



Air Pollution Control District  
San Luis Obispo County

**VIA EMAIL ONLY**

July 27, 2022

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SUBJECT: APCD Comments Regarding the Draft Environmental Impact Report for the Dana Reserve Specific Plan

Dear Jennifer Guetschow:

Thank you for including the San Luis Obispo County Air Pollution Control District (APCD) in the environmental review process. We have completed our review of the Draft Environmental Impact Report (DEIR) for the Dana Reserve Specific Plan (DRSP). The APCD submitted comment letters for this project on July 21, 2020, and July 26, 2021. While some of the items outlined in those letters have been addressed in the DEIR, others have not yet been addressed or cannot be addressed until construction plans are finalized. Our comments today are a supplement to our previous comment letters.

The project is a request by Dana Reserve, LLC for the adoption of a Specific Plan, Vesting Master Tentative Tract Map No. 3149, Conditional Use Permit, and Development Agreement to allow for the phased development of a master planned community. The project would allow for the future phased development of residential uses, flex commercial uses, open space, trails, and a public neighborhood park within an approximately 288-acre specific plan area. Future proposed development of individual neighborhoods would require the submittal of additional future tract maps to further subdivide the neighborhoods into individual lots; this EIR is intended to provide CEQA streamlining and tiering benefits for those future developments.

Proposed uses for the project are: 831 single family residences (149.5 acres); 458 multi-family residences (23.5 acres); up to 203,000 sq. ft. of commercial and office space (22.3 acres); open space, parks, and roads (92.7 acres).

On January 26, 2021, the Board of Supervisors authorized a General Plan Amendment (LRP2020-00007) to allow for the processing of the DRSP; to ensure consistency between the DRSP, the County General Plan, and Land Use Ordinance, Title 22 of the County Code; and to change the land use category of the site to allow for the DRSP.

The DRSP area is within the unincorporated area of San Luis Obispo County, adjacent to the Urban Reserve Line (URL) of the community of Nipomo and within the sphere of influence of the Nipomo Community Services District (NCSD). The project would require annexation to the NCSD to establish new connections to existing NCSD water and wastewater infrastructure and modification of the Nipomo URL to include the DRSP area. Annexation of the specific plan area into NCSD service area would be subject to the review and approval of the San Luis Obispo Local Agency Formation Commission.

The County of San Luis Obispo General Plan identifies the project site as the Cañada Ranch specific plan area, which is subject to preparation and adoption of a specific plan prior to annexation of the site into the Nipomo URL to accommodate development proposals and address pertinent issues. The property is designated as an expansion area under the South County Area Plan (Sections 4.5 and 4.8) as well as the San Luis Obispo County Code (Inland) – Title 22, Land Use Ordinance (Section 22.98.072).

Implementation of the DRSP would provide a guide for future private and public development in conformance with requirements set forth in the California Government Code Sections 65450 through 65457. The DRSP would provide a bridge between the County's General Plan and specific development and subdivision plans of the property.

The DRSP proposes a preliminary phasing plan and identifies an anticipated buildout schedule for development but acknowledges that development may occur in a different order than anticipated. **To maximize potential reductions of VMT and related criteria pollutant and GHG emissions, APCD recommends that all commercial land use development for the project be completed within the first phase.**

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## **Dana Reserve Specific Plan Draft Environmental Impact Report**

### **Section 4.3 Air Quality**

- Table 4.3-6 presents a preliminary evaluation of consistency with existing air quality goals, policies, plans, programs, and standards. The table lists many policies and goals supported by the APCD which would improve jobs/housing balance and reduce air pollution, greenhouse gas (GHG) emissions, and vehicle miles travelled (VMT), and states that the project is "potentially consistent" with most of these. However, the DEIR demonstrates that the project is materially inconsistent with these policies and goals in the following ways:
  - *County General Plan Policy AQ 3.3 to avoid air pollution increases:* The Nipomo Mesa is classified as severity level III for PM<sub>10</sub> & PM<sub>2.5</sub> in the San Luis Obispo County 2016-2018 Resource Summary Report. With the proposed mitigation measures, daily operational ROG+NOx and PM will be above APCD thresholds of significance, therefore the project is inconsistent with this policy.
  - *County General Plan Policies AQ 4.1, AQ 4.4 to reduce GHG emissions:* With the proposed mitigation measures, GHGs will be reduced "to the maximum extent feasible" but will still be increased. Project is not proposed to be "no net increase" and does not reduce GHGs and is therefore inconsistent with these policies.

- *Framework for Planning (Inland), Principle 5, Policy 2 to reduce air pollutants, GHGs and VMTs:* With the proposed mitigation measures, the project will increase the generation of air pollutants, GHG and VMT and is therefore inconsistent with this policy.
- *Framework for Planning (Inland), Principle 7 to encourage mixed land uses; 2019 RTP Policy Objectives 5.3, 5.4; and 2019 SCS: Community Planning & Development Standards 2 to support development to reduce VMT, GHG and other air pollutants:* With the proposed mitigation measures, the project will increase VMT per employee and overall VMT and is therefore inconsistent with these principles, objectives, and standards. APCD recommends that the neighborhood commercial overlay be expanded to provide a more appropriate ratio of residential to commercial space so the project can be consistent with this Principle 7.

The DEIR found the project impacts to be significant and unavoidable but also states that some measures are “potentially consistent” with emission reducing policies and goals (e.g. *Framework for Planning (Inland), Principle 7*). The term “potentially consistent” creates doubt in that if the project is potentially consistent with a goal, it is at the same time potentially inconsistent. **Therefore, the APCD recommends the DEIR remove the terms “potentially consistent” and “potentially inconsistent” and specifically define whether the project is consistent or inconsistent with the various policies.**

- Likewise, the project is inconsistent with the land use planning strategies of the APCD Clean Air Plan in that it will further exasperate the existing jobs-to-housing imbalance in the Nipomo area, leading to increased VMT and decreased transportation mobility. **The DEIR states this inconsistency.**
- Table 4.3-8 presents a summary of VMT impacts with the conclusion that impacts would be significant and unavoidable. The table lists County VMT thresholds, but it is unclear how these thresholds were formulated. (The report text mentions *country* thresholds, but this would appear to be a typo and should be *county* thresholds.) SLOCOG has confirmed that these numbers are not from their RTP/SCS and neither SLOCOG nor APCD are aware of an adopted VMT threshold for SLO County. **APCD recommends additional clarification as to the source or methodology used to determine the VMT thresholds and re-analysis of the impacts.**
- In several places, including the conclusion section for AQ Impact 1 in section 4.3.5 on page 4.3-27 and the Residual Impacts section on page 4.3-28, the DEIR states that impacts would be significant and unavoidable, and because the project would further divide the jobs/housing balance and would increase regional VMT, it would be inconsistent with the APCD Clean Air Plan. It is beneficial to note that it would also be inconsistent with the 2019 RTP/SCS and the SLO County General Plan. **APCD recommends that the commercial portion of the project be expanded to provide a more appropriate ratio of residential to commercial space to bring the project into consistency with these planning documents.**
- Table 4.3-9 on page 4.3-30 presents a summary of construction emissions before mitigation. Daily emissions for ROG+NOx exceed the APCD thresholds, and quarterly emissions exceed APCD Tier 1, but are below Tier 2 thresholds. The technical appendix indicates that the Tier 1 threshold for ROG+NOx will be exceeded for each quarter from Qtr 1 of 2024 through Qtr 4 of 2030. As recommended by APCD, the DEIR proposes mitigation for the Tier 1 exceedance including standard mitigation measures and best-available control technology. Elsewhere in the DEIR, it is acknowledged that the exact development plan for future buildout of the DRSP

area is currently not known. Because of this uncertainty, it is not possible to gauge the accuracy of the construction emissions estimates. **APCD recommends that additional emission estimates be performed for construction periods that exceed the Tier 1 threshold using actual contractor's equipment lists after construction plans are formulated. If the project then exceeds APCD Tier 2 quarterly thresholds, additional mitigation would be called for, possibly including a Construction Activity Management Plan (CAMP) and off-site mitigation.**

- Table 4.3-12 presents a summary of mitigated operational emissions. Per Table 3-4 of the APCD CEQA Handbook, the project's operational phase ROG+NOx and PM emissions are enough to necessitate "All Feasible" measures be implemented by the project to reduce its air quality impacts. Mitigation measure AQ/mm-3.3 on page 4.3-34 prescribes 30 individual measures to reduce operational emissions. Of the 30 proposed measures, 8 (20, 21, 23-27, 29) propose to "meet or exceed" existing building codes, rules, or regulations. Two others (28, 30) propose mitigation by complying with existing building codes, rules, or regulations. A measure is only mitigation when it requires action above and beyond that which is already required. **To be in line with the implementation of "All Feasible" mitigation measures, APCD recommends that the "comply with" and "meet or exceed" conditions language be replaced with "Exceed by 20%" (or other County Planning recommended specific percentage).**

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### Section 4.8 Greenhouse Gas Emissions

- Several places in section 4.8, including Table 4.8-2, refer to a SLOAPCD GHG threshold of significance. SLOAPCD adopted GHG thresholds in 2012, including residential and commercial thresholds based on a gap analysis to demonstrate consistency with the state's 2020 GHG emission reduction goal from the Global Warming Solutions Act (AB 32) and the 2008 California Air Resources Board's (CARB) Climate Change Scoping Plan. In 2015, the California Supreme Court issued an opinion in the *Center for Biological Diversity vs California Department of Fish and Wildlife* (Newhall Ranch) which determined that AB 32 based thresholds derived from a gap analysis are invalid for projects with a planning horizon beyond 2020. **The APCD does not currently have GHG thresholds of significance that are applicable to this project.**
- The methodology used to calculate the service population threshold in Table 4.8-2 relies on statewide data developed by the California Air Resources Board. In 2018, the Fourth District Court of Appeal in *Golden Door Properties, LLC v. County of San Diego* invalidated the County of San Diego's use of this metric for analyzing the significance of greenhouse gas emissions. The Court of Appeal found that without additional analysis explaining why statewide data is relevant to projects proposed in the County, a local agency's use of the metric was improper for purposes of complying with CEQA. **APCD does not recommend the use of the threshold identified in Table 4.8-2.** The [2021 APCD Interim GHG Guidance](#) document presents some alternatives to this threshold, including:
  - Consistency with a Qualified Climate Action Plan: (not applicable to San Luis Obispo County at this time).
  - No-net Increase: The Newhall Ranch project demonstrated that this method is feasible and defensible.



- Meeting Local GHG Targets with Best Management Practices: This method was adopted by the Sacramento Metro Air Quality Management District (SMAQMD) for Sacramento County in 2020.
  - Establishing Thresholds Using Local Emission Sectors and Local GHG Inventories: This method was discussed in a SMAQMD draft document prior to their adoption of their 2020 GHG thresholds and was also effectively used in the 2035 Cal Poly Master Plan, also adopted in 2020.
- In section 4.8.5, the DEIR finds that the GHG emission impacts will be less than significant with mitigation; however, the method used to determine the threshold of significance is neither based on substantial evidence nor legally defensible. **APCD recommends re-analysis of the GHG impacts using one of the above listed recommended methods to determine significance and identify applicable mitigation as discussed below.**
- Table 4.8-3 presents a consistency analysis with existing GHG reduction goals, policies, plans, programs and standards. As with the air quality policies identified above in Table 4.3-6, Table 4.8-3 lists many policies and goals supported by the APCD which would improve jobs/housing balance and reduce air pollution, greenhouse gas (GHG) emissions, and vehicle miles travelled (VMT), and states that the project is “potentially consistent” with most of these. However, the DEIR demonstrates that the project is materially inconsistent with the following policies and goals:
  - County General Plan: Policies AQ 1.5, AQ 1.6, AQ 4.1, AQ 4.4.
  - Framework for Planning (Inland): Principle 5., Policy 2.; Principle 7.
  - 2019 RTP: Policy Objectives 5.3, 5.4
  - 2019 SCS: Community Planning & Development Standards 2.
- Mitigation measure GHG/mm-1.1 on page 4.8-27 prescribes nine individual measures to reduce operational emissions. Of the proposed measures, five (4, 5, 6, 7, 9) propose mitigation by complying with existing building codes, rules, or regulations. A measure is only mitigation when it requires action above and beyond that which is already required. **APCD recommends that the “complying with existing” conditions language be replaced with “Exceed by 20%” (or other County Planning recommended specific percentage).**
- The DEIR finds that the GHG impacts from off-site improvements (GHG Impact 2) would be less than significant with implementation of mitigation measure AQ/mm-3.1. Mitigation measure AQ/mm-3.1 is designed to reduce emissions of ozone precursors and particulate matter but would have a negligible effect on GHG emissions. **APCD recommends re-analysis of the GHG impacts from off-site improvements using one of the recommended methods to determine significance, and the implementation of appropriate GHG-reducing mitigation. For GHG mitigation guidance, see the 2021 APCD Interim GHG Guidance.**
- The DEIR determines GHG Impact 3 to be significant and unavoidable due to inconsistency with the VMT requirements of the RTP/SCS. It is beneficial to note that it would also be inconsistent with the SLO County General Plan. The impact analysis uses County VMT thresholds, but it is unclear how these thresholds were formulated. SLOCOG has confirmed that these numbers are not from their RTP/SCS and neither SLOCOG nor APCD are aware of an adopted VMT threshold for SLO County. **APCD recommends additional clarification as to the source or methodology used to determine the VMT thresholds and re-analysis of the impacts.**

## **Dana Reserve Specific Plan Draft Environmental Impact Report Air Quality & Greenhouse Gas Impact Assessment Technical Appendix**

- Comments on CalEEMod:
  - It is unclear why the modeling used a vehicle fleet mix based on the San Joaquin Valley APCD residential fleet mix for year 2030 or 2031 (p. 137, 197, 250, 499, 555, 604). **APCD recommends re-running the emission models using the default fleet mix for San Luis Obispo County.**
  - The mitigated land use calculations do not appear to have taken into account the absence of residential natural gas (p. 186, 187, 244, 245, 297, 298, 339, 340, 341, 386, 387, 388, 427, 428, 429, 448, 449, 472, 473, 492, 493, 544, 545, 597, 598, 646, 647, 667, 668, 691, 692, 710, 711) and therefore estimated operational phase emissions may be overestimated.

## **Dana Reserve Specific Plan Draft Environmental Impact Report Energy Impact Assessment Technical Appendix**

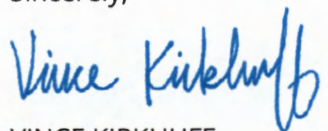
The Energy Impact Assessment on pages 1 through 3 indicates that PG&E and Central Coast Community Energy (3CE) provide electric service to the site, and that PG&E and Southern California Gas provide natural gas service. Since the County of San Luis Obispo has not opted in to 3CE, they are not available as an electric supplier, and PG&E does not provide gas service in San Luis Obispo County.

### **Collaborative Mitigation Opportunity**

APCD is open to working with County Planning staff and the applicant to identify potential projects to mitigate air quality and GHG impacts from this project that would benefit South County residents. For example, any available funds could be used to purchase electric car share vehicles and fund bike share or micro mobility projects that would reduce VMTs and associated impacts.

Again, thank you for the opportunity to comment on this proposal. If you have any questions or comments, feel free to contact me at (805) 781-5912.

Sincerely,



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VJK/jjr

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