

FINAL

**Initial Study/Mitigated Negative Declaration,
Responses to Comments, and Errata
for the
Breeze Townhomes Project**

Prepared for:

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1 Introduction

A Draft Initial Study/Mitigated Negative Declaration (Draft IS/MND) was prepared for the proposed Breeze Townhome Project (project) and made available for public comment for 30 days from June 12, 2019 to July 12, 2019. In accordance with the California Environmental Quality Act (CEQA) Guidelines, Section 15074(b) (14 CCR 15074(b)), before approving the project, the City of Oceanside (City), as the lead agency under CEQA, will consider the IS/MND with any comments received during this public review period. Specifically, Section 15074(b) of the CEQA Guidelines (14 CCR 15074(b)) states the following:

Prior to approving a project, the decision-making body of the lead agency shall consider the proposed negative declaration or mitigated negative declaration together with any comments received during the public review process. The decision-making body shall adopt the proposed negative declaration or mitigated negative declaration only if it finds on the basis of the whole record before it (including the initial study and any comments received), that there is no substantial evidence that the project will have a significant effect on the environment and that the negative declaration or mitigated negative declaration reflects the lead agency’s independent judgment and analysis.

The agencies and individuals who provided substantive written comments on the environmental issues addressed in the Draft IS/MND are listed in Table A. Although CEQA (California Public Resources Code, Section 21000 et seq.) and the CEQA Guidelines (14 CCR 15000 et seq.) do not explicitly require a lead agency to provide written responses to comments received on an IS/MND, the lead agency may do so voluntarily as part of a Final IS/MND. Individual comments within each communication are numbered so comments can be cross-referenced with responses. Comment letters received during the public review period are included in Attachment A of this Final IS/MND.

Table A. Comment Letters

Letter	Date	Commenter
A	July 11, 2019	Geierman, Donna
B	July 12, 2019	Caron, Shelly Hayes
C	July 12, 2019	Cruikshank, Andrew John
D	July 12, 2019	Friends of Loma Alta Creek (Nadine Scott)
E	July 12, 2019	Governor’s Office of Planning and Research (Scott Morgan)

Responses to comments are made in the following text to supplement, clarify, or expand on information already presented in the Draft IS/MND. These responses do not change the significance determinations made or the severity of potential environmental impacts evaluated in the Draft IS/MND. Section 15073.5(c)(4) of the CEQA Guidelines (14 CCR 15073.5(c)(4)) permits the inclusion of new information within an IS/MND if the additional information “merely clarifies, amplifies, or makes insignificant modifications to the negative declaration.”

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2 Response to Comments

Response to Comment Letter A

Donna Geierman

July 11, 2019

A-1 This comment serves as an introduction to comments that follow. While this comment does not address the adequacy of the Draft IS/MND, the City appreciates the commenter for participating in the planning and environmental review process. This comment is included in the Final MND for consideration by the City prior to making a final decision on the project.

A-2 This comment expresses a concern with the project's traffic study, particularly with regard to the selection of study area street segments and intersections, cumulative impact analysis, and parking. While the analysis of parking is not required under CEQA, the project would provide 68 designated resident spaces (2 per unit within the garages, except Unit 7 which has one garage space and one reserved open space), and 10 designated guest spaces. This provision of parking is consistent with the parking requirements of the coastal zoning ordinance (which does not require guest spaces), and also exceeds the guest parking standard used citywide in non-coastal areas (which would otherwise require 7 guest spaces while 10 are provided).

With regard to the project's traffic study, the Draft IS/MND for the project includes a comprehensive Traffic Impact Analysis (TIA; Appendix I to the Draft IS/MND) that assesses traffic conditions for both weekday peak hours and full weekday conditions. The traffic analysis was conducted using methodology that is consistent with the guidelines and requirements of the City of Oceanside and the San Diego Association of Governments (SANDAG). Study segments and intersections were selected based on guidelines established by the San Diego Traffic Engineer's Council, which indicate that street segments and intersections at which 50 peak hour project trips would travel through should be included in the analysis. Because South Nevada would not have 50 peak hour project trips, it therefore was not included in the traffic study analysis. As discussed in Section 14.17(a) of the Draft IS/MND and in the TIA, under both existing plus project and existing plus cumulative plus project conditions, all study intersections and street segments analyzed are calculated to operate at acceptable levels of service. Projects to be included in the cumulative impact analysis were provided to LOS Engineering (the preparer of the TIA) and were based on reasonably foreseeable projects in the project area.

The commenter states that she "learned that the south Ditmar school will not only be growing to 600 students all the way up to grade 12 at the start of the new school year just around the corner but trailers, (classrooms) and pads for them to set on, more outside seating, etc. will be required." This commenter is referring to the Oceanside Unified School District's recent approval of a resolution to consolidate the District's existing alternative education programs, which were previously housed at different locations throughout Oceanside School District, including Ocean Shores High School, Clair Burgener Academy and Ditmar School, at the Ditmar School campus. The Oceanside Board of Directors approved this resolution on April 12, 2019, after an Alternative Education Committee had met on three occasions and recommended the resolution to the Board of Education¹. Due to the fact that the

¹ Oceanside School District 2019. Board of Education Regular Meeting Minutes – Adopted. Tuesday, April 16, 2019. https://drive.google.com/drive/folders/1MrKt_sp1fYdxMRnKKmTDO11m_wl2iBMh

Oceanside Board of Education's resolution to relocate existing Alternative Education programs is not a project under CEQA, the action was not included in the list of reasonably foreseeable cumulative projects. The Ditmar school campus has not been vacant since closing as a traditional elementary school, but has been in continuous use by a number of other district offices and programs. At the time of the traffic counts used as a basis for the traffic study, all of the classrooms at Ditmar were in use for various purposes. These have included a transition program for special needs adults, ages 19-22, offices for the Special Education Department staff, Nutrition Department offices, and a non-traditional independent study program for elementary students (K-5). As with many schools in Oceanside, there is also community use of the grounds for recreational activities during evening and weekend hours. The traffic counts used as a basis for the traffic study include any trips that would have been going to and from the school at the time of the counts.

While there will be some variations in traffic associated with any specific uses of Ditmar School, the consolidation of the Alternative Education programs are projected to have a 2019-2020 enrollment of 250-300 students (personal communication with C. Leyva, OUSD, 8/15/19). Other programs are being moved off the Ditmar campus to accommodate the Alternative Education programs, including offices for the Nutrition Department, Nursing staff, Occupational Therapy and Adaptive PE. Consolidation of the Alternative Education program at Ditmar School would result in students ranging from Kindergarten to 12th grade being enrolled at the Ditmar campus; however, enrollment in an Alternative Education program typically results in substantially different impacts when compared to enrollment in a traditional education program. Students enrolled in Alternative Education typically complete curriculum with modified schedules and students generally only remain on campus for partial days. As such, the consolidation of the Alternative Education program would not result in a substantial change in traffic volumes and would not result in any change in level of service. No revisions to the Draft IS/MND are required or proposed as a result of this comment.

- A-3** This comment states that according to the Geotechnical Study prepared for the project (Appendix D of the Draft IS/MND), a hydraulic rock breaker may be required for the excavation of bedrock deeper than 3 feet, but that no reference to the noise generated from a hydraulic rock breaker is included in the Noise Study prepared for the project (Appendix H of the Draft IS/MND). According to the Section 14.13 of the Draft IS/MND, an Excel-based noise prediction model emulating and using reference data from the Federal Highway Administration (FHWA) Roadway Construction Noise Model (RCNM) (FHWA 2008) was used to estimate construction noise levels at the nearest occupied noise-sensitive land use. (Although the RCNM was funded and promulgated by the FHWA, it is often used for non-roadway projects, because the same types of construction equipment used for roadway projects are often used for other types of construction.) Input variables for the predictive modeling included the equipment type and number of each to be used (e.g., two graders, a loader, a tractor), the duty cycle for each piece of equipment (e.g., percentage of time within a specific time period, such as an hour, when the equipment is expected to operate at full power or capacity), and the distance from the noise-sensitive receiver. These input variables were selected based on typical construction scenarios and on construction information available at the time of analysis. As is typical of noise analyses, input variables do not represent the exact construction scenario to be used during project construction, as exact construction methods may change as equipment availability fluctuates or project engineering plans become finalized. Inadvertently, use of a hydraulic rock breaker was not incorporated into the predictive noise model.

In response to this comment, the use of a mounted impact hammer was included as an input to the noise model, and predicted project construction noise levels were recalculated, as shown in the Errata to this Final MND. According to the revised construction noise model, with incorporation of a mounted impact hammer, the estimated construction noise levels are predicted to be as high as 89.7 dBA equivalent continuous sound level (L_{eq}) over an 8-hour period at the nearest existing residences (as close as 10 feet away) near the north project boundary, as opposed to 89.0 dBA L_{eq} as predicted previously. Note that these estimated noise levels at a source-to-receiver distance of 10 feet would only occur when the single noted piece of heavy equipment is operating along the western project boundary for a cumulative period of up to one and a half hours a day, and would be operating at alternating cycles of full power and low power. By way of example, the mounted impact hammer would be used in select areas on site that are this close to the receiver; but, for the remaining time during the day, the impact hammer is sufficiently farther away—performing work at a more distant location. Additionally, given the operational requirements to operate a (typically truck-mounted) impact hammer, the piece of equipment would only be operating for a few minutes at a time at one specific area, and would need to be reset in a different position just a couple feet away from its previous position. During this operational downtime, the machine would be idling, and thus, the receptor would not experience noise levels as high as 89.7 dBA L_{eq} for a continuous and extended period of time. However, for the instances when operation of construction equipment and processes are sufficiently proximate to cause activity noise levels to exceed 80 dBA L_{eq} , which the Federal Transit Administration (FTA) recommends as a daytime threshold for construction noise exposure over an 8-hour period at a residential receptor, implementation of MM-NOI-1 has the ability to realize a 10 dB reduction in noise levels that would correspondingly reduce the predicted 89.7 dBA eight-hour L_{eq} to a level of 79.7 dBA L_{eq} and thus, would still be compliant with the 80 dBA threshold recommended by the FTA. Thus, with application of MM-NOI-1, project construction impacts would continue to be less than significant. The revisions to the predictive construction noise model will be reflected within the Errata of this Final MND, and will clarify the project's effects (which are not new avoidable significant effects) outlined in the Draft IS/MND.

With regard to potential construction vibration impacts, guidance from the Federal Transit Administration states a mounted impact hammer produces the same vibration level as a bulldozer. This is supported by California Department of Transportation (Caltrans) information suggesting that vibration levels for a bulldozer would be the same as those for a hydraulic breaker producing about 750 foot-pounds of force. As such, and as discussed in the Draft IS/MND, the anticipated vibration velocity level for a bulldozer operating on site and as close as the western project boundary (and immediately adjacent to the retaining wall) would be 0.19 inches per second. Per Caltrans, the recommended peak particle velocity threshold for newer residential structures is 0.5 ips and 0.3 ips for older residential structures, which is greater than the anticipated 0.19 inches per second that would be experienced by the retaining wall. Thus, vibration damage risk to nearby structures is considered less than significant. No revisions to the Draft IS/MND are required or proposed as a result of this comment.

- A-4** This comment expresses a concern regarding vehicular access and circulation throughout the project site, particularly with regard waste management collection procedures, emergency vehicle circulation, and delivery vehicle circulation. These issues are adequately addressed in Section 14.17 of the Draft IS/MND, which explain that adequate emergency access would be provided during both short-term construction and long-term operation of the project and that the project would provide for the safe movement of vehicles and would not include any hazardous design features or propose any incompatible uses. Primary access to the project site would be provided via a driveway located at the

southeast corner of Ditmar Street and Godfrey Street. A gated and controlled access point would be provided from Nevada Street for only emergency service, while one additional gated access point would be provided from Oceanside Boulevard to be utilized for emergency service and solid waste vehicles. Internal circulation would be provided for via a 28-foot wide drive aisle, with walkways on either side lined with a mountable rolled curb such that the curb could be used by emergency vehicles.

Fire access roadways would be marked “no parking, fire lane” on both sides of designated emergency lanes and would comply with Oceanside Fire requirements. Fire truck turning templates have been overlain onto site plans to ensure that fire trucks would be able to safely access the project site. The designs and specifications of all project drive aisles and driveways meet the development standards outlined in the Coastal Zoning Ordinance and have been reviewed and accepted by the City. Due to the temporary nature of the deliveries, delivery and mail trucks could idle in front of drop-off locations, but would still preserve a lane for both resident and emergency circulation.

With regard to solid waste management procedures, solid waste would be managed with individual bins stored within garages and would be moved to a designated waste pickup area on the north side of the main drive aisle on waste collection days. Waste collection procedures were developed in coordination with the City’s Solid Waste and Recycling staff and Waste Management and no issues were identified or are anticipated during the planning process. Rules regarding locations for storage and pickup and bin handling procedures would be either included in rental agreements or in Homeowner Association regulations for the site.

As discussed in Section 14.17(c) of the Draft IS/MND, the project would provide for the safe movement of vehicles, including emergency, delivery, and waste collection vehicles, and would not include any hazardous design features or propose any incompatible uses, and impacts would be less than significant. No revisions to the Draft IS/MND are required or proposed as a result of this comment.

A-5

This comment states that the commenter’s property would experience shade impacts resulting from a modification in Unit 8’s design, and states that the modification to the project plans were not made publicly accessible. Because a project’s plans are not usually finalized at the time of the preparation of CEQA documentation, applicants may make minor revisions to plan sets to address engineering and other planning constraints, as was the case for this minor change in project design. To ensure the commenter’s property would not be adversely affected by this change in project design, a shadow study was prepared to determine the extent to which the project would cast shadows on existing “shade-sensitive” uses. Shading is an important environmental issue because the users or occupants of certain “shade-sensitive” land uses have reasonable expectations for direct sunlight and warmth from the sun. Shadow impacts may be perceived as either beneficial or adverse depending on the specific use and function of a property. Generally, shadow-sensitive uses include routinely useable outdoor spaces associated with residential or recreational land uses, commercial uses such as pedestrian-oriented outdoor spaces or restaurants with outdoor seating areas, and uses that are dependent on direct sunlight, such as uses that rely partially or fully on solar panels for electricity.

As stated in the comment, the commenter’s roof contains solar panels, and the commenter expresses a concern that the project could cast shadows on the commenter’s solar panels. According to the shadow study prepared for the project (inclusive of the most recent design modification), the project would only cast shadows on one of commenter’s solar panels during the late afternoon (i.e., 3 p.m. to

sunset) of the winter months when the sun is at its lowest point in the sky and shadows are the longest. During all other times of the year, the project would not affect nearby shade-sensitive uses. Therefore, given the relatively small duration that the project would cast shadows on neighboring shade-sensitive land uses, and the fact that expectations of direct sun are limited during the times at which the project would affect these uses, the project would continue to have a less than significant impact on the commenter's property relating to shade. This information, which clarifies the project's effects (which are not new avoidable significant effects) outlined in the Draft IS/MND, will be included in the Errata to this Final IS/MND.

A-6 This comment expresses a concern with regard to potential impacts that could arise if the proposed residential units were rented as short-term rentals. If a unit owner were to decide to rent a unit as a short-term rental, the owner would be required to obtain a short-term rental permit from the City and comply with all regulations established by the City's recently passed short-term rental ordinance (Ordinance No. 19-OR0408-1). This ordinance establishes regulations to minimize any potential impacts associated with excessive noise, overcrowding, reduction in street parking, and the accumulation of refuse. Compliance with the City's short-term rental ordinance ensures that the effects of a short-term rental unit would be the same as those for a traditional residential unit. If neighbors notice adverse impacts resulting from a short-term rental unit, they may file a complaint concerning the condition, operation, or conduct of a short-term rental occupant or owner, and the owner or owner's authorized agent must respond to a complaint received by the City or neighbor within 60 minutes of receipt of the complaint. Violations of the ordinance are subject to all of the criminal and civil remedies set forth in Chapter 1 of the Oceanside Municipal Code. These include misdemeanor criminal prosecution, administrative monetary citations, and/or civil nuisance abatement actions. In addition, a short-term rental permit may be modified, suspended, or revoked for documented violations of the ordinance. Any short-term rental that has been the subject of three verified complaints in a twelve-month period will be automatically referred to the City Attorney Office for enforcement of appropriate remedies. Therefore, through compliance with the City's short-term rental ordinance, any potential operational impacts that could arise should any of the project's residential units be rented as a short-term rental would be less than significant. No revisions to the Draft IS/MND are required or proposed as a result of this comment.

A-7 This comment states that based on project elevations, the project appears to be taller than 35 feet tall. However, building heights are calculated in accordance with the coastal zoning ordinance and are below 35 feet to the uppermost story ceiling, measured from average grade as also defined by the ordinance. Figure 4 and Figure 5 of the Draft IS/MND, which depict simulations of the project are accurate representations of what the project would look like once constructed. No revisions to the Draft IS/MND are required or proposed as a result of this comment.

A-8 This comment states that Appendix J of the Draft IS/MND, Fire Flow Analysis, provides a fire flow analysis for an earlier conceptual iteration of the project in which 90 multi-family dwelling units were proposed on the same project site. While the project description has since changed since the date at which the fire flow analysis was originally prepared (i.e., May 24, 2017), the findings and conclusions of the analysis have not changed since the project in its current form would represent a decrease in water demand on the Mountain 320 Pressure Zone (i.e., 34 units would require less water than 90 units), resulting in an increase in both available water and water pressure. No revisions to the Draft IS/MND are required or proposed as a result of this comment.

A-9 This comment states that the Biological Assessment prepared for the project (Appendix B of the Draft IS/MND) did not include mention of “coyotes” or “hawks”, which the commenter states to have seen previously on the project site, and states that development of the project would further restrict the habitat of coyotes.

As stated in the Biological Assessment, biological surveys were completed within and surrounding the boundaries of the project site in February 2017 to analyze the potential impacts to biological resources resulting from development of the project. As part of these surveys, the project site was walked on foot and resources were mapped using a 2016 aerial photograph of the area. Animal species were observed directly or detected from calls, tracks, scat, nests, or other signs. However, surveys were performed during the day, and nocturnal animals (i.e., coyotes [*Canis latrans*]) were detected by sign. At the time of the surveys, no signs (i.e., scat, fur, or footprints) of coyotes were detected on site. Nonetheless, if one were to assume that coyotes intermittently traversed the project site, development of the project would still result in less than significant direct and indirect impact to the species. *Canis latrans* is not a sensitive, rare, or special status species, and the project site contains low quality habitat surrounded by existing development in all directions that is not significantly important to local populations (i.e., no dens were detected within the project site).

Development of the project could potentially result in indirect impacts to the species if local populations used the project site as a wildlife corridor; however, as discussed previously and as detailed in the Biological Assessment, the project site is surrounded by existing development in all directions. In San Diego County, important corridors/linkages have been identified on the local and regional scale in establishing a connection between the northern and southern regions, but the project site is not located within or adjacent to an existing recognized habitat corridor. As such, impacts to coyotes (*Canis latrans*) would be less than significant.

With regard to the comment implying that hawks were not discussed in the Draft IS/MND or Biological Assessment, Section 14.4(a) of the Draft IS/MND and Section 4.3.3.3 of the Biological Assessment both discuss the presence of raptors, which includes various birds of prey and types of hawks. As discussed, due to the undeveloped nature of the site, foraging raptors (including hawks) and birds could occur on site. Potential raptor nesting sites, defined as large trees, or man-made towers and poles, were observed on and in proximity to the project site during the site visit, though no raptor nests were observed. The project, like all construction projects in the City, would be required to implement Minimization Measure 3, which prohibits trimming of trees containing raptor or migrating bird nests during the raptor breeding season (January 15 to August 31) and requires implementation of certain measures to reduce potential impacts to birds and raptors. With implementation of Minimization Measure 3, potential impacts to migratory birds and active migratory bird nests and/or eggs protected under the Migratory Bird Treaty Act would not be considered significant, per the City’s significance thresholds. As such, impacts to biological resources, including coyotes and hawks, would remain less than significant. No revisions to the Draft IS/MND are required or proposed as a result of this comment.

A-10 This comment expresses a concern with the City’s administrative record keeping procedures associated with the project. The City appreciates the commenter raising this issue to the City’s attention, and will work to ensure that all information associated with the project is accurate and updated. However, while this comment raises an important administrative concern, it does not raise an issue relative to CEQA or the adequacy of the Draft IS/MND. It should be noted that the Draft IS/MND has been noticed and made

available for public review consistent with the requirements outlined in the Section 15070-15075 of the CEQA Guidelines. No revisions to the IS/MND are required or proposed as a result of this comment.

A-11 This is a closing comment and does not raise an issue relative to CEQA or the adequacy of the Draft IS/MND. No revisions to the IS/MND are required or proposed as a result of this comment.

Response to Comment Letter B

Shelly Hayes Caron
July 12, 2019

B-1 The City appreciates the review and comments provided. The City acknowledges the commenter's historical connection to the property adjacent to the project site and acknowledges receipt of the documents she provided to support the cemetery's designation as a site with historical significance. The comment is introductory in nature and does not raise an issue relative to CEQA or the adequacy of the Draft IS/MND. No revisions to the Draft IS/MND are required or proposed as a result of this comment.

B-2 This comment expresses a concern that development of the project could result in potential impacts to the Oceanview Cemetery, located adjacent to the project site, and states that an EIR should be prepared to address the historical significance of the cemetery. The comment further summarizes the cemetery's history and events that have resulted in its designation as a state historical site.

The CEQA Guidelines (§15064.5) address the determination of significance of impacts to archaeological and historic resources. Cultural resources are defined as buildings, sites, structures, or objects, each of which may have historical, architectural, archaeological, cultural, and/or scientific importance (Office of Historic Preservation 1995). Generally, a project could have a significant impact on a cultural resource if the project proposes to modify, demolish, or otherwise adversely affect the integrity of a cultural resource. As discussed in the Cultural Resources Survey prepared for the project (Appendix C1 of the Draft IS/MND), the Oceanview Cemetery is a historic site that was established circa 1895 and is located adjacent to the project site on the southwest. The cemetery is known to hold the remains of approximately 1,147 Oceanside residents, including Civil War heroes and City pioneers. Additionally, as discussed by the commenter, the City of Oceanside City Council declared the cemetery a state historical site in 1984². The Cultural Resources Survey acknowledges the historical significance of the cemetery; however, given that the project would be fully confined within legal limits of the project site, and neither project construction nor operational activities would "spill over" or encroach onto the cemetery's property boundary, the project would not impact (i.e., modify, demolish, or otherwise adversely affect the integrity of) the cemetery. The cemetery would continue to be an important historical site within the City, and development of the project would not affect the cemetery's integrity or historical significance.

The commenter states that an EIR should be prepared to address the historical significance of the cemetery and any impacts resulting to it, however, as discussed above, the project would be fully located within the project site and would not encroach onto the cemetery's property boundary, and thus, no impacts to the cemetery would occur. Accordingly, preparation of an Environmental Impact Report (EIR) would not be warranted, as impacts to historical resources are and would continue to be less than significant. No revisions to the IS/MND are required or proposed as a result of this comment. Refer to the responses to additional comments provided below.

B-3 The commenter states that there does not appear to be legal access to the project site from Godfrey Street or Ditmar Street, and as such, the commenter requests an explanation of impacts and mitigation

² Los Angeles Times 1984. "Cemetery No Longer Forgotten: Oceanside Saving Century-Old Site from Years of Neglect." <https://www.latimes.com/archives/la-xpm-1985-07-14-me-6410-story.html>

to the cemetery resulting from lack of access to the project site via Godfrey Street or Ditmar Street. As discussed above in Response B-3, the project would not have an impact on the cemetery, and it is unclear from the comment how a lack of access to the project site would impact the cemetery. Nonetheless, per the project's site plan, access to the project site would be provided via connections to Godfrey Street and Ditmar Street within the existing public rights of way for those streets, and the cemetery's existing access routes would be preserved. Per the project's TIA (Appendix I of the Draft IS/MND), the project would generate approximately 272 average daily trips, including 21 AM peak hour trips (4 inbound and 17 outbound) and 27 PM peak hour trips (19 inbound and 8 outbound). These predicted trip volumes are not anticipated to result in significant impacts to roadways and intersections surrounding the project site. No impacts to the cemetery would occur as a result of persons accessing (or not accessing) the project site via Godfrey Street or Ditmar Street, and no mitigation would be required. No revisions to the IS/MND are required or proposed as a result of this comment. Please refer to the responses to additional comments provided below.

B-4 The commenter states that to their personal knowledge, there could be non-native remains on the project site; however, the commenter does not explain how non-Native American remains could have come to be interred on the project site (beyond the cemetery's property line). As discussed in Section 14.5(c) of the Draft IS/MND, the project site is not known to have been part of the cemetery and is not otherwise known to contain human remains. Furthermore, as discussed in the Cultural Resources Survey prepared for the project, the entirety of the project site has been previously surveyed four times (Pettus 1979; Smith and Burke 1992, Robbins-Wade and Giletti 2001; Helix 2017 [as referenced in Appendix C1 of the Draft IS/MND), inclusive of the December 22, 2016 survey performed as part of the Cultural Resources Survey. While the surveys did reveal the presence of a cultural resource (CA-SDI-12600) located within the project site, there was no indication that human remains could be present within the project site.

Nonetheless, there is always the possibility, albeit unlikely, for the unanticipated discovery of human remains during grading activities. As such, as discussed in Section 14.5(c) of the Draft IS/MND, should any human remains be encountered, State Health and Safety Code Section 7050.5 states that no further disturbance can occur in the immediate area until the County Medical Examiner has made the necessary findings as to origin and disposition, pursuant to Public Resources Code Section 5097.98. Given public concern regarding the unanticipated discovery of human remains during project construction, MM-CUL-9 and MM-CUL-10 will now be required of the project, as outlined in the Errata of this Final MND. MM-CUL-9 would require that prior to issuance of a grading permit, a ground-penetrating radar (GPR) survey shall be conducted in areas on the project site near the cemetery. The area to be surveyed shall be restricted to low-slope areas that are accessible and suited to support buried remains and the use of standard GPR equipment. The GPR survey shall include a wheeled device which will be pushed or pulled across the ground in a pre-defined survey pattern. If GPR investigation does not indicate the presence of subsurface burials or other unanticipated features of possible cultural origin, work shall be permitted to proceed in the area. If the GPR investigation indicates the presence of subsurface burials or other unanticipated features of possible cultural origin, the areas so identified shall be marked and protected from disturbance until further investigation and, if necessary, the remains or other features shall be managed as required by the applicable mitigation measure. A report summarizing the results of this GPR study shall be completed and submitted to the City of Oceanside so that the City may make it available to interested parties based on public comments received on the Draft Initial Study/Mitigated Negative Declaration. Further, MM-CUL-10 would require that a Qualified Archaeologist and Luiseño Native American Monitor

be present on site during initial grading, trenching, and/or other ground-disturbing activities. Should any human remains, Native American or otherwise, be encountered, a temporary construction exclusion zone shall be established surrounding the area of the discovery so that the area would be protected, and consultation and treatment would occur as prescribed by law and by the applicable mitigation measure. By law, the County Medical Examiner will determine within two working days of being notified if the remains are subject to his or her authority. If the Medical Examiner identifies the remains to be of Native American ancestry, he or she shall contact the Native American Heritage Commission (NAHC) within 24 hours. The NAHC shall make a determination as to the Most Likely Descendent. If the remains are of historic (i.e., of non-Native American) origin, they shall be appropriately removed and conveyed to the San Diego Museum of Man for analysis. The decision for internment of the human remains shall be made in consultation with the applicant/landowner, any known descendant group, and the San Diego Museum of Man. Furthermore, interested parties will be contacted by the City and included in consultations regarding appropriate reinternment. It should be noted that the requiring established regulatory requirements (i.e., State Health and Safety Code Section 7050.5) be included as a new mitigation measure does not change the original impact determination made in the Draft IS/MND (i.e., less than significant), but merely clarifies the exact procedure by which unanticipated remains would be handled. As such, with implementation of MM-CUL-9 and MM-CUL-10, impacts would remain less than significant. Section 14.5(d) of the Draft IS/MND was revised to reflect the addition of MM-CUL-9 and MM-CUL-10.

- B-5** The commenter requests that the environmental document explain impacts to the Oceanview Cemetery as it is a historically significant property, and states that there are impacts that have not been mitigated, thus requiring preparation of an EIR for proper review of the project. However, as discussed in Response to Comment B-2, the Draft IS/MND and Cultural Resources Survey acknowledge the historical significance of Oceanview Cemetery, but notes that development of the project would not affect the cemetery's integrity or historical significance. Development of a project proximate to a historic site or resource does not constitute a significant impact; rather, a project would have to modify, demolish, or somehow adversely affect the integrity of a resource for an impact to be significant under CEQA. Because the project would be fully enclosed within the project site and would not affect the cemetery, impacts are less than significant and an EIR would not be warranted. Moreover, a Cultural Resources Survey (Appendix C1 of the Draft IS/MND) was prepared for the project with the intent to identify historic, cultural, and archaeological resources on and in the vicinity of the project site and determine if the project may adversely affect any resources eligible for listing in the California Register of Historic Places. As determined in the Cultural Resources Survey, the project would not have a significant impact on cultural resources on or in the vicinity of the project site. Given the extent to which historic and archaeological resources were evaluated within the Cultural Resources Survey and given that impacts were determined to be less than significant, preparation of an EIR would not be required. No revisions to the Draft IS/MND are required or proposed as a result of this comment.
- B-6** This is a closing comment and does not raise an issue relative to CEQA or the adequacy of the Draft IS/MND. Nonetheless, the City will ensure that the commenter be added to its list of interested parties for future notification. No revisions to the IS/MND are required or proposed as a result of this comment.
- B-7** The commenter has provided a history of Oceanview Memorial Park and additional historical information; however, the commenter does not reference the excerpt in the comment letter. Nonetheless, please refer to Response to Comment B-2. The Draft IS/MND acknowledges the cemetery's historical significance, but notes that the project would not have an impact on the cemetery.

No new information is presented within the historical summary of the cemetery that would indicate that the cemetery would be adversely affected by development of the project. No revisions to the IS/MND are required or proposed as a result of this comment.

B-8 This comment captures additional correspondence between the City and the commenter. This comment does not raise an issue relative to CEQA and no revisions to the IS/MND are required or proposed as a result of this comment.

B-9 The commenter has provided two documents (two historic parcel map sheets for the cemetery both dated March 1932); however, the commenter does not reference the excerpt in the comment letter. Please refer to Response to Comment B-2. The Draft IS/MND acknowledges the cemetery's historical significance, but notes that the project would not have an impact on the cemetery. Furthermore, it is noted that the historic parcel maps confirm that the boundaries of the cemetery remain the same as they existed in 1932, extending northwest to the commencement of Ditmar Street. No new information is presented within the historical summary of the cemetery that would indicate that the cemetery would be adversely affected by development of the project. No revisions to the IS/MND are required or proposed as a result of this comment.

Response to Comment Letter C

Andrew John Cruikshank
July 12, 2019

- C-1** The City appreciates the review and comments provided. The comment is introductory in nature and does not raise an issue relative to CEQA or the adequacy of the Draft IS/MND. No revisions to the Draft IS/MND are required or proposed as a result of this comment.
- C-2** The commenter has provided three documents relating to the historical significance of Oceanview Cemetery; however, the commenter does not explain how these documents relate to the determinations made within Draft MND. Nonetheless, please refer to Response to Comment B-2. The Cultural Resources Survey (Appendix C1 of the Draft IS/MND) acknowledges the cemetery's historical significance, but notes that the project would not have an impact on the cemetery. No new information is presented within the historical summary of the cemetery, the list of persons interred at Oceanview Cemetery, or the historical parcel map of the cemetery that would indicate that the cemetery would be adversely affected by development of the project. No revisions to the IS/MND are required or proposed as a result of this comment.
- C-3** The commenter requests confirmation that access to the cemetery and the surrounding area would continue to be protected upon development of the project. The project would be fully contained within the boundaries of the project site, and the project does not propose any modifications to Oceanview Cemetery or the surrounding properties. Per the project's site plan, access to the project site would be provided via connections to Godfrey Street and Ditmar Street. As discussed in Section 14.17(a) of the Draft IS/MND, all study intersections and street segments analyzed are calculated to operate at LOS D or better with operation of the project. As such, access to the cemetery would be preserved with development of the project. No revisions to the IS/MND are required or proposed as a result of this comment.
- C-4** The commenter requests confirmation of mitigation relating to the preservation of the historic setting of Oceanview Cemetery. Please refer to Response to Comment B-2. The City acknowledges the historic significance of Oceanview Cemetery, however, development of the project would not affect the cemetery's integrity or impact its historical significance. The cemetery would continue to be an important historical site within the City, and no mitigation would be required under CEQA. No revisions to the Draft IS/MND are required or proposed as a result of this comment.
- C-5** This comment is an inquiry into what procedures would occur should non-Native American remains be discovered at the project site. Please refer to Response to Comment B-4.
- C-6** Please refer to Section 14.21 of the Draft IS/MND, where a Mandatory Findings of Significance section is provided. As provided, with implementation of mitigation outlined within the Draft IS/MND, the project would have a less than significant impact with regard to the quality of the environment; the habitat of a fish or wildlife species and fish or wildlife populations, plant or animal communities, the number or range of a rare or endangered plant or animal, examples of major periods of California history or prehistory; cumulative impacts; and effects on human beings, directly and indirectly. No revisions to the IS/MND are required or proposed as a result of this comment.

- C-7** Please refer to Response to Comment B-2. The Cultural Resources Survey acknowledges the cemetery’s historical significance, but notes that the project would not have an impact on the cemetery. No new information is presented within the historical summary of the cemetery that would indicate that the cemetery would be adversely affected by development of the project. The commenter incorrectly states that the land adjacent to the Cemetery is meant for cemetery amenities. However, the General Plan land use designation for the project site is Coastal Residential High Density (C-RH) and the project site is zoned Medium Density Residential (R-3). The proposed use (i.e., residential) is an allowable use within the “R-3” Zone District, and the project’s site plan and physical design of are consistent with the development requirements (e.g., setback, building height, coverage, parking) of the “R-3” Zone District. No revisions to the IS/MND are required or proposed as a result of this comment.
- C-8** This is a closing comment and does not raise an issue relative to CEQA or the adequacy of the Draft IS/MND. No revisions to the Draft IS/MND are required or proposed as a result of this comment.

Response to Comment Letter D

Friends of Loma Alta Creek

Nadine Scott

July 12, 2019

- D-1** This comment serves as an introduction to comments that follow. While this comment does not address the adequacy of the Draft IS/MND, the City appreciates the commenter for participating in the planning and environmental review process. This comment is included in the Final IS/MND for consideration by the City prior to making a final decision on the project.
- D-2** This comment expresses a neutral position regarding the concept of the project, but states that the commenter believes that Draft IS/MND did not adequately address environmental impacts resulting from the project. This serves as an introduction to comments that follow. Please refer to the responses to additional comments provided below.
- D-3** This comment states that it is the position of the commenter that any project should have a positive public benefit to the direct area and should not unduly burden those who live in the immediate area. However, the matter of whether or not project is a benefit to the public is not an environmental concern under CEQA. No revisions to the Draft IS/MND are required or proposed as a result of this comment.
- D-4** This comment opines that the proposed development would be bulky and notes that construction would occur over the course of 18 months and within 10 feet of an existing residence. The comment states that this is an unreasonable amount of time to expose sensitive receptors, i.e., residents in close proximity to the project, to “substantial environmental impacts” without “defined, mandatory mitigations in place.” Impacts to sensitive receptors (i.e., residents in close proximity to the project) were addressed throughout the Draft IS/MND, and were determined to be less than significant with implementation of mitigation, which is clearly defined in the Draft IS/MND and would be mandatory.
- Furthermore, the design of the project (i.e., setbacks to property lines, density, and massing) complies with the development standards of the “R-3” Medium Density Zone District, and the spacing of the proposed units would be similar to that of other residential development in the surrounding area, including the adjacent existing residence. Regarding the duration of construction, an 18-month construction schedule is typical of developments comparable in size to the project, and mandatory mitigation measures would ensure that impacts to sensitive receptors would be less than significant. It should also be noted that the impacts disclosed in the Draft IS/MND represent a conservative, “worst-case” scenario of what sensitive receptors could be exposed to, as construction activity would occur sporadically across the project site. No revisions to the Draft IS/MND are required or proposed as a result of this comment.
- D-5** This comment states that it is difficult to ascertain how the public benefit gained by implementation of the project could offset permanent environmental harms to adjacent residents and how project would permanently decrease public safety access. As discussed above in Response to Comment D-4, a project is not required to provide a public benefit. Additionally, while the project would result in permanent impacts in that a vacant undeveloped lot would be developed with a residential development, all impacts associated with development of the project would be less than significant as evaluated in the

Draft IS/MND. There is no evidence provided to support the commenter's assertion that there would be permanent environmental harms to the adjacent residents. Please refer to Response to Comment A-4 for a comprehensive response regarding public safety access. No revisions to the Draft IS/MND are required or proposed as a result of this comment.

D-6 This comment states that nighttime work must be prohibited due to the project's proximity to sensitive receptors immediately adjacent to the project site. The comment states that there are potential noise and light issues that could result from nighttime work, and suggests that limiting the hours during which construction would be allowed would mitigate potential noise and light impacts to potentially acceptable levels. Based on discussions with the project applicant, no nighttime construction work is expected or required. As such, no impacts to sensitive receptors during nighttime hours will occur. This change will be reflected in the Errata to the Final IS/MND.

D-7 This comment states that dust control must not be assumed and states that the project must have a mitigation component/directive that specifies "watering for dust control shall be done a minimum of 3 times daily and as further needed." This comment is correct in that the Draft IS/MND states that dust control measures (i.e., watering three times a day) were "assumed" for the purposes of estimating fugitive dust (PM₁₀ and PM_{2.5}); however, it should be noted that regardless of the dust control methods assumed or implemented, the project would be required to comply with San Diego Air Pollution Control District Rule 55, Fugitive Dust Control. This rule requires that the project take steps to restrict visible emissions of fugitive dust beyond the property line. Compliance with Rule 55 would limit fugitive dust (PM₁₀ and PM_{2.5}) generated during grading and construction activities. To account for dust control measures in the calculations, it was "assumed" that the active sites would be watered at least three times daily; however, regardless of the dust control methods implemented, the project would be required to comply with Rule 55. Requiring the Construction Contractor to water the project site at a minimum of 3 times daily regardless of on-site conditions could be potentially onerous if, for example, on-site soils were already wet due to rain events. Therefore, because dust suppression measures are already required by Rule 55, no mitigation would be required. No revisions to the Draft IS/MND are required or proposed as a result of this comment.

D-8 This comment expresses a concern regarding the proposed landscape palette and states that the project should have a mitigation component and/or restriction against the use of tipu trees, willows, large palms, umbrella trees, and pennisetum. The comment states that every effort should be made to use low water, fire resistant, and native plantings and exclude all plants that can be considered invasive. Currently and at the time of the preparation of the Draft IS/MND, a concept plan for landscape design has been prepared, though the exact landscape palette has not yet been finalized. However, the project would be required to implement Minimization Measure 5, which requires the applicant to ensure that the final landscape palette does not include exotic plant species that may be invasive to native habitats. Furthermore, the final landscape palette would be prepared consistent with the regulations outlined in Article VII, Water Efficient Landscape Regulations, of the Oceanside Municipal Code, and the current City of Oceanside Landscape Development Manual, and would be subject to the review and approval by the City as part of the permitting process. Compliance with the abovementioned mandatory regulations and guidelines would ensure that the final landscape plan would be water efficient and would not result in adverse impacts to the surrounding quality of the environment, and no mitigation would be required. No revisions to the Draft IS/MND are required or proposed as a result of this comment.

D-9 Please refer to Response to Comment A-7.

D-10 This comment expresses a concern with the project's proximity to neighboring residences (particularly with regard to the residence located at 1221 Nevada Street) and inquires whether a study was prepared to examine the flow of air and sunlight at nearby residences. While an important planning consideration, under CEQA, a project would not have a significant environmental impact on a sensitive receptor simply because of the fact that the project is located proximate to that sensitive receptor. Nonetheless, as discussed in Section 14.11(b) of the Draft IS/MND, the project would be consistent with the development requirements outlined in the City's Coastal Zoning Ordinance, which requires appropriate front, side, corner side, and rear setbacks to ensure that adequate light, sun and airflow conditions are preserved. Additionally, as discussed in Response to Comment A-5, a shadow study was prepared to determine whether the project would cast shadows on existing "shade-sensitive" uses. According to the shadow study prepared for the project (inclusive of the most recent design modification), the project would only cast shadows on one of the adjacent property's solar panels during the late afternoon (i.e., 3 p.m. to sunset) of the winter months when the sun is at its lowest point in the sky and shadows are the longest. During all other times of the year, the project would not affect the residence at 1221 Nevada Street or other nearby shade-sensitive uses. Therefore, the project would continue to have a less than significant impact on the adjacent property relating to shadows and sunlight. No revisions to the Draft IS/MND are required or proposed as a result of this comment.

D-11 This comment expresses a concern with regard to construction noise resulting from the project, particularly with respect to potential impacts to the residence located at 1221 Nevada Street. The comment incorrectly states that MM-NOI-1 is merely suggested, and states that mitigation must be mandatory. Under CEQA, all mitigation, once included in a final certified CEQA document, is mandatory. As stated in the Draft IS/MND, "mitigation measure MM-NOI-1 shall be implemented as indicated site conditions may warrant." No revisions to the IS/MND are required or proposed as a result of this comment.

D-12 This comment requests that a mitigation measure requiring the use of noise blankets and noise monitors be required for the project. As detailed in MM-NOI-1, prior to the issuance of a Construction Permit, the Applicant/Owner or Construction Contractor would be required to prepare and submit to the City of Oceanside Planning Division for its review and approval a Construction Noise Management Plan (CNMP). Prior to the issuance of a Construction Permit, Construction Plans shall also include a note indicating compliance with the CNMP will be required of the Construction Contractor. The CNMP shall be prepared or reviewed by a Qualified Acoustician, which would be retained at the Applicant/Owner or Construction Contractor's expense. The CNMP would require the use of noise level monitors, attended by a Qualified Acoustician or another party under its supervision or direction, at which sample outdoor ambient noise levels will be measured and collected over a sufficient sample period and subsequently analyzed (i.e., compared with applicable time-dependent dBA thresholds) to ascertain compliance with the 8-hour FTA guidance-based limit of 80 dBA L_{eq} over a consecutive 8-hour period.

The CNMP stipulates that sampling shall be performed, at a minimum, on the first (or otherwise considered typical construction operations) day of each distinct construction phase. If sample collected noise level data indicates that the 8-hour noise threshold has or will be exceeded, construction work shall be suspended (for the activity or phase of concern) and the Applicant/Owner or Construction Contractor would be required to implement noise reduction measures as detailed or specified in the CNMP, which could include (1) administrative controls (e.g., reduce operating time of equipment and/or

prohibit usage of equipment type[s] within certain distances, (2) engineering controls (upgrade noise controls, such as install better engine exhaust mufflers), or (3) noise abatement barriers on the site boundary fencing (or within, as practical and appropriate) in the form of sound blankets or comparable temporary barriers to occlude construction noise emission between the site (or specific equipment operation as the situation may define) and the noise-sensitive receptor(s) of concern.

The implemented measure(s) will be reviewed or otherwise inspected and approved by the Qualified Acoustician (or another party under its supervision or direction) prior to resumption of the construction activity or process that caused the measured noise concern or need for noise mitigation. Noise levels would be re-measured, after installation of said measures, to ascertain post-mitigation compliance with the noise threshold. As needed, this process will be repeated and refined until noise level compliance is demonstrated and documented. A report of this implemented mitigation and its documented success will be provided to the City Planner. As such, while the exact noise reduction measure to be implemented has yet to be specified, mandatory compliance with the CNMP would ensure that regardless of method selected, temporary construction noise levels would be mitigated to acceptable levels. No revisions to the Draft IS/MND are required or proposed as a result of this comment.

D-13 This comment requests that a mitigation measure requiring the posting of a sign with a designated 24-hour contact phone number and email be posted on-site for the duration of construction in the event that complaints regarding noise, light, and dust occur. Please refer to Response to Comment D-12, which explains that MM-NOI-1 requires the Applicant/Owner or Construction Contractor to prepare and submit to the City of Oceanside Planning Division for its review and approval a CNMP. As part of the required CNMP, the Applicant/Owner or Construction Contractor must “make available a telephone hotline so that concerned neighbors in the community may call to report noise complaints,” which would be posted in a clearly visible location along the project site boundary. The CNMP shall also include a process to investigate these complaints and, if determined to be valid, detail efforts to provide a timely resolution and response to the complainant—with copy of resolution provided to the City Planner. Given that no nighttime construction work is proposed (please see Response to Comment D-6), and given that fugitive dust emissions would be limited through compliance with SDAPCD Rule 55, impacts related to nighttime light and fugitive dust are not anticipated and would be less than significant; thus, there is no nexus by which mitigation for less than significant light and dust impacts would be required. Nevertheless, in the unlikely event that significant dust impacts occur, concerned neighbors in the community may use the same telephone hotline reserved for noise complaints to report dust complaints. No revisions to the IS/MND are required or proposed as a result of this comment.

D-14 This comment states that it is clear that vibration in the immediate, adjacent area of the project would occur during project construction and suggests that a mandatory mitigation measure specifying an on-site monitor and stop work order if damage begins to occur on adjacent properties be required of the project. As discussed in Section 14.12(b) of the Draft IS/MND, and as clarified in the Errata of this Final IS/MND, maximum anticipated project construction vibration levels as close as the western project boundary (that is 10 feet from the nearest receiving sensitive land use) would be 0.25 inches per second, which is less than the recommended peak particle velocity threshold recommended by Caltrans (0.5 ips for newer residential structures and 0.3 ips for older residential structures). As such, there is no nexus by which mitigation for less than significant vibration impacts would be required. No revisions to the Draft IS/MND are required or proposed as a result of this comment.

D-15 This comment requests clarification regarding setbacks for Unit 8, Building C. The front door of Unit 8 was moved from the south side in the courtyard of Building C to the north side, facing the residence at 1221 Nevada Street. This was done in order to move the stair tower of this unit away from the same residence, and the door is on the side of the building but in a 5-foot deep niche. As discussed previously, the design of the project (i.e., setbacks to property lines) complies with the development standards of the “R-3” Medium Density Zone District, and the spacing of the proposed units would be similar to that of other residential development in the surrounding area, including 1221 Nevada. No revisions to the IS/MND are required or proposed as a result of this comment.

D-16 This comment expresses a concern regarding ingress/egress patterns and vehicular access and circulation throughout the project site. The commenter requests that traffic safety be studied as part of the environmental review process, particularly with regard to any potential conflicts that could occur when residents and delivery trucks enter and exit the project site through the driveway located at the southeast corner of Ditmar Street and Godfrey Street. The commenter also states that potential conflicts resulting from Waste Management trucks entering the project site from the opposite direction off Oceanside Boulevard should be studied. However, under the proposed site plan and waste management access plan, solid waste vehicles would only access the project site by travelling eastbound along Oceanside Blvd followed by a right turn into the site using a remote control for the gate. Solid waste vehicles would then exit the site at the corner of Ditmar Street and Godfrey Street. As such, no traffic conflicts would result from Waste Management trucks entering the project site from the opposite direction off Oceanside Boulevard as left-in turns would not be permitted, the internal drive is a two-way road, and Waste Management would not “back out into Oceanside Boulevard,” as asserted by the comment. The preferred direction for Waste Management vehicles to access the site was determined to be entering from Oceanside Boulevard, as the existing street configuration (slope and curvature) would limit sight distance visibility to the west if vehicles were exiting the site, whereas cars travelling east in the same direction as the Waste Management trucks would be able to see the trucks slowing/turning into the site and respond accordingly.

As discussed above, the project’s site access plan has been reviewed and accepted by the City traffic and engineering staff in accordance with city design standards. The project would provide for the safe movement of vehicles, including emergency, delivery, and waste collection vehicles, and would not include any hazardous design features or proposed any incompatible uses and impacts would be less than significant. No revisions to the Draft IS/MND are required or proposed as a result of this comment.

D-17 Please refer to Response to Comment D-16.

D-18 Please refer to Response to Comment D-16.

D-19 Please refer to Response to Comment D-16 and A-4.

D-20 This comment states that the project does not contain an area for vehicles within the project site to turn around. The project contains a 28-foot wide primary drive aisle and turn-in area located at the point before the drive aisle meets Oceanside Boulevard, near Units 30-31.

This area would allow typical passenger cars, trucks, and delivery vehicles to turn around using a 3-point turn. Additionally, if available, any vehicle could turn into a guest parking space, back out of the

space, and continue forward in the driver's desired direction. Contrary to the comment's insinuation, a cul-de-sac with a bulbous end large enough to accommodate an uninterrupted "u-turn" is not required by the City's Engineering Design Manual for streets without a through end. No revisions to the Draft IS/MND are required or proposed as a result of this comment.

D-21 This comment expresses a concern with regard to potential impacts that could arise if the proposed residential units were rented as short-term rentals. Please refer to Response to Comment A-6, which explains that while an important planning consideration, this is not an environmental issue under CEQA. Nonetheless, if a unit owner were to decide to rent a unit as a short-term rental, the owner would be required to obtain a short-term rental permit from the City and comply with all regulations established by Ordinance No. 19-OR0408-1, which establishes regulations to minimize any potential impacts associated with excessive noise, overcrowding, a reduction in street parking, and the accumulation of refuse. Additionally, the commenter's claim that additional environmental analysis is required because there is a possibility that units could be rented as short-term rentals is conclusory. Additionally, any potential short-term rental operator would be required to comply with the regulations established by the City of Oceanside's short-term rental ordinance for the purposes of ensuring that the effects of a short-term rental unit would be the same as those for a traditional residential unit. No revisions to the Draft IS/MND are required or proposed as a result of this comment.

D-22 This comment asserts that the project "violates a critical threshold for the health and safety of the people of the state and (*must*) take all coordinated actions necessary to prevent such thresholds being reached." This comment references California Public Resources Code Section 21000(d), which is a statement justifying the California Legislature's passage of CEQA and reads, "The capacity of the environment is limited, and it is the intent of the Legislature that the government of the state take immediate steps to identify any critical thresholds for the health and safety of the people of the state and take all coordinated actions necessary to prevent such thresholds being reached." As discussed throughout the Draft IS/MND, all impacts associated with implementation of the project would be mitigated to less than significant levels, and as such, the development of a 34-unit residential development that is consistent with all development standards and regulations established by the City for the purposes of protecting public health and safety would clearly not exceed a "critical threshold for the health and safety of the people of the state." In fact, the project was evaluated against all thresholds established in the CEQA Guidelines, and impacts were determined to be less than significant. No revisions to the Draft IS/MND are required or proposed as a result of this comment.

D-23 This is a closing summary comment and does not raise new environmental issues under CEQA. Please refer to Response to Comment A-2, A-4, D-3, D-4, D-10, D-15, D-16, D-20, and D-22. No revisions to the Draft IS/MND are required or proposed as a result of this comment.

Response to Comment Letter E

Governor's Office of Planning and Research (State Clearinghouse)

Scott Morgan

July 12, 2019

- E-1** This letter from the California State Clearinghouse acknowledges the project has complied with CEQA review requirements and states that no state agencies submitted comments on the Draft IS/MND. No revisions to the Draft IS/MND are required or proposed as a result of this comment.

3 Errata

The following provides minor revisions, corrections, and additions to the Draft IS/MND. The corrections and additions are organized by section and page number of the Draft IS/MND. New text additions are shown in underline format, and deletions are shown in ~~strikeout~~ format.

Section 14.1, Aesthetics

Section 14.1(d) has been revised to address potential impacts relating to shadows:

A shadow study (included as Attachment B of this Final IS/MND) was prepared to determine the extent to which the project would cast shadows on existing “shade-sensitive” uses. Shading is an important environmental issue because the users or occupants of certain “shade-sensitive” land uses have reasonable expectations for direct sunlight and warmth from the sun. Shadow impacts may be perceived as either beneficial or adverse depending on the specific use and function of a property. Generally, shadow-sensitive uses include routinely useable outdoor spaces associated with residential or recreational land uses, commercial uses such as pedestrian-oriented outdoor spaces or restaurants with outdoor seating areas, and uses that are dependent on direct sunlight, such as uses that rely partially or fully on solar panels for electricity. According to the shadow study prepared for the project, the project would only cast shadows on one of adjacent building’s solar panels during the late afternoon (i.e., 3 p.m. to sunset) of the winter months when the sun is at its lowest point in the sky and shadows are the longest. During all other times of the year, the project would not affect nearby shade-sensitive uses. Therefore, given the relatively small duration that the project would cast shadows on neighboring shade-sensitive land uses, and the fact that expectations of direct sun are limited during the times at which the project would affect these uses, the project would have a less than significant impact on the adjacent property relating to shade.

Section 14.5, Cultural Resources

Based on discussions with the Luiseño Native American Tribe and based on public interest with regard to the unanticipated discovery of human remains, additional cultural mitigation measures have been added to the project to further clarify the mitigation measures proposed in Section 14.5(c) of the Draft IS/MND. These mitigation measures are as follow:

Mitigation Measures

- MM-CUL-1** Prior to issuance of a Grading Permit, the Applicant/Owner shall enter into a pre-excavation agreement, ~~with the appropriate Native American tribe(s) and the City of Oceanside~~ otherwise known as a Tribal Cultural Resources Treatment and Tribal Monitoring Agreement with a Traditionally and Culturally Affiliated Native American Tribe (TCA Tribe). A copy of the agreement shall be included in the Grading Plan Submittals for the Grading Permit. The purpose of this agreement shall be to formalize protocols and procedures between the Applicant/Owner and the Native American tribe(s) for the protection and treatment of, including but not limited to, Native American human remains, funerary objects, cultural and religious landscapes, ceremonial items, traditional gathering areas and cultural items, located and/or discovered through a monitoring program in

conjunction with the construction of the proposed project, including additional archaeological surveys and/or studies, excavations, geotechnical investigations, grading, and all other ground-disturbing activities.

MM-CUL-2 Prior to the issuance of a Grading Permit, the Applicant/Owner or Grading Contractor shall provide a written and signed letter to the City of Oceanside Planning Division stating that a Qualified Archaeologist and Luiseño Native American Monitor, associated with a TCA Tribe, have been retained at the Applicant/Owner or Grading Contractor's expense to implement the monitoring program, as described in the pre-excavation agreement.

MM-CUL-3 ~~The Qualified Archaeologist shall maintain ongoing collaborative consultation with the Luiseño and Native American Monitor during all ground disturbing activities. The requirement for the monitoring program shall be noted on all applicable construction documents, including demolition plans, grading plans, etc. The Applicant/Owner or Grading Contractor shall notify the City of Oceanside Planning Division of the start and end of all ground disturbing activities, shall attend all applicable pre construction meetings with the General Contractor and/or associated Subcontractors to present the archaeological monitoring program. The Qualified Archaeologist and Native American Monitor shall be present on-site during initial grading, trenching, and/or other ground disturbing activities, including brushing and grubbing, unless otherwise agreed upon by the archaeological Principal Investigator, the Native American representative, and City of Oceanside staff.~~

MM-CUL-4: The Qualified Archaeologist and Luiseño Native American Monitor shall attend all applicable pre-construction meetings with the General Contractor and/or associated Subcontractors to present the archaeological monitoring program. The Qualified Archaeologist and Luiseño Native American Monitor shall be present on-site full-time during grubbing, grading and/or other ground disturbing activities in areas with a potential for encountering cultural material (e.g., monitoring is not required for excavation into formational material), including the placement of imported fill materials or fill used from other areas of the project site, to identify any evidence of potential archaeological or tribal cultural resources. All fill materials shall be absent of any and all tribal cultural resources and documented accordingly. The Qualified Archaeologist and Luiseño Native American Monitor shall conclude monitoring when concurrence is reached by the Qualified Archaeologist and Luiseno Native American monitor that ground disturbing activities will no longer affect potential tribal cultural resources.

MM-CUL-5: In order for potentially significant archaeological artifact deposits and/or tribal cultural resources to be readily detected during mitigation monitoring, a written "Controlled Grade Procedure" shall be prepared by a Qualified Archaeologist, in consultation with the Luiseño Native American monitor, the San Luis Rey Band of Mission Indians (San Luis Rey Band), and the Applicant/Owner, subject to the approval of City representatives. The Controlled Grade Procedure shall establish

requirements for any ground disturbing work with machinery occurring within the mapped boundaries of archaeological site CA-SDI-12600; if additional areas are determined to be sensitive, based on the results of cultural resources monitoring, the limits of controlled grading will be expanded as determined necessary by the Qualified Archaeologist and Luiseño Native American monitor. The Controlled Grade Procedure shall include, but not be limited to, appropriate operating pace determined by the monitors to allow monitors to observe exposed ground surfaces, increments of removal, weight and other characteristics of the earth disturbing equipment consistent with a grade operation. A copy of the Controlled Grade Procedure shall be included in the Grading Plan Submittals for the Grading Permit.

MM CUL-6: The Qualified Archaeologist or the Luiseño Native American monitor may temporarily halt ground disturbing activities if unknown tribal cultural resources, archaeological artifact deposits or cultural features are discovered. Ground disturbing activities shall be directed away from these deposits to allow a determination of potential importance. Isolates and clearly non-significant deposits will be minimally documented in the field, and before grading proceeds these items shall be given to the San Luis Rey Band so that they may be repatriated at the site on a later date. If the Qualified Archaeologist and Luiseño Native American monitor determine that the unearthed tribal cultural resource, artifact deposits or cultural features are considered potentially significant, the San Luis Rey Band shall be notified and consulted regarding the respectful and dignified treatment of those resources. The avoidance and protection of the significant tribal cultural resource and/or unique archaeological resource is the preferable mitigation. If, however, a consensus is reached between the Applicant/Owner, City, and SLR Band, in good faith, that avoidance of the resource is infeasible, and it is determined that a data recovery plan is necessary by the City as the Lead Agency under CEQA, the San Luis Rey Band shall be notified and consulted regarding the drafting and finalization of any such recovery plan. For significant tribal cultural resources, artifact deposits or cultural features that are part of a data recovery plan, an adequate artifact sample to address research avenues previously identified for sites in the area will be collected using professional archaeological collection methods. The data recovery plan shall also incorporate and reflect the tribal values of the San Luis Rey Band. If the Qualified Archaeologist collects such resources, the Luiseño Native American monitor must be present during any testing or cataloging of those resources. Moreover, if the Qualified Archaeologist does not collect the tribal cultural resources that are unearthed during the ground disturbing activities, the Luiseño Native American monitor, may at their discretion, collect said resources and provide them to the San Luis Rey Band for respectful and dignified treatment in accordance with the Tribe's cultural and spiritual traditions. Ground disturbing activities shall not resume until the Qualified Archaeologist, in consultation with the Luiseño Native American Monitor, deems the cultural resource or feature has been appropriately documented and/or protected.

MM CUL-7: The landowner shall relinquish ownership of all tribal cultural resources unearthed during the cultural resource mitigation monitoring conducted during all ground disturbing activities, and from any previous archaeological studies or excavations on the project site to the San Luis Rey Band for respectful and dignified treatment and disposition, including reburial at a protected location on-site, in accordance with the Tribe's cultural and spiritual traditions. All cultural materials that are associated with burial and/or funerary goods will be repatriated to the Most Likely Descendant as determined by the Native American Heritage Commission per California Public Resources Code Section 5097.98. No tribal cultural resources shall be subject to curation.

MM CUL-8: Prior to the release of the grading bond, a monitoring report and/or evaluation report, if appropriate, which describes the results, analysis and conclusions of the archaeological monitoring program (e.g., data recovery plan) shall be submitted by the Qualified Archaeologist, along with the Luiseño Native American monitor's notes and comments, to the City of Oceanside Planning Division for approval.

MM CUL-9: Prior to issuance of a grading permit, a ground-penetrating radar (GPR) survey shall be conducted in areas on the project site near the cemetery. The area to be surveyed shall be restricted to low-slope areas that are accessible and suited to support buried remains and the use of standard GPR equipment. The GPR survey shall include a wheeled device which will be pushed or pulled across the ground in a pre-defined survey pattern. If GPR investigation does not indicate the presence of subsurface burials or other unanticipated features of possible cultural origin, work shall be permitted to proceed in the area. If the GPR investigation indicates the presence of subsurface burials or other unanticipated features of possible cultural origin, the areas so identified shall be marked and protected from disturbance until further investigation and, if necessary, the remains or other features shall be managed as required by the applicable mitigation measure. A report summarizing the results of this GPR study shall be completed and submitted to the City of Oceanside so that the City may make it available to interested parties based on public comments received on the Draft Initial Study/Mitigated Negative Declaration.

MM-CUL-10: As specified by California Health and Safety Code Section 7050.5, if human remains are found on the project site during construction or during archaeological work, the person responsible for the excavation, or his or her authorized representative, shall immediately notify the San Diego County Office of the Medical Examiner by telephone. No further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent remains shall occur until the Medical Examiner has made the necessary findings as to origin and disposition pursuant to Public Resources Code 5097.98. If such a discovery occurs, a temporary construction exclusion zone shall be established surrounding the area of the discovery so that the area would be protected, and consultation and treatment could occur as

prescribed by law. If suspected Native American remains are discovered, the remains shall be kept in situ, or in a secure location in close proximity to where they were found, and the analysis of the remains shall only occur on-site in the presence of a Luiseño Native American monitor. By law, the Medical Examiner will determine within two working days of being notified if the remains are subject to his or her authority. If the Medical Examiner identifies the remains to be of Native American ancestry, he or she shall contact the Native American Heritage Commission (NAHC) within 24 hours. The NAHC shall make a determination as to the Most Likely Descendent. If the remains are of historic origin, they shall be appropriately removed and conveyed to the San Diego Museum of Man for analysis. The decision for internment of the human remains shall be made in consultation with the applicant/landowner, any known descendant group, and the San Diego Museum of Man. Furthermore, interested parties will be contacted by the City and included in consultations regarding appropriate reinternment.

If cultural resources are discovered during ground-disturbing activities, both the Qualified Archaeologist and the Native American monitor shall have the authority to temporarily halt or redirect ground-disturbing activities while the cultural resources are documented and assessed. If significant resources are encountered, appropriate mitigation measures must be developed and implemented. Any artifact material found on site shall be categorized and analyzed. Recovered cultural material shall be curated with accompanying catalog to current professional repository standards or the collection will be returned to the appropriate Native American tribe(s), as agreed upon by the Principal Investigator, Native American representative(s), and City of Oceanside staff and specified in the pre-excavation agreement.

Additionally, as a result of increased public concern regarding the unanticipated discovery of human remains during project construction, MM-CUL-9 and MM-CUL-10 were added to the project, as outlined above in underline format. MM-CUL-9 would require that a prior to issuance of a grading permit, a ground-penetrating radar (GPR) survey shall be conducted in areas on the project site near the cemetery. The area to be surveyed shall be restricted to low-slope areas that are accessible and suited to support buried remains and the use of standard GPR equipment. The GPR survey shall include a wheeled device which will be pushed or pulled across the ground in a pre-defined survey pattern. If GPR investigation does not indicate the presence of subsurface burials or other unanticipated features of possible cultural origin, work shall be permitted to proceed in the area. If the GPR investigation indicates the presence of subsurface burials or other unanticipated features of possible cultural origin, the areas so identified shall be marked and protected from disturbance until further investigation and, if necessary, the remains or other features shall be managed as required by the applicable mitigation measure. A report summarizing the results of this GPR study shall be completed and submitted to the City of Oceanside so that the City may make it available to interested parties based on public comments received on the Draft Initial Study/Mitigated Negative Declaration. Further, MM-CUL-10 would require that a Qualified Archaeologist and Luiseño Native American Monitor be present on site during initial grading, trenching, and/or other ground-disturbing activities. Should any human remains, Native American or otherwise, be encountered, a temporary construction exclusion zone shall be established surrounding the area of the discovery so that the area would be protected, and consultation and treatment would occur as prescribed by law. If suspected Native American remains are discovered, the remains shall be kept in situ,

or in a secure location in close proximity to where they were found, and the analysis of the remains shall only occur on-site in the presence of a Luiseño Native American monitor. By law, the County Medical Examiner will determine within two working days of being notified if the remains are subject to his or her authority. If the Medical Examiner identifies the remains to be of Native American ancestry, he or she shall contact the Native American Heritage Commission (NAHC) within 24 hours. The NAHC shall make a determination as to the Most Likely Descendent. If the remains are of historic (i.e., of non-Native American) origin, they shall be appropriately removed and conveyed to the San Diego Museum of Man for analysis. The decision for internment of the human remains shall be made in consultation with the applicant/landowner, any known descendant group, and the San Diego Museum of Man. Furthermore, interested parties will be contacted by the City and included in consultations regarding appropriate reinternment. It should be noted that the requiring established regulatory requirements (i.e., State Health and Safety Code Section 7050.5) be included as a new mitigation measure does not change this analysis's original impact determination (i.e., less than significant), but merely clarifies the exact procedure by which unanticipated remains would be handled. In summary, given the lack of evidence that human remains are interred on the project site and with implementation of MM-CUL-9 and MM-CUL-10, impacts would be less than significant. Section 14.5(d) of the Draft IS/MND was revised to reflect the addition of MM-CUL-9:

Less-Than-Significant Impact. Although the Oceanside Cemetery is located adjacent to the project site to the west, the proposed project site is not currently used as a cemetery and is not otherwise known to contain human remains. However, this does not preclude finding human remains during proposed project excavation and grading activities. ~~In accordance with MM-CUL-9 and MM-CUL-10, a Qualified Archaeologist and Native American Monitor shall be present on site during initial grading, trenching, and/or other ground disturbing activities. As standard practice, should any human remains be encountered, State Health and Safety Code Section 7050.5 states that no further disturbance can occur in the immediate area until the County Coroner has made the necessary findings as to origin and disposition, pursuant to Public Resources Code Section 5097.98. If the remains are determined to be prehistoric, the County Coroner will notify the Native American Heritage Commission, which will determine and notify a most likely descendant. With permission of the landowner or an authorized representative, the most likely descendant may inspect the site of the discovery, and will complete the inspection within 24 hours of notification by the Native American Heritage Commission. The most likely descendant would have the opportunity to make recommendations to the Native American Heritage Commission on the disposition of the remains. prior to issuance of a grading permit, a ground-penetrating radar (GPR) survey shall be conducted in areas on the project site near the cemetery. The area to be surveyed shall be restricted to low-slope areas that are accessible and suited to support buried remains and the use of standard GPR equipment. The GPR survey shall include a wheeled device which will be pushed or pulled across the ground in a pre-defined survey pattern. If GPR investigation does not indicate the presence of subsurface burials or other unanticipated features of possible cultural origin, work shall be permitted to proceed in the area. If the GPR investigation indicates the presence of subsurface burials or other unanticipated features of possible cultural origin, the areas so identified shall be marked and protected from disturbance until further investigation and, if necessary, the remains or other features shall be managed as required by the applicable mitigation measure. A report summarizing the results of this GPR study shall be completed and submitted to the City of Oceanside so that the City may make it available to interested parties based on public comments received on the Draft Initial Study/Mitigated Negative Declaration. Further, as required by MM-CUL-10, a Qualified Archaeologist and Luiseño Native American Monitor be present on site~~

during initial grading, trenching, and/or other ground-disturbing activities. Should any human remains, Native American or otherwise, be encountered, a temporary construction exclusion zone shall be established surrounding the area of the discovery so that the area would be protected, and consultation and treatment would occur as prescribed by law. If suspected Native American remains are discovered, the remains shall be kept in situ, or in a secure location in close proximity to where they were found, and the analysis of the remains shall only occur on-site in the presence of a Luiseño Native American monitor. By law, the County Medical Examiner will determine within two working days of being notified if the remains are subject to his or her authority. If the Medical Examiner identifies the remains to be of Native American ancestry, he or she shall contact the Native American Heritage Commission (NAHC) within 24 hours. The NAHC shall make a determination as to the Most Likely Descendent. If the remains are of historic origin, they shall be appropriately removed and conveyed to the San Diego Museum of Man for analysis. The decision for internment of the human remains shall be made in consultation with the applicant/landowner, any known descendant group, and the San Diego Museum of Man. Furthermore, interested parties will be contacted by the City and included in consultations regarding appropriate reinternment. As such, with adherence to the State Health and Safety Code, MM-CUL-9, and MM-CUL-10, impacts would be less than significant.

Section 14.13, Noise

Section 14.13(a) has been revised to address potential construction noise impacts relating to use of a mounted impact hammer, which may be required for during the site preparation phase of construction. Input variables do not represent the exact construction scenario to be used during project construction as exact construction methods may change as equipment availability fluctuates or project engineering plans become finalized. Inadvertently, use of a hydraulic rock breaker was not incorporated into the predictive noise model. Section 14.13(a) has been revised to reflect the possible usage of mounted impact hammer (see Attachment C of this Final IS/MND for updated construction noise modeling inputs and outputs):

Short-Term Construction

Construction noise and vibration are temporary phenomena. Construction noise and vibration levels vary from hour to hour and day to day, depending on the equipment in use, the operations performed, and the distance between the source and receptor.

Equipment that would be in use during construction would include, in part, graders, backhoes, rubber-tired dozers, loaders, cranes, forklifts, cement mixers, pavers, rollers, ~~and~~ air compressors, and mounted impact hammers. The typical maximum noise levels for various pieces of construction equipment at a distance of 50 feet are presented in Table 14.13-2. Note that the equipment noise levels presented in Table 14.13-2 are maximum noise levels. Typically, construction equipment operates in alternating cycles of full power and low power, producing average noise levels less than the maximum noise level. The average sound level of construction activity also depends on the amount of time that the equipment operates and the intensity of construction activities during that time.

Table 14.13-2. Typical Construction Equipment Maximum Noise Levels

Equipment Type	Typical Equipment (L_{max} , dBA at 50 Feet)
Air compressor	78
Backhoe	78
Concrete pump truck	81
Crane	81
Dump Truck	76
Dozer	82
Generator	72
Front End Loader	79
<u>Mounted Impact Hammer</u>	<u>90</u>
Paver	77
Pneumatic tools	85
Water pump	77

Source: Appendix H and Attachment C of the Final IS/MND.

Notes: dBA = A-weighted decibels.

The maximum noise levels at 50 feet for typical construction equipment would be 85 dBA for the equipment typically used for this type of development project, although the hourly noise levels would vary. Construction noise in a well-defined area typically attenuates at approximately 6 decibels (dB) per doubling of distance. Proposed project construction would take place both near and far from adjacent, existing noise-sensitive uses. For example, construction near the northern project boundary would take place within approximately 10 feet of existing residences, but during construction of other project components, construction would be approximately 90 feet away from noise-sensitive receptors. Most construction activities associated with the proposed project would occur at distances of approximately 90 feet or more from existing noise-sensitive uses, which represents activities both near and far from any one receiver, as is typical for construction projects.

An Excel-based noise prediction model emulating and using reference data from the Federal Highway Administration’s (FHWA) Roadway Construction Noise Model (RCNM) (FHWA 2008) was used to estimate construction noise levels at the nearest occupied noise-sensitive land use. (Although the RCNM was funded and promulgated by the FHWA, it is often used for non-roadway projects, because the same types of construction equipment used for roadway projects are often used for other types of construction.) Input variables for the predictive modeling consist of the equipment type and number of each (e.g., two graders, a loader, a tractor, and a mounted impact hammer), the duty cycle for each piece of equipment (e.g., percentage of time within a specific time period, such as an hour, when the equipment is expected to operate at full power or capacity and thus make noise at a level comparable to what is presented in Table 14.13-2), and the distance from the noise-sensitive receiver. No topographical or structural shielding was assumed in the modeling. The RCNM has default duty-cycle values for the various pieces of equipment, which were derived from an extensive study of typical construction activity patterns. Those default duty-cycle values were used for this noise analysis.

Estimated noise levels from the major construction phases were calculated for the nearest noise-sensitive land use as presented in Table 14.13-3. The detailed input and output values are provided in Appendix H and Attachment C of the Final IS/MND.

Table 14.13-3. Construction Noise Modeling Summary Results

Construction Phase (expected equipment types)	Estimated 8-hour Leq (dBA)	
	Nearest Receiver 10 feet*	Acoustical Center 90 feet**
Site Preparation (backhoe, grader, scraper, mounted impact hammer)	85 <u>89.7</u>	77 <u>79.6</u>
Grading (backhoe, grader, scraper, front-end loader, dozer)	89	78
Building Construction (crane, man-lift, generator, backhoe, welder)	82	73
Paving (concrete mixer truck, backhoe, air compressor, paver, roller)	82	78
Architectural Coating (air compressor)	82	58

Source: Appendix H and Attachment C of the Final IS/MND.

Notes: Leq = equivalent continuous sound level (time-averaged sound level); dBA = A-weighted decibel.

* loudest piece of equipment from list for the indicated Phase could be this close for up to a cumulative duration of 2 hours per day.

** all equipment for the indicated Phase at this average distance to the noise-sensitive receptor for a cumulative duration of 8 hours per day.

As presented in Table 14.13-3, the estimated construction noise levels are predicted to be as high as ~~89~~ 89.7 dBA equivalent continuous sound level (Leq) over an 8-hour period at the nearest existing residences (as close as 10 feet away) when grading site preparation activities take place near the north project boundary. Note that these estimated noise levels at a source-to-receiver distance of 10 feet would only occur when the single noted piece of heavy equipment is operating along the northern project boundary for a cumulative period of up to ~~two~~ one and a half hours a day. By way of example, the grader would make multiple passes on site that are this close to the receiver; but, for the remaining time during the day, the grader is sufficiently farther away—performing work at a more distant location or simply not operating. For these instances when operation of construction equipment and processes are sufficiently proximate to cause activity noise levels to exceed 80 dBA Leq, which the Federal Transit Administration (FTA) recommends as a daytime threshold for construction noise exposure over an 8-hour period at a residential receptor, mitigation measure MM-NOI-1 shall be implemented as indicated site conditions may warrant. Proper application of temporary noise barriers or comparable sound abatement that may arise as a result of MM-NOI-1 implementation has the ability to realize a 10 dB reduction in noise levels that would correspondingly reduce the predicted 89.7 dBA eight-hour Leq for the grading phase to a level of ~~79~~ 79.7 dBA Leq and thus compliant with the 80 dBA threshold.

On an average construction workday, however, heavy equipment will be operating sporadically across the project site and thus tend to be located away from the northern edge of the site. For this proposed project, and in a manner resembling the general assessment technique for estimating construction noise per FTA guidance, the average source-to-receptor distance is approximately 90 feet with on-site equipment positions (on average) represented by an “acoustical center” location. At this distance, and conservatively assuming all listed equipment per indicated phase is operating each of the eight hours during a daytime work-shift, the right-most column of Table 14.13-3 shows that predicted construction noise levels are estimated to range from approximately 58 dBA Leq to ~~78~~ 79.6 dBA Leq at the nearest existing residence. The upper end of this range is less than the afore-stated FTA’s 80

dBA 8-hour Leq guidance-based threshold; therefore, under most conditions construction noise is expected to be a less than significant impact.

Although nearby off-site residences would be exposed to elevated construction noise levels, the increased noise levels would typically be relatively short term. It is anticipated that construction activities associated with the proposed project would take place primarily within the allowable hours of the City (7:00 a.m. and 6:00 p.m. Monday through Friday), and no nighttime work is required or proposed. ~~In the event that construction is required to extend beyond these times, extended hours permits would be required and would be obtained by the applicant. If work were to occur outside of the allowable hours, annoyance or sleep disturbance could result from construction noise; also, d~~Due to the relatively limited distance to existing adjacent residences, construction noise annoyance could result even during daytime hours.

In summary, typical construction noise during allowable daytime hours would not exceed the aforementioned FTA guidance-based standard and would not be substantially higher than existing ambient daytime noise levels (as shown in Table 14.13-1). None-the-less, there is potential for noise to exceed the 80 dBA Leq 8-hour FTA threshold at the nearest residential receiver on occasion. Thus, temporary construction-related noise impacts would be considered potentially significant unless mitigated. With implementation of MM-NOI-1 below, impacts would be reduced to being less than significant.