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August 23, 2021

Honorable Mayor and City Council
City of Riverside
3900 Main Street, 3d Floor
Riverside, CA. 92522

BY HAND

Re: Appeal of Planning Commission's Determinations on Sycamore Hills Distribution Center
EIR (State Clearinghouse No. 2020079023)

Honorable Mayor and City Council:

On behalf of Golden State Environmental Justice Alliance ("GSEJA"), we wish to appeal the Planning Commission's determinations regarding the Sycamore Hills Distribution Center project and the Environmental Impact Report ("EIR") which was prepared for that development (the "Project"). We are accompanying this appeal letter with the required fee. This letter incorporates our letter of July 16, 2021, and our consultant SWAPE's letter of July 21, 2021, both of which we understand are on file for this Project.

While this letter highlights some of our comments, we do not intend to limit ourselves to the points raised here if we are to go into litigation. Pursuant to CEQA, we are entitled to raise any comment raised by any commenter in a writ of mandate action. Pub. Res. Code § 21177(a).

PROJECT DESCRIPTION

The project site is approximately 48 acres. The applicant proposes to construct two distribution centers – Building A would cover 400,000 square feet and have 88 dock doors and an associated 117 truck parking spaces, and Building B would be 203,100 square feet, with 34 dock doors and 45 truck parking spaces. Between them, the two buildings would also have 623 passenger car parking spaces.

As we noted in our initial comments, the project site contains an 11.6-acre parcel included within Building A's parcel which would be considered a "Restricted Property." This area contains a jurisdictional drainage and riparian habitat which was to be preserved as the result of the development of the Grove Community Church approximately a mile away. More specifically, the Church owned the parcel that is now considered restricted, but chose to build elsewhere due to the limited number of congregants who would be permitted at the Project site. The site the Church chose had jurisdictional drainage and riparian habitat, and the U.S. Army Corps of Engineers required that the jurisdictional features on the present Project site be preserved as a condition of the Clean Water Act section 404 permit that was necessary for the construction on the other site. The 11.6-acre parcel landlocks the parcel on which Building A would be located, so the applicant for the present Project proposed to remove 0.81 acres of the Restricted Property

to create a driveway for Building A, and to add a new 1.44 acres of land elsewhere to permit for the construction of the driveway. We are unconvinced that the substituted land will have the same habitat values, particularly when the Restricted Area is broken in half by a driveway and when it will be surrounded by two large, busy distribution centers. The DEIR failed to disclose that the General Plan designation of the site required a General Plan Amendment to permit warehouses of over 10,000 square feet per site – or that a Conditional Use Permit (as opposed to a Minor Conditional Use Permit) would be required for the Project. In short, the DEIR severely understated the Project's potential impacts, contrary to CEQA's mandate that "stubborn problems or serious criticism" should not be swept under the rug, but should be openly discussed and addressed in an EIR. See, e.g., *Banning Ranch Conservancy v. City of Newport Beach* (2017) 2 Cal. 5th 918, 940.

AIR QUALITY

The City made a variety of errors in its construction and operational air quality analyses, as we pointed out in our comments and those prepared by our experts, Soil Water Air Protection Enterprise ("SWAPE").

Construction Analysis

The DEIR's Project Description anticipated that the applicant would move an "estimated 40,000 cubic yards of excess material" from Parcel 1 to Parcel 2 – ***across the Restricted Area***. The California Department of Fish & Wildlife commented that this was inappropriate in its comments on the Notice of Preparation, and accordingly, we indicated in our comments that the City should have modeled 400 haul truck trips traveling from Parcel 1 to Alessandro Blvd., to Barton Street, to Parcel 2.

The DEIR made the following further errors with respect to construction emissions:

- The City assumed that the reactive organic gas ("ROG") or volatile organic compound ("VOC") emissions would be reduced from the defaults anticipated in CalEEMod version 2016.3.2 by one half. As SWAPE noted, the stated justification for this change was "SCAQMD Rule 1113 – Building Envelope and Non-Flat Coating Limit = 50 g/L," but this could not be substantiated as the South Coast Air Quality Management District's Rule 1113 specifies limits between 50 g/L to 730 g/L depending upon the type of coating at issue.
- The City made several unsupported changes to construction phase lengths, whereby the anticipated architectural coatings phase was lengthened from 55 days to 111, and actual building construction was shortened from 740 days to 243, grading time was cut almost in half from 75 days to 47, paving was reduced by 40% from 30 to 18 days, and the site preparation phase was reduced from 55 days to 18. When SWAPE modified these times and re-ran CalEEMod, VOCs or ROGs exceeded those improperly reduced by the City by 984% and significantly exceeded the SCAQMD regional construction threshold.
- The City likely underestimated PM₁₀ and PM_{2.5} emissions significantly, because it assumed a 61% reduction associated with watering during construction. California is in the midst of a drought and this watering may not be permissible or may not be done in compliance with SCAQMD requirements as a result.

- Worker and vendor trip numbers were improperly reduced, and if they were accurately calculated, NO_x emissions would have been higher.
- The City failed to include a construction-related Health Risk Assessment (“HRA”) with the DEIR; the Office of Environmental Health Hazard Assessment (“OEHHA”) mandates that construction emissions be evaluated along with operational emissions for any project for which construction lasts more than two months; SWAPE did the preliminary quantitative assessment the City left out and concluded that the residential risk for those commencing in infancy and living near the Project site would far exceed the SCAQMD threshold of ten additional cancers in a million.

Operations Analysis

As noted above, in combination with that from construction, the diesel particulate matter emissions from truck operations around the site from the Project would likely exceed SCAQMD’s threshold of significance for cancer risk. Further, due to unjustified changes to the operational vehicle fleet mix from CalEEMod’s defaults, SWAPE recalculated the Project’s likely NO_x emissions, and determined that they would likely exceed the SCAQMD regional threshold of 55 pounds per day.

GREENHOUSE GAS EMISSIONS

Both GSEJA and SWAPE’s comments pointed out that there were significant discrepancies in the City’s DEIR analysis as compared with the City’s actual CalEEMod output sheets relating to greenhouse gas (“GHG”) emissions. By a lot. And this was unsubstantiated. We will not repeat what was said earlier before; the City should simply look to page 7 of our original letter. The City’s CalEEMod analysis puts Project operational emissions well over the 10,000 MTCO_{2e} threshold for industrial projects the City used in the EIR.

The City also analyzed the Project for consistency with the City’s Climate Action Plan (the “RG-CAP”), the EIR does nothing to address how the Project has demonstrated the necessary 49% reduction needed by 2035. And it completely failed to demonstrate compliance with the performance-based measures provided in the California Air Resources Board’s 2017 *Scoping Plan Update*.

ENERGY

In addition to the comments we made on the DEIR, we wish to note here that it is well-settled that simply complying with building codes and other existing laws intended to reduce energy consumption is **not** enough to meet CEQA’s mandates. However, that is all the EIR has relied upon in reaching the erroneous conclusion that the Project will not have significant energy impacts.

LACK OF A FINAL EIR

We have reviewed Planning Staff’s report and presentation in connection with last Thursday’s approval of the Project. It appears that the Planning Commission, which City staff indicated was the proper decisionmaking body under CEQA for this Project, has violated CEQA by approving the Project in the absence of a Final EIR. *See, e.g.,* CEQA Guidelines §§ 15089(a), 15090(a),

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15091(a) (requiring findings to be based upon a final EIR); *see also City of Carmel-by-the-Sea v. Board of Supervisors* (1977) 71 Cal. App. 3d 84, *Kleist v. City of Glendale* (1976) 56 Cal. App. 3d 770, 774, *People v. County of Kern* (1974) 39 Cal. App. 3d 830, 841, *Cleary v. County of Stanislaus* (1981) 118 Cal. App. 3d 348, 356-358. Further, that Final EIR should have been made publicly available in connection with Staff's report on the Project, since Staff prepared a report on the Project. Guidelines § 15095(b).

City Staff's process of informing the public that the Planning Commission's decision is required to be appealed under CEQA, as it did in the Staff report for this Project, while at the same time presupposing that the City Council will pass on the Project, and indicating that the Final EIR will not be available until the City Council does so, makes the City look as if it is talking out of both sides of its mouth. While the approach may generate extra revenue, it is not proper under CEQA.

CONCLUSION

GSEJA continues to believe the EIR for this Project is flawed and an amended EIR must be prepared for the proposed project and recirculated for public review. We urge the City Council to grant GSEJA's appeal and bar further steps forward on this Project until one is prepared. Thank you.

Sincerely,



Hannah Benuley

BLUM COLLINS LLP

cc: Veronica Hernandez, Senior Planner