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RESOURCE MANAGEMENT AGENCY

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Community Development Program Department

Engineering & Survey Services Department

Environmental Health Services Department

Planning Department

Roads Department

August 20, 2004

FILE : GPA 51, ZCC 137

Map 101, VTT 6214

TO COMMENTING AGENCIES

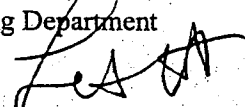
Re: NEGATIVE DECLARATION: EA DM 6-01;(a) General Plan Amendment Case No.51, Map 101; (b) Amendment of Zoning Map No. 101, Zone Change Case No.137; (c) Vesting Tentative Tract No. 6214 (Hageman Northwest, LLP by Smith Tech/USA, Inc)

Enclosed is a document entitled, Response to Comments. The responses contained therein include our responses to your comments concerning the referenced project.

A public hearing has been scheduled with the Kern County Planning Commission to consider the request on August 26, 2004 at 7:00 p.m. or soon thereafter, Chambers of the Board of Supervisors, First Floor, Kern County Administrative Center, 1115 Truxtun Avenue, Bakersfield, California.

Thank you for your participation in the environmental process for this project.

Very truly yours,
TED JAMES, AICP, Director
Planning Department

By  Lorelei H. Oviatt, AICP
Supervising Planner

Enclosure

COMMENTING AGENCIES: Sierra Club – Dr. Nipp, , North Bakersfield Park and Recreation District, Kern County Superintendent of Schools, Kern County Airports, Various parties on Petition.

RESPONSE TO COMMENTS

August 20, 2004

RECIRCULATED NEGATIVE DECLARATION: EA DM 6-01;(a) General Plan Amendment Case No.51, Map 101; (b) Amendment of Zoning Map No. 101, Zone Change Case No.137; (c) Vesting Tentative Tract No. 6214 (Hageman Northwest, LLP by Smith Tech/USA, Inc)

The following comments are clarifications and amplifications of information found in the mitigated negative declaration. All issues and concerns have been addressed in compliance with the California Environmental Quality Act in the mitigated negative declaration.

**1. Sierra Club – Dr. Gordon Nipp
Letter dated July 26, 2004**

The comments are noted for the record and will be included in the record presented to the Kern County Planning Commission and Kern County Board of Supervisors. The impacts and concerns listed in the comment letter have been addressed in compliance with the California Environmental Quality Act in the recirculated mitigated negative declaration and in the whole of the record.

A. The commenter asserts that there is an effect on future agricultural land conversion of "...giving the developer air quality mitigation credit for existing agricultural emissions on the property." The Sierra Club inaccurately characterizes the presentation of the emissions from the existing agricultural uses, which in CEQA is the baseline, existing condition, as " developer air quality mitigation credit". The baseline for CEQA is defined as a description of the physical environment on the site and in the vicinity as it exists prior to commencement of the project. The project is required to mitigation for the impacts of the buildout of the project, not for existing conditions that may generate emissions now.

The Western Rosedale Specific Plan Final EIR fully evaluated the cumulative conversion of agricultural land based on the general plan designations the plan proposed. Therefore this project was included in the cumulative analysis as it is designated for residential use, but is zoned for agricultural use as an interim use. Since in reality the property has been farmed since the 1994 EIR and not used for residential uses, the Final EIR is accurate as it projected farmland conversion to occur from 2000 to 2010.

CEQA does require analysis of the impacts to agricultural resources such as the conversion of Prime Farmland or Farmland of Statewide Importance to nonagricultural use. Although designated for residential use and zoned A-1 (Limited Agriculture), the existing physical use is agriculture, the growing of garlic. The Initial study checklist identifies the following criteria for consideration for the significance of the project on agricultural resources; convert Prime Farmland or Farmland of Statewide Importance (Farmland) to nonagricultural use, conflict with

existing zoning for agricultural use or a Williamson Act Contract, involve other changes in the existing environment that could result in the conversion of Farmland to nonagricultural uses. The project will convert the physical use of the property from an agricultural use to single family homes but the property does not qualify for a Williamson Act Contract as it does not meet the criteria. Property must have a general plan resource designation (8.1, 8.2, 8.3, 8.5), be within the boundaries of an established Agricultural Preserve, have a zoning of A (Intensive Agriculture) and have an established qualifying agricultural use to qualify for a Williamson Act Contract. The project is adjacent to a changing area of existing residential uses and designated residential properties with agriculture as an interim use. Staff concludes that it is the existing designations of the properties currently used for agriculture and market factors that will cause the permanent conversion to homes and not the construction of this project. Based on the evidence in the record, the policies of the Western Rosedale Specific Plan and Kern County Zoning Ordinance, the impacts to agricultural resources and the loss of prime farmland are considered less than significant.

B. The comments regarding the considering "establishment of farmland trusts to preserve agricultural land" are noted for the record. This suggestion extends beyond the scope of this environmental document and are specific plan and general plan policy considerations.

C. The impacts to air quality from the project have been properly analyzed both on a project level and a cumulative level. The SJVAPCD has prepared its *Guide for Assessing and Mitigating Air Quality Impacts* (GAMAQI). (2002) which is hereby incorporated into the record. The GAMAQI is an advisory document that provides lead agencies, consultants and projects applicants with analysis guidance and uniform procedures for addressing air quality in environmental documents. This is a guidance document for Kern County. The document describes the criteria that SJVAPCD uses when reviewing and commenting on the adequacy of environmental documents. It recommends thresholds for use in determining whether or not projects would have a significant adverse environmental impacts, identifies methodologies for predicting project emissions and impacts, and identifies measures that can be used to avoid or reduce air quality impacts.

The GAMAQI provides guidance for assessing air quality impacts through an evaluation based on analysis levels by project size. This system has been developed by the SJVAPCD to identify the level of analysis appropriate for a project based on the size and type of project. The SJVAPCD has pre-determined the size (vehicle trips, or residential units, or square footage) below which many projects will not exceed significance thresholds.. These projects are considered at a Small Project Analysis Level and require only site specific mitigation. Larger projects are evaluated through use of a computer model which calculates the projected air quality impacts of particular pollutants if the project was constructed and occupied. The calculations of the results of the project build out have been predetermined based on known emission factors for various activities that result from the project. For example emission factors for cars generally show the amount of certain air pollutants emitted, per mile traveled. The air model recommended by the SJVAPCD is the URBEMIS 2002 for Windows or the most current update of the URBEMIS model. This computer model shows the emissions from motor vehicles, area sources

(water heaters, gas furnaces, fireplaces and wood stoves) and construction activities such as grading. The model allows for design features , such as landscaping, and mitigation measures, such as the use of low-emission water heaters, to be applied to the project to show reductions in projected emissions from the inclusion of these measures. The results of the model are shown in tons per year to quantify the projects air quality impacts. The Kern County Board of Supervisors adopted the Kern County CEQA Implementation Document on June 1, 2004 that includes thresholds of significant . Table 4-1 in the GAMAQI labeled "Ozone Precursor Emission Thresholds for Project Operations" denotes the threshold for significance on a project to be 10 tons per year for Reactive Organic Gases (ROG) and Oxides of Nitrogen NO_x . Kern County Planning uses 15 tons/year as a threshold of significance for PM 10. Projects that result, after mitigation, in impacts over 10 tons per year for ROG and NO_x, would be considered potentially significant under CEQA on a project level. This projects impacts are under 10 tons for both ROG and Nox and under 15 tons/ year for PM 10 are, therefore, not considered significant under CEQA on a project level.

The comment asserts that construction emissions are not short -term and references emissions from the vehicle trips as examples. The recirculated negative declaration analysis construction emissions appropriately and in conformance with the San Joaquin Air Districts Guide for Assessing and Mitigation Air Quality Impacts (GAMAQI) The air quality analysis did not treat the emissions from vehicle trips as short-term, but included them in the air quality Urbemis runs. The 5.77 tons of required emission reductions includes the emissions from vehicle trips. The use of peak hour trips is an established method of assessing impacts and represents a worse case scenario for air quality , as well as traffic impacts. Staff notes the suggestion for ling term mitigation to be an "assessment district for street sweeping." The Kern County Land Division ordinance Section 18.55.050 (I)(9) requires that as a condition of approval , all Type A tract maps establish a county service area for assessment on property owners of street sweeping. The Kern County Roads Department is responsible for street sweeping and is acquiring new PM 10 street sweepers. This tract will be required to comply with the Land Division ordinance. This measure, as established by ordinance, will reduce the long term impacts on PM 10 generation to a level of less than significant.

D. . The Sierra Club inaccurately characterizes the presentation of the emissions from the existing agricultural uses, which in CEQA is the baseline, existing condition, as " developer air quality mitigation credit". The baseline for CEQA is defined as a description of the physical environment on the site and in the vicinity as it exists prior to commencement of the project. The project is required to mitigation for the impacts of the buildout of the project, not for existing conditions that may generate emissions now. The comments example of comparing agricultural land to infill is inaccurate. Many infill parcels are currently vacant land and therefore could produce equivalent PM10 emissions. Further infill could be an existing use that also generates emissions. CEQA does not, and can not , require a project to mitigate for existing impacts, only the impacts from the project.

The comments reference to replacement of agricultural engines is noted for the record. It is speculative to predict when changes to current physical operations and emissions might occur. CEQA requires the current physical environmental impacts be assessed as the baseline and the proposed projects impacts compared to that current environment. Staff notes that while the agricultural emissions could be reduced before buildout, there is no support for the comments contention that "it is likely" they will be reduced by replacement engines.

E. Emissions from farming activity as quantified consist of crop planting and cultivation including pesticide application. The questions raised concerning the difference between crops and landscaping appears to presume that the process of raising corn, soybeans or silage are similar to those used for lawn grass. Carbon dioxide is not considered a criteria pollutant nor is it considered a toxic pollutant. Therefore, the removal of carbon dioxide and the addition of oxygen are not considered germane to the discussion. The ROG emissions were not quantified from the crops themselves; nor are they quantified from the residential landscaping since it would be speculative to estimate what the landscaping emissions would be. Inclusion of speculative estimates does not provide stakeholders with essential information needed to assess the impact of the project. In the absence of reasonable information it is the practice of experts to err on the side of conservatism. URBEMIS by design uses conservative estimates that ensure that a project impact is not understated. URBEMIS includes factors that reflect normal household aerosols as well as emissions for lawn care and other common household uses such as pesticides.

The commenter refers to removal of ozone via deposition. Ozone is gaseous and distribution is driven by normal dispersion due to meteorological conditions and Brownian motion and it does not deposit like larger particulate matter or nitrogen containing particulates. No reference has been provided to substantiate the claim that 2/3 of pesticides are domestic and urban in nature. The statement assumes that unregulated domestic pesticides in small highly localized applications in highly urbanized are the same as agricultural pesticides applied by industrial methods over the entire surface of the property and that they have the same transport mechanism as agricultural pesticides. URBEMIS is designed to estimate emissions from a given project. No credits are included other than for the target mitigations that URBEMIS was designed to incentivize.

F. The comment is noted for the record. The Sierra Club inaccurately characterizes the presentation of the emissions from the existing agricultural uses, which in CEQA is the baseline, existing condition, as "developer air quality mitigation credit". The baseline for CEQA is defined as a description of the physical environment on the site and in the vicinity as it exists prior to commencement of the project. The project is required to mitigation for the impacts of the buildout of the project, not for existing conditions that may generate emissions now. CEQA does not, and can not, require a project to mitigate for existing impacts, only the impacts from the project.

G. The comment requests that a previous letter from March 8, 2004 and a submitted Urbemis run from February 12, 2004 be included in the record. The requested materials are attached. The March 8, 2004 letter raises questions based on the previous proposal, have all been completely addressed in the recirculated negative declaration and do not apply to the current proposal. The comments regarding previous Urbemis runs is not applicable to this project. The Sierra Club has submitted various model runs of the Urbemis model with results of pollutants generated and has calculated various tonnage estimates of pollutants per year. These model runs are incorrect, are not provided by a qualified air quality expert, and do not represent the actual project characteristics and assumptions. The Sierra Clubs submitted model results are not applicable to the Air Quality Program proposed for this project. The previous air quality modeling has been superceded by the current air quality modeling and report in the recirculated negative declaration.

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The commenter did not note the total construction related emissions in the table titled "Mitigated Construction Related Emissions". What the commenter mistakenly represents as a fourteen week build is actually the three tables referring to the heavy grading activity based on the developers grading schedule. Emission estimates for all stages of construction are included.

H. The conformity analysis includes growth provisions for Kern County and the region, in general. The Rosedale Specific Plan with its projection for build out is in the Kern COG conformity projections. Further, inclusion of the site as part of the General Plan would result in a larger allowable growth for that specific TAZ and surrounding TAZs, resulting in lessened impact. The fact that the growth anticipated by this project fits in the TAZ and the surrounding TAZ without the General Plan Amendment meets the conformity test as it applies to cumulative analysis of both semi-regional and regional impacts.

I. It is acknowledged and well known that the basin's air quality is not in attainment. The classification as extreme nonattainment became final on May 17, 2004 (69 Federal Register 20550). While the baseline condition of the environment as already degraded does lower the threshold for treating a project's contribution to cumulative impacts as significant; CEQA provides for each agency to establish a threshold of significance for determining that a project's contribution to the existing known valley-wide projected air emissions are cumulatively considerable. In other words, what is the increment at which a project's contribution can be considered cumulatively considerable? Staff relies on direction from the courts in the CEQA case of *San Joaquin Raptor/Wildlife Rescue Center v County of Stanislaus, San Joaquin Raptor II*, 42 Cal. App. 4th 608 (1996) which validated CEQA Guideline 15064 (i) (5) that a lead agency cannot automatically conclude that any incremental contribution by a project is "considerable." As lead agency, Kern County Planning, uses the threshold established in the GAMAQI of 10 tons per year as the threshold for determination of when a project's contributions of air emissions is cumulatively considerable. If the project contributes less than the 10 tons per year threshold and all feasible mitigation has been applied, than the project is considered less than significant on

a project level and the contribution is considered not cumulatively considerable. Based on this analysis, the project was determined to be less than cumulatively significant.

As detailed in the initial study, in recognition of the already degraded condition of the air basin, the applicant has included in the project an Air Quality Program which commits to specific actions that will provide reductions of 5.77 tons per year of ROG/Nox by project buildout. The applicant will implement projects that will result in reductions from some physical replacement of an emission source with a less emitting source or the complete elimination of the source. With this additional program, the project impacts are further mitigated from the less than considerable contribution of 5.77 tons to minimal or zero contribution. It is therefore clear, based on the evidence in the record that the project's impacts are not cumulatively considerable.

The comments regarding previous Urbemis runs and various opinions about the assumptions are not applicable to this project. The Sierra Club has submitted various model runs of the Urbemis model with results of pollutants generated and has calculated various tonnage estimates of pollutants per year. These model runs are incorrect, are not provided by a qualified air quality expert, and do not represent the actual project characteristics and assumptions. The Sierra Clubs submitted model results are not applicable to the Air Quality Program proposed for this project. The previous air quality modeling has been superceded by the current air quality modeling and report done by a qualified air quality expert in the recirculated negative declaration.

**2. Kern County Superintendent of Schools
Letter dated July 21, 2004**

The comments are noted for the record.

**3. North Bakersfield Park and Recreation District
Letter dated June 29, 2004**

The comments are noted for the record.

**4. Kern County Department of Airports
Letter dated July 7, 2004**

The comments are noted for the record .

**5. Petition signed by 13 persons - undated
Letters – Katherine Prewett, Julie Dodge, Anne and Peter Santer**

The comments are noted for the record and will be provided to the Planning Commission and Board of Supervisors for consideration during the public hearing process. The impacts and

concerns listed in the comment letter have been addressed in compliance with the California Environmental Quality Act in the mitigated negative declaration.

The commenter object to the project based on land use incompatibility, increased traffic that requires mitigation and the potential for degradation of domestic wells if septic systems are used for the 435 lots. The CEQA initial study checklist details identifies the following impacts for evaluation of the environmental impacts of the proposed change in residential density. The project will not physically divide an established community or conflict with any applicable habitat conservation plan or natural community conservation plan. The project does require an amendment to the Western Rosedale Specific Plan to allow for increased density for the residential subdivision. As designed and with the recommended mitigation measures, the project will not conflict with any policies of the Western Rosedale Specific Plan, Metropolitan Bakersfield General Plan or Kern County Zoning Ordinance adopted for the purpose of avoiding or mitigating and environmental effect. The commenter objections based on characteristics of their homes and community as being rural in nature with larger , 2 ½ acre lots, is not an environmental issue, but is a factor that will be considered by the Planning Department, Planning Commission and Board of Supervisors in their decision.

In regards to traffic impacts, a traffic study was prepared for this project which conclude that the impacts associated with this project will be met by the payment of the Transportation Impact Fees of \$ 5780 per residence. An additional payment of a proportionate share of 13.33 percent for signalization of the intersection of Rosedale Highway and Health Road has been included as Mitigation Measure No. 6. The Kern County Roads Department reviewed and concurred with the conclusions and recommended mitigation measures. Based on the evidence in the record, the traffic generated by the project is anticipated to have a significant impact on existing and future traffic operation in the area impacted by the new residence trips.

The project will not be permitted to be constructed with septic tanks. The proposed project is required by policies of the Western Rosedale Specific Plan to be served by public sewer. Sewage disposal will be from the North of the River Sanitary District No. 1 and a letter has been provided acknowledging the District will provide such service. The construction cost for the extension of the main sewer trunk line is the responsibility of the developer.