

As you know, EPD Solutions, Inc. is working with Sand Canyon Country Club (“SCCC”) in connection with its proposed Sand Canyon Resort development. SCCC currently operates three 9-hole golf courses, a driving range, a club house/restaurant, snack bar, retail sales store, equipment rental and adjacent parking facility on approximately 300 acres at 27734 Sand Canyon Road (“Property”). SCCC has proposed the redevelopment of approximately 77 acres of the Property, a portion of which would include the Sand Canyon Resort (“Project”).

We understand that the City is currently analyzing the Project’s level of impact under Land Use and Planning threshold (b) in CEQA Guidelines Appendix G. The Land Use and Planning threshold asks whether a project would (a) cause a significant environmental impact due to a conflict with any land use plan, policy, or regulation that was (b) adopted for the purpose of avoiding or mitigating an environmental effect? We added (a) and (b) to the test to highlight the fact that the threshold has two distinct prongs, both of which are required in order to conclude that the Project would result in a significant and unavoidable land use and planning impact. The prongs are considered in reverse order, below:

1. The Existing Open Space Designation Was *Not* Adopted to Avoid or Mitigate an Environmental Impact.

Prior to 1996, the Property was designated low density residential. In 1996, the City Council approved the Hunters Green Residential Development and Golf Course Project, which (1) re-zoned a portion of the site to Planned Development and (2) pre-zoned another portion of the site to Planned Development in preparation for a 1998 annexation.

At some point following approval of the Hunters Green Project, the City re-zoned the Property Open Space (OS). Based on our research, the zone change to OS was unrelated to the Hunters Green Project or any other project. We did not locate any finding that the City made in connection with the re-zone to OS that would indicate the re-zone was intended to avoid or mitigate an environmental impact. We therefore assume the re-zone resulted from a clean-up of the Zoning Map sometime following the Hunters Green Project approval.

We understand you are still in the process of researching when the re-zone occurred. However, based on our research, there is no evidence that the re-zone was intended to mitigate or avoid a significant environmental impact. If the re-zone was simply part of a Map cleanup, the only justified conclusion with respect to the Land Use and Planning threshold is that the Project’s impact is less than significant.

2. The Project’s Proposed Zone Change Does Not Cause a Significant and Unavoidable Impact.

When an amendment to a land use plan is a required approval action of a project, it is properly considered part of the project being considered. (*Lighthouse Field Beach Rescue v. City of Santa Cruz, supra*, 131 Cal.App.4th at 1207.) Here, the Project proposes a zone change from OS to CC. Under applicable case law, the zone change is part of the Project and the Project’s inconsistency with current zoning does not inherently

cause a significant environmental effect under “Land Use and Planning” threshold (b). Nothing in the CEQA Guidelines requires inconsistency with a land use plan, in and of itself, to be treated as a significant environmental impact. (*Joshua Tree Downtown Bus. Alliance v. County of San Bernardino* (2016) 1 Cal.App.5th 677.) Such inconsistencies are legal determinations and do not, standing alone, constitute a physical environmental impact. (*Orinda Ass’n v. Board of Supervisors* (1986) 182 Cal.App.3d 1145 [findings case referencing such EIR conclusions]; *Lighthouse Field Beach Rescue v. City of Santa Cruz* (2005) 131 Cal.App.4th 1170 [holding that inconsistency with land use controls is one factor to consider in determining whether a project has a significant effect].)

The Courts have affirmed this position in situations analogous to the Project, where a current open space designation does not mandate a finding of significance when a project proposes a non-open space use. (*Clews Land & Livestock, LLC v. City of San Diego* (2017) 19 Cal.App.5th 161 [the City reasonably concluded that a proposed school was consistent with the property’s open space designation because the school would be built on already developed land and would be consistent with the historic nature of the site].)

In assessing threshold (b) under “Land Use and Planning,” case law tells us that the proper question is not simply “is there an inconsistency” but rather “will there be a significant effect on the environment as a result of the project?” (*Georgetown Preservation Society v. County of El Dorado* (2018) 30 Cal.App.5th 358;.) ‘Significant effect on the environment’ means a substantial, or potentially substantial, adverse change in any of the physical conditions within the area affected by the project.” (Guidelines, § 15064(f)(6).) In this case, the focus is whether there would be a potentially significant environmental effect on the environment as a result of the project’s rezone from OS to CC. City Council’s intent or rationale in rezoning the property to OS in the first place is irrelevant to the analysis.

The project’s rezone would have no adverse effect on the environment. The site is currently vacant property and an abandoned nine-hole golf course. The property is not conserved open space and is not within or covered by a conservation easement mandating open space uses in perpetuity.

Given the two factors above, a less than significant determination is appropriate under the Appendix G “Land Use and Planning” threshold (b).

While a less than significant determination is appropriate and mitigation is therefore not warranted, SCCC understands the City’s desire is to increase open space in the City in an amount equivalent to the acreage being converted by the Project from OS to CC. To that end, by this letter, SCCC voluntarily offers to accept the following condition.

Prior to issuance of occupancy permits, Sand Canyon Country Club shall purchase open space in an amount equivalent to the acreage the Project is converting from OS to CC (currently 32.4 acres), less any acreage on the Property dedicated to passive or active open space as part of the Project. Sand Canyon Country Club shall purchase such open

space within the City of Santa Clarita, or outside of the City's boundaries in a location acceptable to the City, and limit its use to open space and/or conservation in perpetuity.

We believe the condition above allows the City to accomplish its goal of increasing open space, while also complying with the CEQA Guidelines and case law outlined above.

Sincerely,

Konnie Dobrevá, JD