grading: Structures and their contents shall be removed or demolished under permit in an environmentally sensitive manner. Proper evaluation, analysis and disposal of materials shall be done by appropriate professional(s) to ensure hazards posed to development construction workers, the environment, future residents and other persons are mitigated.
3. All wells, septic tank systems and others subsurface structures shall be removed properly in order not to pose a threat to the development construction workers, future residents or the environment. These structures shall be documented and removed under permit when required.
4. The Hayward Fire Department's Hazardous Materials Office shall be notified immediately at (510) 583-4910 if hazardous materials or associated structures are discovered during demolition or during grading. These shall include, but shall not be limited to: actual/suspected hazardous materials, underground tanks, or other vessels that may have contained hazardous materials.
5. During construction, hazardous materials used and hazardous waste generated shall be properly managed and disposed.
6. If hazardous materials storage and/or use are to be a part of the facility's permanent operations then a Chemical Inventory Packet shall be prepared and submittal with building plans to the City of Hayward Fire Department at the time of application for construction permits.

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With respect to lead-based paint and asbestos containing materials (ACM), because the project involves demolition of structures over 50 years in age, there is a potential for lead-based paint or ACMs to be present. Demolition of the existing structure could result in soil contamination or health hazard impacts to workers if these materials are not remediated or properly handled prior to construction activities. Therefore, in response to this comment, text revisions have been made to the Draft IS-MND to discuss this issue. These revisions are shown in Chapter 3.0 of this document.

Response 1.2

The commenter requests additional information about the 55-gallon uncovered drum that was noted as present on the site in the Phase I ESA. The commenter asks if the oil substance found in the drum was properly characterized, labeled, and correctly disposed.

As stated on page 13 of the Phase I ESA prepared for the project site, one 55-gallon drum containing used oil was found on site. However, no spill, leaks, or staining associated with the drum were observed. However, as stated on page 62 of the Draft IS-MND, the transport, storage, use, or disposal of hazardous materials associated with the project would be subject to federal, state, and local regulations pertaining to the transport, use, storage, and disposal of hazardous materials. The project applicant or proponent would be required to follow hazardous waste regulations to ensure that potential hazardous materials on-site are properly characterized and disposed of. Further, as stated in Response 1.1, the project would be subject to the City's standard conditions of approval related to hazardous materials. As stated in Condition #5, during construction, hazardous materials used and hazardous waste generated must be properly managed and disposed.

3.0 DRAFT IS-MND TEXT REVISIONS

This chapter presents the specific change to the text of the Draft IS-MND that is being made to the Draft IS-MND in response to comments received during the public review period. This change does not result in a greater number of impacts or impacts of a substantially greater severity than those set forth in the Draft IS-MND. Added text is indicated with underlined text. The page number corresponds to the page numbers of the Draft IS-MND.

Page 62 of the Draft IS-MND in Section 4.9, *Hazards and Hazardous Materials*, is revised to include the following additional information:

Structures built before the 1970s typically used ACMs in their construction. Because the on-site structures are over 50 years in age and were constructed before the time of the federal ban on the manufacture of polychlorinated biphenyls (PCB), it is possible that light ballasts contain PCBs. However, demolition and construction activities would be required to adhere to Bay Area Air Quality Management District (BAAQMD) Regulation 11, Rule 2, which governs the proper handling and disposal of ACM for demolition, renovation, and manufacturing activities in the Bay Area, and California Occupational Safety and Health Administration (CalOSHA) regulations regarding lead-based materials. The California Code of Regulations, §1532.1, requires testing, monitoring, containment, and disposal of lead-based materials, such that exposure levels do not exceed CalOSHA standards. The California Department of Toxic Substance Control (DTSC) has classified PCBs as a hazardous waste when concentrations exceed 50 parts per million in non-liquids, and the DTSC requires that materials containing those concentrations of PCBs be transported and disposed of as hazardous waste. Light ballasts to be removed would be evaluated for the presence of PCBs and managed appropriately. With required adherence to BAAQMD, CalOSHA, and DTSC regulations regarding ACM, LBP, and PCBs impacts would be less than significant.